

June 26, 2024

Recommendations of 53rd GST Council Meeting held on June 22, 2024



Background

Following an eight-month hiatus, the newly re-appointed Union Minister of Finance Nirmala Sitharaman announced several significant measures during the 53rd GST Council meeting convened on Saturday, June 22, 2024¹. The session, chaired by Sitharaman along with the newly appointed committee members and attended by state finance ministers, focused on plethora of areas including tax amendments, Aadhaar biometric integration, and exemptions in railway services. Albeit high expectations from the various industries, the council issued several recommendations pertinent to the changes in GST tax rates for goods and services, measures for facilitation of trade along with appropriate clarifications and other measures pertaining to law and procedures, with more to follow in the upcoming meeting to be held in August 2024. A glimpse of the trailing insights is as follows:

S.No.	Particulars	Details
1.	Insertion of Section 128A in CGST Act, to provide for conditional waiver of interest or penalty or both, relating to demands raised under Section 73, for FY 2017-18 to FY 2019-20	GST Council recommends waiving interest and penalties for demand notices issued under Section 73 of the CGST Act (i.e. the cases not involving fraud, suppression or willful misstatement, etc.) for the fiscal years 2017-18, 2018-19 and 2019-20, if the full tax demanded is paid upto March 31, 2025
2.	New Optional facility in Form GSTR-1A	The Council recommended providing a new optional facility by way of FORM GSTR-1A to facilitate the taxpayers to amend the details in FORM GSTR-1 for a tax period and/ or to declare additional details, if any, before filing of return in FORM GSTR-3B for the said tax period
3.	No Levy of interest for specific case	GST Council recommends to not levy interest u/s 50 of CGST Act in case of delayed filing of return, on the amount which is available in Electronic Cash Ledger (ECL) on the due date of filing of the said return.

¹ <https://pib.gov.in/PressReleasePage.aspx?PRID=2027982>

S.No.	Particulars	Details
4.	Rolling out of bio-metric based Aadhaar authentication on All-India basis	The GST Council recommended to roll-out the biometric-based Aadhaar authentication of registration applicants on pan-India basis in a phased manner. This will strengthen the registration process in GST and will help in combating fraudulent input tax credit (ITC) claims made through fake invoices.
5.	Change in the threshold limit for reporting of B2C supplies	The threshold for reporting of B2C inter-State supplies invoice-wise in Table 5 of FORM GSTR-1 was recommended to be reduced from Rs 2.5 Lakh to Rs 1 Lakh.

Additionally, the Council anticipates the release of circulars that will provide elucidations concerning the taxability of reimbursement of securities/ shares as ESOP/ESPP/RSU provided by a company to its employees, taxability of wreck and salvage values in motor insurance claims, determination of place of supply of goods supplied to unregistered persons, where delivery address is different from the billing address.

In this Tax alert, we have summarized the key recommendations and clarifications in GST law and GST rates related changes.

Section I: Measures for facilitation of Trade and services:

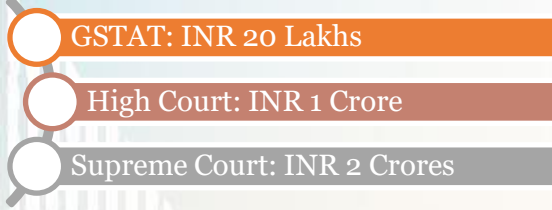
Insertion of Section 128A in CGST Act

- Considering the difficulties faced by the taxpayers, during the initial years of implementation of GST, the GST Council recommended, waiving interest and penalties for demand notices issued under Section 73 of the CGST Act for the fiscal years 2017-18, 2018-19 and 2019-20, in cases where the taxpayer pays the full amount of tax demanded in the notice upto March 31, 2025.
- The waiver does not cover demand of erroneous refunds.
- To implement this, the GST Council has recommended insertion of Section 128A in CGST Act, 2017.

- Further, it shall be interesting to see how the department deals with pertinent matters in the nature of refunds.

