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Newsflash

54th GST Council Meeting's Outcome

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For Circulation

11th September 2024

1.0 Background

The GST Council, headed by the Union Finance Minister conducted its 54th meeting on 9 September 2024 in New Delhi.

The 54th Council meeting has concluded with a series of recommendations for rate rationalization, issuance of clarifications and necessary changes to GST regulations duly considering the difficulties faced by the trade and industry.

Few of the major recommendations made by the GST Council are summarized hereunder:

2.0 Procedure and Conditions for waiver of interest and/or penalty in relation to tax demands imposed under Section 73 of the CGST Act, 2017 for the financial years 2017-18 to 2019-20 in accordance with Section 128A of the Act:

In alignment with the recommendations made during the 53rd GST Council meeting, Section 128A has been introduced under the CGST Act vide Finance Act 2024 pertaining to waiver of interest or penalty or both relating to demands raised under Section 73 for fiscal years 2017-18, 2018-19 and 2019-20. The GST Council has further recommended the **insertion of Rule 164** in the CGST Rules, 2017 laying down **specific conditions and procedures and prescribing requisite Forms for availing this waiver.**

Additionally, it has been suggested for **setting the deadline of payment of tax** for availing the said benefit according to Section 128A as **31st March 2025.**

Furthermore, the Council recommended the **notification of Section 146 of the Finance (No. 2) Act, 2024,** to bring into effect the provisions of Section 128A of the CGST Act from **1st November 2024.**

3.0 Launch of B2C E invoicing Pilot

Following the successful implementation of E-invoicing in the B2B Sector, the GST Council aims to extend this system to the retail i.e. B2C sector. The GST Council has recommended **the rollout of a pilot project for B2C e invoicing.** The pilot will be implemented on a **voluntary basis in selected sectors and states,** allowing retail customers to **verify the accuracy of invoice reporting in GST Return.**

The potential benefits of B2C E invoicing shall inter-alia include:-

- **Improved Business Efficiency:** Automation will reduce human errors and paperwork.
- **Environmentally Friendly:** Digital invoices cut down on physical receipts, supporting sustainable practices.

- **Cost Savings:** Businesses will experience reduced processing costs due to streamlined invoicing.

This initiative aims to enhance GST return accuracy and provide greater transparency in B2C domain, potentially reducing tax evasion practices.

4.0 Exemption on Import of service by Foreign Airline Branch Offices

The GST Council has recommended **exempting the import of services by a branch office of a foreign airline company from a related person or any of its establishments outside India, provided these services are received without consideration.** This measure addresses issues raised due to several notices issued to foreign airlines by the Directorate General of Goods and Service Tax Intelligence (DGGI) concerning such transactions.

Additionally, the Council has proposed **regularizing** the situation for the past period on an ‘**as is where is**’ basis.

5.0 Providing a mechanism for implementation of newly inserted Section 16(5) and 16(6) of the CGST Act 2017

The GST Council has recommended **to notify promptly Section 118 and Section 150** of the Finance (No. 2) Act, 2024, pertaining to enhanced timelines for availing input tax credit in relation to financial years 2017-18, 2018-19, 2019-20 and 2020-21 under Sections 16(5) and (6) of the CGST Act, 2017 with retrospective effect from 01 July 2017.

The Council also recommended establishing **a special procedure under Section 148 of the CGST Act for rectifying orders** related to the **wrongful availment of input tax credit owing to time-barred availment of such credits**, where such credit is now permissible under the newly inserted provisions and where no appeal against the order has been filed by the taxpayer.

6.0 Clarification on Composite supply treatment for Ancillary services provided by GTAs

It has been recommended to clarify that when **ancillary or intermediate services**—such as loading/unloading, packing/unpacking, transshipment, and temporary warehousing—are provided by a Goods Transport Agency (GTA) during the transportation of goods by road, and the GTA issues a consignment note, these services will be **regarded as part of a composite supply**. This means that all these ancillary services will be considered integral to the primary transportation service rendered by the GTA.

However, if these **ancillary services are not provided as part of the actual transportation process and are invoiced separately from the transport service**, in such cases, the ancillary services will be treated as independent **supplies**, separate from the transportation service.

7.0 Amendment in CGST Rules for Exporters of Goods

To address the challenges faced by exporters, the GST Council has recommended **amendments to Rule 89 and Rule 96 of the CGST Rules, 2017**, focusing on refund procedures for benefits claimed under concessional or exemption notifications.

Key Propositions:

- It has been proposed **to clarify** that when **imported inputs are subsequently subjected to IGST and compensation cess payments**, IGST refunds on exports **will not be deemed a violation** of rules.
- The Council has also **recommended** the prospective omission of **Rule 96(10), Rule 89(4A), and Rule 89(4B)**, streamlining and speeding up the refund process for exporters..

