



Newsflash: 52nd GST Council Meeting Outcome



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Newsflash

52nd GST Council Meeting's Outcome

For Circulation
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1.0 Background

The GST Council, headed by Union Finance Minister conducted its 52nd meeting on 7 October 2023 in New Delhi.

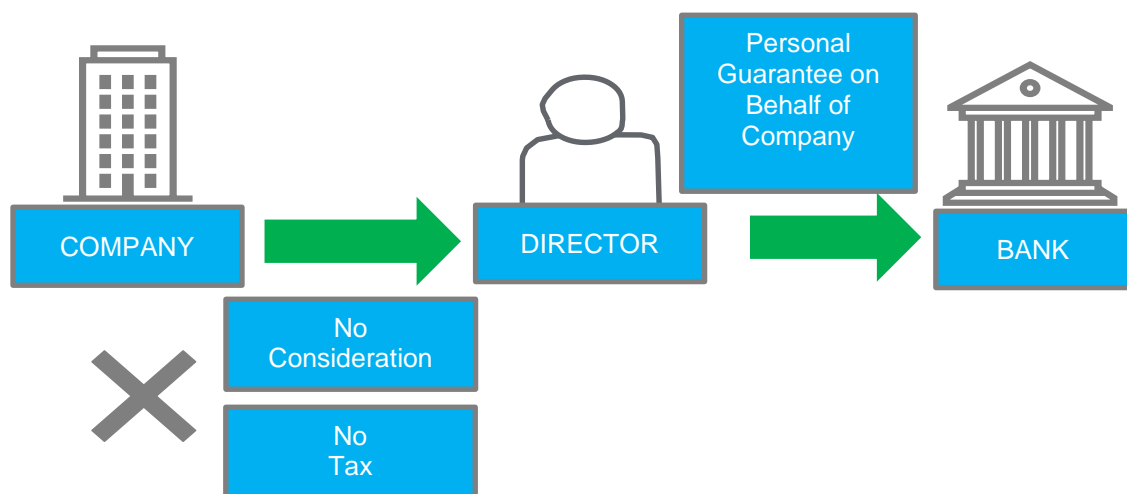
The key recommendations made by the GST Council are encapsulated as under:

2.0 Clarifications regarding chargeability of GST on corporate guarantee and personal guarantee

The GST Council has recommended to issue a circular clarifying the below aspects:

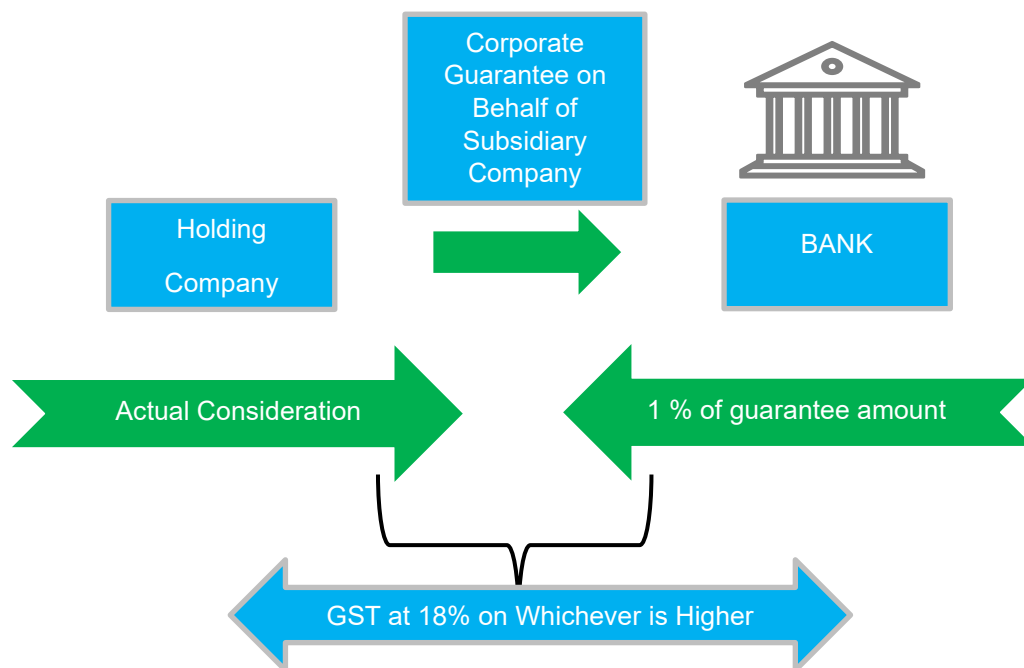
2.1 Taxability of personal guarantee provided by directors to the banks against loans taken by the Company

- It has been recommended to clarify by way of a circular that where the director shall not be in receipt of any consideration from the Company for the provision of personal guarantee to banks/financial institutions, in such a case, the open market value of supply may be ascertained as zero thereby not attracting GST payable in relation to it.



