

SNR & COMPANY
CHARTERED
ACCOUNTANTS



SNR – GST UPDATE

12th July 2023

The 50th GST Council meeting under the Chairpersonship of Union Minister for Finance Smt. Nirmala Sitharaman was held in New Delhi on 11th July 2023. The council deliberated upon various issues under GST and made recommendations thereon. The council recommended several measures for streamlining compliances in GST apart from recommending issuance of various circulars/ clarifications on multiple issues being faced by industry.

1. Recommendations relating to GST rates on goods and services:

- GST rate on uncooked/unfried snack pellets, by whatever name called, to be reduced from 18% to 5%.
- IGST waived off on Dinutuximab (Quarziba) medicine if imported for personal use.
- No IGST to be applicable on medicines & Food for Special Medical Purposes (FSMP) used in the treatment of rare diseases enlisted under the National Policy for Rare Diseases, 2021 when imported for personal use subject to conditions.
- To clarify that RCM is applicable on supply of raw cotton, including kala cotton, by agriculturists to cooperatives and to regularize past period.
- GST rate on imitation zari thread or yarn reduced from 12% to 5%.
- Compensation cess of 20% proposed on all utility vehicles of Length exceeding 4000 mm, Engine capacity exceeding 1500 cc and having Ground Clearance of 170 mm.
- GST rate on LD slag to be reduced from 18% to 5% to encourage better utilisation of this product and for protection of environment.
- GST rate on fish soluble paste shall be reduced from 18% to 5%.
- GST on services by way of satellite launch by organizations in private sector not be applied to place these organizations on same footing as ISRO, Antrix Corporation limited and NSIL.
- Amendments to be made to GST law to include online gaming and horse racing in schedule III as taxable actionable claims. As such all three namely, Casino, Horse Racing and Online gaming to be taxed at the uniform rate of 28%. Tax will be applicable on
 - i) the face value of the chips purchased in the case of casinos.
 - ii) the full value of the bets placed with bookmaker/totalisator in the case of Horse Racing.
 - iii) the full value of the bets placed in case of the Online Gaming.

2. Other significant changes relating to GST rates/ taxability of Goods/ services

- **No RCM on services in personal capacity by Director:**

Services supplied by a director of a company in personal or private capacity to a company shall not be taxable under RCM. However, services provided in the capacity of a director shall continue to be chargeable under RCM and company will be liable to pay tax on same under Notification No. 13/2017-CTR.

- **Food and Beverages in cinema halls:**

Cinema halls provides supply of foods and beverages in two ways:

- i) Food and beverages are supplied by way of or as a part of a cinema exhibition services.
- ii) It is supplied independent of cinema exhibition services.

However, when supply of food and beverage is clubbed with cinema exhibition services and are bundled together then such supply would be treated as a composite supply wherein cinema exhibition supply shall be principal supply. In all other cases, supply of food and beverages will be taxable as restaurant services.

- **No declaration to pay GST under forward charge by GTA:**

If GTAs have exercised the option to pay tax under forward charge for a particular year then it will not be required to file declaration for same every year. They shall be deemed to have exercised it for the next and future financial years unless they file a declaration that they want to revert to reverse charge mechanism (RCM).

3. Recommendations relating to GST law and procedure:

The GST Council has *inter-alia* made the following recommendations relating to GST law and procedure:

A. Measures for Trade Facilitation includes:

- **Goods and Services Tax Appellate Tribunal:** The Council recommended that provisions of Finance Act, 2023 pertaining to GST Appellate Tribunal may be notified by the Centre with effect from 01.08.2023 and council also recommended the Rules governing appointment and conditions of President and Members of the proposed GST Appellate Tribunal for enabling smooth constitution and functioning of GST Appellate Tribunal.
- **Threshold for filing Annual Returns for FY 2022-23:** Exemption from filing of annual return (in FORM GSTR-9/9A) for taxpayers having aggregate annual turnover up to ₹ 2 crore, to be continued for FY 2022-23 also. Further, council recommended that the relaxations provided in FY 2021-22 in respect of various tables of FORM GSTR-9 and FORM GSTR-9C be continued for FY 2022-23.
- **ISD mechanism to be made mandatory:** The Council has recommended for amendments to be made in GST law to make Input service distribution (ISD) mechanism mandatory prospectively for distribution of input tax credit of such common input services procured from third parties. Further, council recommended to clarify through a circular that ISD mechanism is not mandatory for distribution of input tax credit of common input services procured from third parties to the distinct persons as per the present provisions of GST law.
- **Extension of Amnesty scheme:** Amnesty scheme was notified on 31.03.2023 to reduce/waive off penalty for non-filing of regarding FORM GSTR-4, FORM GSTR-9 & FORM GSTR-10 returns, revocation of cancellation of registration and deemed withdrawal of assessment orders issued under Section 62 of CGST Act, 2017. The GST council recommended extending the amnesty scheme till 31st August 2023.