Reduction of Government Litigation by Fixing monetary limits for filing appeals with GSTAT, High Court and Apex Court

- The Council recommended to prescribe monetary limits, subject to certain exclusions, for filing of appeals in GST by the department before GST Appellate Tribunal, High Court, and Supreme Court, to reduce government litigation.
- The following monetary limits have been recommended by the Council:



Key Relief of GST in Accommodation Services

- A new entry shall be inserted in Notification No. 12/ 2017- Central Tax (Rate) dated June 28, 2017 ('Service Exemption Notification') to exempt accommodation services provided for a minimum continuous period of ninety days, where consideration is **up to Rs. 20,000 per month per person.**
- The benefit will be applicable in past cases as well.

Applicability of GST on Extra Neutral Alcohol (ENA)

- The GST Council, in its 53rd meeting, had recommended to amend GST Law to explicitly exclude rectified spirit/Extra Neutral Alcohol (ENA) from the scope of GST when supplied for manufacturing alcoholic liquors for human consumption.
- The GST Council now recommended amendment in sub-section (1) of Section 9 of the CGST Act, 2017 for not levying GST on Extra Neutral Alcohol used for manufacture of alcoholic liquor for human consumption.

Rates of Various Goods

- GST rate on all milk cans made of steel, iron or aluminum will now attract a 12% GST, irrespective of their use.

- GST rate on cartons, boxes and cases made of both corrugated and non-corrugated paper or paperboard will be reduced from 18% to 12%.
- All types of solar cookers, whether single or dual energy source, will attract 12% GST.
- The existing entry covering poultry-keeping machinery, which attracts 12% GST, will be amended to include 'parts of poultry-keeping machinery'.
- Clarification is provided that all types of sprinklers, including fire-water sprinklers, will attract 12% GST.
- IGST exemption provided on the import of specified items for defence forces has been extended for five years (until 30 June 2029).
- IGST exemption on import of research equipment and buoys under the Research Moored Array for African-Asian-Australian Monsoon Analysis and Prediction program will continue, subject to specified conditions.

Reduction in rate of TCS to be collected by the ECOs

- Electronic Commerce Operators (ECOs) are required to collect Tax Collected at Source (TCS) on net taxable supplies under Section 52(1) of the CGST Act.
- The GST Council has recommended to **reduce the TCS rate** from present 1%

(0.5% CGST + 0.5% SGST/ UTGST, or 1% IGST) to 0.5 % (0.25% CGST + 0.25% SGST/UTGST, or 0.5% IGST).

New Optional facility to amend details of GSTR-1 in Form GSTR-1A

- The Council recommended providing a new optional facility by way of **FORM GSTR-1A** to facilitate the taxpayers to **amend the details in FORM GSTR-1** for a tax period and/ or to declare additional details, if any, **before filing of return in FORM GSTR-3B** for the said tax period.
- This will facilitate taxpayer to add any particulars of supply of the current tax period missed out in reporting in FORM GSTR-1 of the said tax period or to amend any particulars already declared in FORM GSTR-1 of the current tax period (including those declared in IFF, for the first and second months of a quarter, if any, for quarterly taxpayers), to ensure that correct liability is auto populated in FORM GSTR-3B.
- More importantly, this move will reduce notices with respect to differences in outward GST liability reported in Form GSTR-1 vis-a-vis Form GSTR-3B.
- Taxpayers with aggregate annual turnover of up to INR20m will be exempt from filing annual return in Forms GSTR-9 or 9A for FY 2023–24.

Exemption of Railway Services

GST Exemption is provided to various services offered by the Indian Railways such as-

- Sale of Platform Tickets
- Facility of retiring and waiting rooms
- Cloak-room services
- Battery Operated Car services
- Intra-railway transactions

GST exemption is provided on services that special purpose vehicles (SPVs) provide to Indian Railways by way of allowing Indian Railways to use infrastructure that is built and owned by the SPV during the concession period as well as on maintenance services supplied by Indian Railways to the SPV.

