

SNR & COMPANY
CHARTERED
ACCOUNTANTS



GST UPDATE

09th October 2023

The **52nd GST Council** meeting under the Chairpersonship of Union Minister for Finance & Corporate Affairs Smt. Nirmala Sitharaman was held on 7th October 2023 at New Delhi. Council has made following recommendations pertaining to rate changes, trade facilitation measures etc.:

A. Changes in GST rates of Goods and Services

a) Food preparation of millet flour in powder form, containing at least 70% millets by weight”, falling under HS 1901

- 0% :- If sold in other than pre-packaged and labelled form
- 5% :- If sold in pre-packaged and labelled form

b) Clarification on Imitation zari thread or yarn made out of metallised polyester film /plastic film, falling under HS 5605:

- Covered by the entry for imitation zari thread or yarn attracting 5% GST rate. However, no refund will be allowed on polyester film (metallised) /plastic film on account of inversion of tax.

c) Foreign going vessels are liable to pay 5% IGST on the value of the vessel if it converts to coastal Run

- Conditional IGST exemption to foreign flag foreign going vessel when it converts to coastal run subject to its reconversion to foreign going vessel in six months

d) Entries at Sl. No. 3 and 3A of notification No. 12/2017-CTR dated 28.06.2017 exempts pure and composite services provided to Central/State/UT governments and local authorities in relation to any function entrusted to Panchayat/ Municipality under Article 243G and 243W of the Constitution of India.

- To exempt services of water supply, public health, sanitation conservancy, solid waste management and slum improvement and upgradation supplied to Governmental Authorities

- e) Extra Neutral Alcohol (ENA) used for manufacture of alcoholic liquor for human consumption would be kept outside GST.
- f) To reduce GST on molasses from 28% to 5%.
- g) To cover rectified spirit for industrial use through a new entry attracting 18% GST.

B. Other GST related Changes/ clarifications

- Clarification shall be issued that job work services for processing of barley into malt attracts GST @ 5% as applicable to "job work in relation to food and food products" and not 18%.
- Bus operators organised as companies to be excluded from the purview of section 9(5).
- To clarify that District Mineral Foundations Trusts (DMFT) set up by the State Governments across the country in mineral mining areas are Governmental Authorities and thus eligible for the same exemptions from GST as available to any other Governmental Authority.
- Supply of all goods and services by Indian Railways shall be taxed under Forward Charge Mechanism

C. Trade Facilitation Measures

- **Amnesty Scheme for filing of appeals :** Appeals against demand orders issued on or before 31st March 2023 where appeal could not be filed within the allowable time period, can be filed upto 31st January 2024, subject to the condition of payment of an amount of pre-deposit of 12.5% of the tax under dispute, out of which at least 20% (i.e. 2.5% of the tax under dispute) should be debited from Electronic Cash Ledger.

- **Personal Guarantee by Director or Corporate** : The Council has inter alia recommended to:
 - a) issue a circular clarifying that when no consideration is paid by the company to the director in any form, directly or indirectly, for providing personal guarantee to the bank/ financial institutes on their behalf, the open market value of the said transaction/ supply may be treated as zero and hence, no tax to be payable in respect of such supply of services.
 - b) to insert sub-rule (2) in Rule 28 of CGST Rules, 2017, to provide for taxable value of supply of corporate guarantee provided between related parties as one per cent of the amount of such guarantee offered, or the actual consideration, whichever is higher.
 - c) to clarify through the circular that the value of such supply of services of corporate guarantee provided between related parties would be governed by the proposed sub-rule (2) of rule 28 of CGST Rules, 2017, irrespective of whether full ITC is available to the recipient of services or not.
- **Provision for automatic restoration of provisionally attached property after completion of one year:**

The Council has recommended an amendment in sub-rule (2) of Rule 159 of CGST Rules, 2017 and FORM GST DRC-22 to provide that the order for provisional attachment in FORM GST DRC-22 shall not be valid after expiry of one year from the date of the said order.
- **Clarification on various issues related to Place of Supply:** The Council has recommended to issue a Circular to clarify the place of supply in respect of the following supply of services:

- (i) Supply of service of transportation of goods, including by mail or courier, in cases where the location of supplier or the location of recipient of services is outside India;
- (ii) Supply of advertising services;
- (iii) Supply of the co-location services.

- **Issuance of clarification relating to export of services:** The Council has recommended to issue a circular to clarify the admissibility of export remittances received in Special INR Vostro account, as permitted by RBI, for the purpose of consideration of supply of services to qualify as export of services.
- **Alignment of provisions of the CGST Act, 2017 with the provisions of the Tribunal Reforms Act, 2021 in respect of Appointment of President and Member of the proposed GST Appellate Tribunals:** The Council has recommended amendments in section 110 of the CGST Act, 2017 to provide that:
 - a) an advocate for ten years with substantial experience in litigation under indirect tax laws in the Appellate Tribunal (Central Excise and Service Tax Tribunal, State VAT Tribunals, by whatever name called), High Court or Supreme Court to be eligible for the appointment as judicial member;
 - b) the minimum age for eligibility for appointment as President and Member to be 50 years;
 - c) President and Members shall have tenure up to a maximum age of 70 years and 67 years respectively.

Law amendment with respect to ISD as recommended by the GST Council in its 50th meeting:

GST Council in its 50th meeting had recommended that ISD (Input Service Distributor) procedure may be made mandatory prospectively for distribution of ITC in respect of input services procured by Head Office (HO) from a third party but attributable to both HO and Branch Office (BO) or exclusively to one or more BOs. The Council has now recommended amendments in Section 2(61) and section 20 of CGST Act, 2017 as well as amendment in rule 39 of CGST Rules, 2017 in respect of the same.

Our Offices:

Delhi (Head Office)

A-15, Second Floor Hauz Khas, New
Delhi - 110016

Phone: +91-11- 41655801, 41655802

Pune

Office no 2A, Gangotri Complex,
927, Synagogue Street, Camp,
Pune - 411001

Phone: +91 020 30492191

Bangalore

No - 5A, Second Floor, 6th Main, KHB Colony,
Basaveshwaranagar Bangalore Karnataka -
560079

Phone: +91 80 42064178

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