These amendments aim to simplify compliance, expedite refund claims, and enhance liquidity for exporters, thereby promoting increased participation in international trade.

8.0 Introduction of Invoice Management System and new Ledgers for Taxpayers

The GST Council has introduced several enhancements to the GST return filing and compliance system to streamline processes and improve accuracy. The key enhancements are:

- **Reverse Charge Mechanism (RCM) Ledger:** Helps taxpayers track RCM liabilities more effectively.
- **Input Tax Credit (ITC) Reclaim Ledger:** Assists in managing and reclaiming input tax credits.
- **Invoice Management System (IMS):** Allows taxpayers to accept, reject, or keep invoices pending for ITC purposes, aiming to reduce errors and improve reconciliation. The same is a facilitation measure and thus, optional in nature.

Registered taxpayers shall be able to declare the opening balances in the aforementioned ledgers by 31 October 2024.

These enhancements are expected to **minimize input tax credit mismatches** and reduce the number of notices issued by GST authorities.

9.0 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 critical topics amongst others:
 - Clarification relating to **Place of Supply of advertising services provided by Indian advertising companies to foreign entities.**
 - Clarification pertaining to **input tax credit availability on demo vehicles by the dealers of the vehicle manufacturers.**
 - Clarification relating to **Place of Supply of data hosting services provided by service providers located in India to cloud computing service providers located outside India.**
 - Clarification regarding **exemption from GST for approved flying training courses conducted by DGCA -approved Flying Training Organizations (FTO)**
 - **Taxability of GST on affiliation services provided by universities to their constituent colleges**
 - Clarification on various issues related to **availment of waiver of interest or penalty or both as per Section 128A.**
 - Clarification on procedure and various issues related to **implementation of the provisions of Section 16(5) and Section 16(6) of the CGST Act, 2017.**

10.0 Other Significant Propositions:

- The GST Council has recommended to **notify exemption** on the supply of **research and development services by a Government Entity or by research associations, universities, colleges, or other institutions notified under Section 35(1)(ii) and (iii)** of the Income Tax Act, when such **services are funded by government or private grants**.
- The GST Council has recommended bringing renting of commercial property by unregistered person to a registered person under the purview of Reverse Charge Mechanism (RCM) to curtail revenue leakages.
- It has been recommended to clarify that **location charges or Preferential Location Charges (PLC) paid along with the consideration for construction services** of residential, commercial, or industrial complexes **before the issuance of the completion certificate are considered part of a composite supply**. In this context, the supply of construction services is the principal supply, and PLC, being naturally bundled with it, is subject to the same tax treatment as the principal supply, i.e., construction services.
- GST Council has recommended **clarifying that affiliation services provided by educational boards, such as CBSE, are taxable**. However, it has also proposed **exempting affiliation services provided by State/Central educational boards, educational councils, and similar bodies to Government Schools prospectively**. The issue for the period from 01 July 2017 to 17 June 2021 is proposed to be regularized on an 'as is where is' basis.
- The GST Council has recommended implementing the **Reverse Charge Mechanism (RCM)** for transactions involving **metal scrap supplied by unregistered suppliers to registered buyers**. Under this new regime, registered buyers will be liable to pay GST on these supplies subject to the supplier obtaining a GST registration on crossing the applicable turnover threshold. Additionally, a **2% Tax Deducted at Source (TDS)** will apply to **metal scrap supplies made by registered suppliers in business-to-business (B2B) transactions**.
- The GST Council has proposed the **formation of Group of Ministers (GoM)** to comprehensively address matters concerning **GST on life and health insurance**. The GoM is expected to submit its **report by the end of October 2024**.

11.0 Changes in GST Rates for Goods and Services

- Changes in GST Rates for several goods and services have been recommended. Few of the significant rate-related amendments proposed are as follows:

Category	Existing GST Rate	Proposed GST Rate	Details
Namkeens and Extruded / Expanded Savoury Food Products	18%	12%	GST on extruded or expanded savoury products (HS 1905 90 30) will be reduced to 12%. The rate on un-fried or un-cooked snack pellets remains at 5% . This will be

			Applicable prospectively.
Cancer Drugs	12%	5%	GST on Trastuzumab Deruxtecan, Osimertinib, and Durvalumab will be reduced to 5%.
Car and Motorcycle Seats	18%	28%	GST on car seats (HS 9401) will be increased to 28% , aligning with the GST rate for motorcycle seats. This will be Applicable prospectively.

- To clarify that **Roof Mounted Package Unit (RMPU)** Air Conditioning Machines for Railways would be classified under HSN 8415 attracting a GST rate of 28%
- To **notify** that the GST rate on the transport of passengers by helicopters on a seat-share basis will be set at **5%**.
- To **clarify** that the charter of helicopters will continue to attract a GST levy of **18%**.

[Source: Press Release issued by PIB Delhi dated 9 September 2024]

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