Time for filing appeals in GST Appellate Tribunal

The GST Council recommended amending Section 112 of the CGST Act, 2017 to allow the three-month period for filing appeals before the Appellate Tribunal to start from a date to be notified by the Government in respect of appeal/ revision orders passed before the date of said notification.

Relaxation in condition of section 16(4) of the CGST Act:

- a) In respect of initial years of implementation of GST, i.e., financial years 2017-18, 2018-19, 2019-20 and 2020-21:

The GST Council recommended that the time limit to avail input tax credit in respect of any invoice or debit note under Section 16(4) of CGST Act, through any return in FORM GSTR 3B filed upto November 30, 2021 for the Financial Years 2017-18 to 2020-21, may be deemed to be November 30, 2021. For the same, requisite amendment in section 16(4) of CGST Act, retrospectively, w.e.f. July 01,

2017, has been proposed by the Council.

b) Cases where returns have been filed after revocation:

The GST Council recommended retrospective amendment in Section 16(4) of CGST Act, to be made effective from July 1, 2017, to conditionally relax the provisions of section 16(4) of CGST Act in cases where returns for the period from the date of cancellation of registration/effective date of cancellation of registration till the date of revocation of cancellation of the registration, are filed by the registered person **within thirty days** of the order of revocation.

Amendment of Rule 88B of CGST Rules, 2017 in respect of interest under Section 50 of CGST Act on delayed filing of returns, in cases where the credit is available in Electronic Cash Ledger (ECL) on the due date of filing the said return

The GST Council recommended amendment in rule 88B of CGST Rules to provide that an amount, which is available in the Electronic Cash Ledger on the due date of filing of return in FORM GSTR-3B, and is debited while filing the said return, shall not be included while calculating interest under section 50 of the CGST Act in respect of delayed filing of the said return.

Insertion of Section 11A in CGST Act for granting power not to recover duties not levied or short-levied as a result of general practice under GST Acts

The GST Council recommended inserting a new Section 11A in CGST Act to give powers to

the Government, on the recommendations of the Council, to allow regularization of non-levy or short levy of GST, where tax was being short paid or not paid due to common trade practices.

Refund of additional Integrated Tax (IGST) paid on account of upward revision in price of the goods subsequent to export

- The GST Council recommended to prescribe a mechanism for claiming refund of additional IGST paid on account of upward revision in price of the goods subsequent to their export.
- This will facilitate a large number of taxpayers, who are required to pay additional IGST on account of upward revision in price of the goods subsequent to export, in claiming refund of such additional IGST.

Change in due date for filing of return in FORM GSTR-4 for composition taxpayers

- The GST Council recommended an amendment in clause (ii) of sub-rule (1) of Rule 62 of CGST Rules, 2017 and FORM GSTR-4 to **extend the due date for filing of return in FORM GSTR-4** for composition taxpayers from 30 April to 30 June following the end of the financial year.
- The amended due date will be applicable for the returns of the financial year 2024-25 onwards.

Amendment in Section 107 and Section 112 of CGST Act for reducing the amount of pre-deposit required to be paid for filing of appeals under GST

- The GST Council recommended reducing the amount of pre-deposit for filing of appeals under GST to ease cash flow and working capital blockage for the taxpayers. The maximum amount for filing appeal with the **appellate authority** has been reduced from INR 25 crores CGST and INR 25 crores SGST to INR 20 crores CGST and INR 20 crores SGST.

Particulars	Maximum amount for filing appeal	
	Existing	Proposed
CGST	INR 25 Cr.	INR 20 Cr.
SGST	INR 25 Cr.	INR 20 Cr.

- Further, the amount of pre-deposit for filing appeal with the **Appellate Tribunal** has been reduced from 20% with a maximum amount of INR 50 crores CGST and INR 50 crores SGST to 10 % with a maximum of INR 20 crores CGST and INR 20 crores SGST.