- Recommendations regarding filing of Returns:
 - i) Amendment to Rule 108(1) and rule 109(1) of CGST Rules, 2017 to provide for manual filing of appeal under certain specified circumstances.
 - ii) To extend the due dates for filing of FORM GSTR-1, FORM GSTR-3B and FORM GSTR-7 for the months of April, May and June, 2023 for the registered persons of State of Manipur till 31-07-2023 in view of law-and-order situation in state of Manipur.
- Council recommended issue of circular to clarify following issues:
 - i) To clarify that refund of accumulated input tax credit (ITC) under Section 54(3) of CGST Act, 2017 for a tax period to be restricted to ITC on inward supplies reflected in FORM GSTR-2B of the said tax period or any previous tax period as a result of amendment in rule 36(4) of CGST Rules 2017.
 - ii) To provide clarity regarding applicability of TCS and TCS liability u/s 52 of the CGST Act in cases where multiple E-commerce Operators (ECOs) are involved in a single transaction of supply of goods or services or both.
 - iii) To provide clarity on various issues of GST liability as well as the liability to reverse input tax credit in cases involving warranty replacement of parts and repair services during warranty period without any consideration from the customers and also clarifying that no GST is chargeable by the manufacturer on such replacement of parts and/ or repair service and also, no reversal of input tax credit is required to be made by the manufacturer.
 - iv) To provide for the procedure for verification of input tax credit in cases involving difference in Input Tax Credit availed in FORM GSTR-3B vis a vis that available as per FORM GSTR-2A for FY 19-20 and 20-21 as provided via circular No. 183/15/2022-GST dt 27/12/2022 for FY 2017-18 and 18-19,

B. Measures for streamlining compliances includes:

- The Council has recommended inserting rule 138F in CGST Rules, 2017 to mandate the requirement of generation of e-way bills for intra-State movement of gold and precious stones under Chapter 71 within their States.
- Procedure for Recovery of Tax and Interest in terms of Rule 88C(3): The Council has recommended insertion of Rule 142B in the CGST Rules, 2017 and insertion of a FORM GST DRC-01D to provide for manner of recovery of the tax and interest in respect of the amount intimated under rule 88C which has not been paid and for which no satisfactory explanation has been furnished by the registered person.
- System based intimation for differences in ITC: The Council has recommended a mechanism for system-based intimation to the taxpayers in respect of the excess availment of ITC in FORM GSTR-3B vis a vis that made available in FORM GSTR-2B above a certain threshold, along with the procedure of auto-compliance on the part of the taxpayers, to explain the reasons for the said difference or take remedial action in respect of such difference. For this purpose, rule 88D and FORM DRC-01C to be inserted in CGST Rules, 2017, along with an amendment in rule 59(6) of CGST Rules, 2017.

- If any registered taxpayers fail to furnish Annual Return in FORM GSTR-9 or FORM GSTR-9A by due date, GST council recommends to amend Form GSTR-3A to provide for issuance of notice to the taxpayer.
- Council recommends to amend Rule 64 and FORM GSTR-5A of CGST Rules, to require OIDAR service providers to provide the details of supplies made to registered persons in India in his return in FORM GSTR-5A. This will help in tracking due payment of tax on reverse charge basis by such registered persons in India in respect of supplies received from OIDAR service providers.
- The Council has recommended insertion of a clause (ca) in sub-section (1) of section 10 of the IGST Act, 2017 to clarify the place of supply in respect of supply of goods to unregistered person.
- Council recommends following amendment in CGST Rules, 2017 to strengthen registration process:
 - i) Amendment in rule 10A to provide that the details of bank account, in name and PAN of the registered person, to be required to be furnished within 30 days of grant of registration or before filing of statement of outwards supply under section 37 of CGST Act in FORM GSTR-1/ IFF, whichever is earlier.
 - ii) Amendment in rule 21A(2A) to provide for system-based suspension of the registration in respect of such registered persons who do not furnish the details of valid bank account under rule 10A with the time period prescribed under the said rule.
 - iii) Insertion of 3 proviso in rule 21A(4) to provide for automatic revocation of such system based suspension upon compliance with provisions of rule 10A.
 - iv) Amendment in rule 59(6) to provide that where a registered person has not furnished details of a valid bank account under rule 10A, the said registered person may not be allowed to furnish the details of outward supplies in FORM GSTR-1 or using IFF.
 - v) Amendment in rule 9 and rule 25 to do away with the requirement that the physical verification of business premises is to be conducted in the presence of the applicant and also to provide for physical verification in high risk cases even where Aadhaar has been authenticated.



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