2.2 Taxability of corporate guarantee provided for related persons such as the one provided by holding company to its subsidiary company

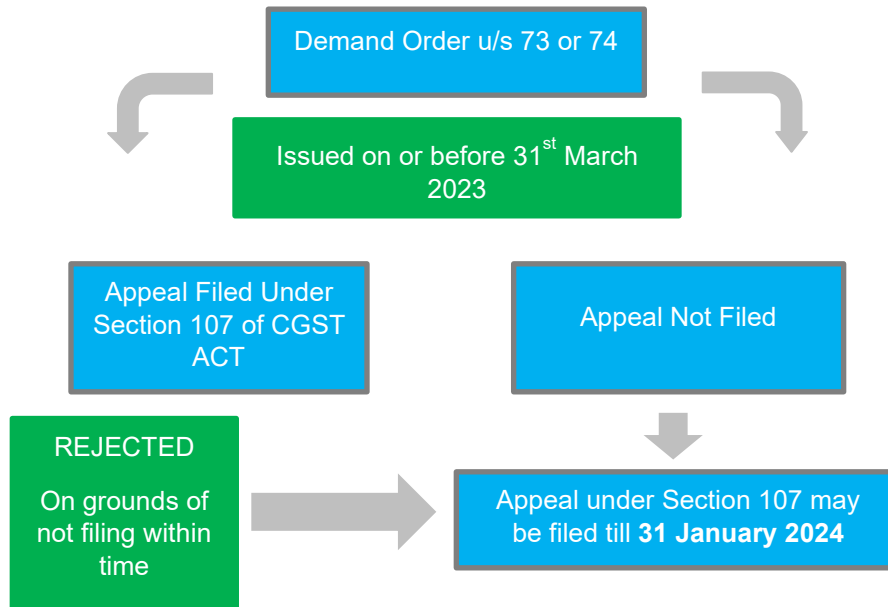
- It has been recommended to insert sub-rule (2) under Rule 28 of CGST Rules, 2017 to prescribe valuation mechanism for supply of services of corporate guarantee provided between related parties as higher of:
 - 1% of the guarantee amount offered or
 - the actual consideration.
- Further, the proposed sub-rule (2) of Rule 28 shall alone govern the valuation of supply of services of corporate guarantee between related persons regardless of the recipient of services being entitled to full input tax credit or not.



3.0 Recommendation to provide an Amnesty scheme for filing of appeals where appeal could not be filed within the prescribed time period

- It has been recommended to introduce an amnesty scheme vide a special procedure thereby aiding taxpayers who were unable to file an appeal under Section 107 of CGST Act, 2017 against the demand order passed on or before 31 March 2023 under Section 73 (cases other than fraud) or Section 74 (cases pertaining to fraud) of CGST Act, 2017 within the permissible timeframe or where the appeal being filed belatedly led to its rejection.
- Such taxpayers would be allowed to file the missed out appeal upto 31st January 2024. The same would be subject to payment of pre-deposit amounting to 12.5% of the disputed tax out of which 2.5% of the disputed tax shall be paid through electronic cash ledger.

- The amnesty scheme would serve to be a facilitation measure for a huge number of taxpayers who failed to file the appeal within specified timelines.



4.0 Clarifications in relation to Services

- Recommendation to clarify that job work services for processing of barley into malt would attract GST rate of 5% i.e. rate applicable to job work in relation to food and food products.
- Recommendation that buses operators organized as companies and supplying services through e-commerce operator be excluded from the purview of Section 9(5) of CGST Act, 2017 and the said supplies be taxed in the hands of the said bus operators and not the e-commerce operator.
- Recommendation to clarify that District Mineral Foundations Trust (DMFT) set up by the State Governments in mineral mining areas are Governmental authorities and hence eligible for the same exemptions under GST as available to other governmental authority.
- Recommendation that supplies of all goods and services by Indian Railways be chargeable under Forward Charge Mechanism.

5.0 Proposition to issue clarificatory circulars

- It has been recommended by the GST Council to issue circulars with a view to bring desired clarity on below topics:
 - To clarify the admissibility of export remittances when received in Special INR Vostro account as permitted by RBI to meet the condition in relation to receipt of

consideration to qualify as export of services in accordance with Section 2(6)(iv) of IGST Act, 2017.

- To clarify the Place of Supply in relation to below-mentioned services:
 - a. 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
 - b. Supply of advertising services
 - c. Supply of the co-location services

6.0 Other significant propositions:

- Recommendation to make relevant amendments to Section 2(61) and Section 20 of the CGST Act, 2017 and Rule 39 of CGST Rules, 2017 thereby mandating the ISD procedure prospectively for distribution of input tax credit on common services procured by Head Office from a third party.
- Recommendation to bring about amendments in conditions of appointment of President and Member of the proposed GST Appellate Tribunals with regards to eligibility and age criteria.
- Recommendation to bring about amendments in Rule 159(2) of CGST Rules, 2017 and Form GST DRC 22 to provide that the order for provisional attachment of property shall not be valid post expiry of one year from the date of order; thereby enabling automatic restoration of provisionally attached properties after expiry of period of one year.
- Nil GST rate proposed for food preparation of millet flour in powder form and containing at least 70% millets by weight when sold in loose form, and 5% if sold in pre-packaged and labelled form.
- Recommendation to keep Extra Neutral Alcohol (ENA) used for manufacture of alcoholic liquor for human consumption outside the purview of GST.
- Recommendation to reduce GST rate on molasses from 28% to 5%.
- Recommendation to conditionally exempt IGST on foreign flag foreign going vessel when it converts to coastal run.

[Source: Press Release issued by PIB Delhi dated 7 October 2023]

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10th October 2023

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