Existing Pre-deposit rates	Proposed Pre-deposit rates
20%	10%
(with a maximum of INR 50 Cr. of CGST & SGST each)	(with a maximum of INR 20 Cr. of CGST & SGST each)

Clarification regarding availability of Input Tax Credit (ITC) on ducts and manholes used in the network of Optical Fiber Cables (OFCs)

The Council recommended to clarify that input tax credit is not restricted in respect of ducts and manhole used in network of optical fiber cables (OFCs), under clause (c) or under

clause (d) of sub-section (5) of section 17 of CGST Act.

Clarification on the place of supply applicable for custodial services provided by banks

The Council recommended to clarify that place of supply of Custodial services supplied by Indian Banks to Foreign Portfolio Investors is determinable as per Section 13(2) of the IGST Act, 2017.

Changes in Timeline

- Currently, section 73 deals with non-fraud cases and section 74 deals with fraud cases. The timelines for issuing SCN and passing order are different under both these provisions.
- In respect of demands for FY 2024-25 onwards, a common time limit will be provided for issuance of demand notices and demand orders, irrespective of cases involving charges of fraud or willful misstatement or not. To implement this change, Section 74A will be inserted.
- Also, the time limit for taxpayers to avail the benefit of reduced penalty, by paying the tax demanded along with interest, to be increased from 30 days to 60 days.

Clarification on valuation of corporate guarantee provided between related persons after insertion of Rule 28(2) of CGST Rules, 2017

- GST Council recommended amendment of rule 28(2) of CGST Rules retrospectively with effect from October 26, 2023 and issuance of a circular to clarify various issues regarding valuation of services of

providing corporate guarantees between related parties.

be applicable in case of export of such services and also where the recipient is eligible for full input tax credit.

- It is inter alia being clarified that valuation under rule 28(2) of CGST Rules would not

Section II: Other measures pertaining to Law and Procedures

S.No.	Particulars	Details
1.	Rolling out of bio-metric based Aadhaar authentication on All-India basis	<ul style="list-style-type: none"> ➤ The GST Council recommended to roll-out the biometric-based Aadhaar authentication of registration applicants on pan-India basis in a phased manner. ➤ This will strengthen the registration process in GST and will help in combating fraudulent input tax credit (ITC) claims made through fake invoices
2.	Clarification regarding applicability of provisions of Section 16 (4) of CGST Act, 2017, in respect of invoices issued by the recipient under Reverse Charge Mechanism (RCM)	The Council recommended to clarify that in cases of supplies received from unregistered suppliers, where tax has to be paid by the recipient under reverse charge mechanism (RCM) and invoice is to be issued by the recipient only, the relevant financial year for calculation of time limit for availment of input tax credit under the provisions of section 16(4) of CGST Act is the financial year in which the invoice has been issued by the recipient.
3.	Amendments in Section 73 and Section 74 of CGST Act, 2017 and insertion of a new Section 74A in CGST Act	<ul style="list-style-type: none"> ➤ Presently, there is a different time limit for issuing demand notices and demand orders, in cases where charges of fraud, suppression, willful misstatement etc., are not involved, and in cases where those charges are involved. ➤ In order to simplify the implementation of those provisions, the GST Council recommended to provide for a common time limit for issuance of demand notices and orders in respect of demands for FY 2024-25 onwards, in cases involving charges of fraud or willful misstatement and not involving the charges of fraud or willful misstatement etc. ➤ Also, the time limit for the taxpayers to avail the benefit of reduced penalty, by paying the tax demanded along with interest, has been recommended to be increased from 30 days to 60 days.

S.No.	Particulars	Details
4.	Amendment in Section 16 of IGST Act and section 54 of CGST Act to curtail refund of IGST in cases where export duty is payable	The Council recommended amendments in section 16 of IGST Act and section 54 of CGST Act to provide that the refund in respect of goods, which are subjected to export duty, is restricted, irrespective of whether the said goods are exported without payment of taxes or with payment of taxes, and such restrictions should also be applicable, if such goods are supplied to a SEZ developer or a SEZ unit for authorized operations.
5.	Sunset Clause for anti-profiteering under GST	The Council recommended amendment in section 171 and section 109 of CGST Act, 2017 to provide a “ Sunset Clause ” for anti-profiteering under GST and to provide for handling of anti-profiteering cases by Principal bench of GST Appellate Tribunal (GSTAT). Council has also recommended the sun-set date of April 01,2025 for receipt of any new application regarding anti-profiteering
6.	Monthly filing of Form GSTR-7	The Council recommended that return in FORM GSTR-7 , to be filed by the registered persons who are required to deduct tax at source under section 51 of CGST Act, is to be filed every month irrespective of whether any tax has been deducted during the said month or not. It has also been recommended that <u>no late fee may be payable for delayed filing of Nil FORM GSTR-7 return.</u> Further, it has been recommended that invoice-wise details may be required to be furnished in the said FORM GSTR-7 return.
7.	Amendment in section 140(7) of CGST Act retrospectively w.e.f. July 01, 2017	The Council recommended amendment in section 140(7) of CGST Act retrospectively w.e.f. July 01, 2017 to provide for transitional credit in respect of invoices pertaining to services provided before appointed date, and where invoices were received by Input Service Distributor (ISD) before the appointed date.
8.	Filing exemption for Form GSTR-9/9A for FY 2023-24 for small taxpayers	The Council recommended that filing of annual return in FORM GSTR-9/9A for the FY 2023-24 may be exempted for taxpayers having aggregate annual turnover upto two crore rupees.
9.	Amendment in rule 142 of CGST Rules	The Council recommended amendment in rule 142 of CGST Rules and issuance of a circular to prescribe a mechanism for adjustment of an amount paid in respect of a demand through FORM GST DRC-03 against the amount to be paid as pre-deposit for filing appeal.
10.	Amendment in section 122(1B) of CGST Act	Amendment was recommended to be made in section 122(1B) of CGST Act retrospectively w.e.f. October 01, 2023, so as to

S.No.	Particulars	Details
	retrospectively October 01, 2023	w.e.f. clarify that the said penal provision is applicable only for those e-commerce operators, who are required to collect tax under section 52 of CGST Act, and not for other e-commerce operators.

➤ **Section III: Clarification on the following issues to provide clarity to trade and tax officers and to reduce litigation**

1. Clarification on taxability of reimbursement of securities/shares as ESOP/ESPP/RSU provided by a company to its employees.
2. Clarification on requirement of reversal of input tax credit in respect of amount of premium in Life Insurance services, which is not included in the taxable value as per Rule 32(4) of CGST Rules.
3. Clarification on taxability of wreck and salvage values in motor insurance claims
Clarification on taxability of wreck and salvage values in motor insurance claims.
4. Clarification in respect of Warranty/Extended Warranty provided by Manufacturers to the end customers.
5. Clarification regarding availability of input tax credit on repair expenses incurred by the insurance companies in case of reimbursement mode of settlement of motor vehicle insurance claims.
6. Clarification on taxability of loans granted between related person or between group companies.
7. Clarification regarding availability of input tax credit on repair expenses incurred by the insurance companies in case of reimbursement mode of settlement of motor vehicle insurance claims.
8. Clarification on time of supply on Annuity Payments under HAM Projects.
9. Clarification regarding time of supply in respect of allotment of Spectrum to Telecom companies in cases where payment of licence fee and Spectrum usage charges is to be made in instalments.
10. Clarification relating to place of supply of goods supplied to unregistered persons, where delivery address is different from the billing address.
11. Clarification on mechanism for providing evidence by the suppliers for compliance of the conditions of Section 15(3)(b)(ii) of CGST Act, 2017 in respect of post-sale discounts, to the effect that input tax credit has been reversed by the recipient on the said amount.
12. Clarifications on various issues pertaining to special procedure for the manufacturers of the specified commodities, like pan masala, tobacco etc.
13. Clarification on taxability of reimbursement of securities/shares as

ESOP/ESPP/RSU provided by a company to its employees.

14. Clarification on requirement of reversal of input tax credit in respect of amount of premium in Life Insurance services, which is not included in the taxable value as per Rule 32(4) of CGST Rules.
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19. Clarification regarding availability of input tax credit on repair expenses incurred by the insurance companies in case of reimbursement mode of settlement of motor vehicle insurance claims.
20. Clarification on time of supply on Annuity Payments under HAM Projects.
21. Clarification regarding time of supply in respect of allotment of Spectrum to Telecom companies in cases where payment of licence fee and Spectrum

usage charges is to be made in instalments.

22. Clarification relating to place of supply of goods supplied to unregistered persons, where delivery address is different from the billing address.
23. Clarification on mechanism for providing evidence by the suppliers for compliance of the conditions of Section 15(3)(b)(ii) of CGST Act, 2017 in respect of post-sale discounts, to the effect that input tax credit has been reversed by the recipient on the said amount.
24. Clarifications on various issues pertaining to special procedure for the manufacturers of the specified commodities, like pan masala, tobacco etc.

Section IV: Other Miscellaneous Changes

1. To exempt compensation cess on supply of aerated beverages and energy drinks to Authorised customers by Unit Run Canteens under the Ministry of Defense.
2. To provide Ad-hoc IGST exemption on imports of technical documentation for AK-203 rifle kits imported for Indian Defense forces.
3. Co-insurance premium apportioned by lead insurer to the co-insurer for the supply of insurance service by lead and co-insurer to the insured in coinsurance agreements, may be declared as no supply under Schedule III of the CGST Act, 2017 and past cases may be regularized on 'as is

where is' basis.

4. Transaction of commission/re-insurance commission between insurer and re-insurer may be declared as no supply under Schedule III of CGST Act, 2017 and past cases may be regularized on 'as is where is' basis.
5. GST liability on reinsurance services of specified insurance schemes covered by Sr. Nos. 35 & 36 of notification No. 12/2017-CT (Rate) dated 28.06.2017 may be regularized on 'as is where is' basis for the period from 01.07.2017 to 24.01.2018.
6. GST liability on reinsurance services of the insurance schemes for which total premium is paid by the Government that are covered under Sr. No. 40 of notification No. 12/2017-CTR dated 28.06.2017 may be regularized on 'as is where is' basis for the period from 01.07.2017 to 26.07.2018.
7. To issue clarification that retrocession is 're-insurance of re-insurance' and therefore, eligible for the exemption under Sl. No. 36A of the notification No. 12/2017-CTR dated 28.06.2017.
8. To issue clarification that statutory collections made by Real Estate Regulatory Authority (RERA) are exempt from GST as they fall within the scope of entry 4 of No.12/2017-CTR dated 28.06.2017.

Key Takeaways

- The latest amendments proposed by the GST Council breathe a fresh air into the complex and dynamic world of GST.
- Some key amendments include the amnesty scheme announced under Section 73 in terms of getting waiver of interest and penalty if tax is paid before March 31, 2025, Reduction in the amount of Pre-Deposit for preferring an appeal before the First Appellate Authority.
- The committee provides changes to the rates of various goods such as milk cans, solar cookers.
- The committee remains optimistic on the premise of easing Petroleum and Diesel in the GST provisions pending the approvals of various states for the current period.
- The committee remains silent on the GST rate and relevant provisions relating to Online Gaming Industry.
- It is expected that a major part of these amendments shall be reiterated upon during the presentation of Annual Budget for the Financial Year 2024-25 in July 2024.
- While the current chaired meeting brings a wide ambit of issues into coverage, complexities still lay at large. It shall be interesting to see the amendments to be approved during the 54th GST Council Meeting proposed to be held in August 2024.

Please note that the above narration is only a summary based on our understanding of the ruling. This summary should not be construed as advice, including any advice that may only be provided by a qualified legal professional. It serves as a technical summary to keep you informed about the latest tax issues. Please reach out to your SHM SPOC for specific queries and applicability.

We hope you find this update useful.