

45th GST Council meeting.

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The 45th GST Council meeting was held on Friday, 17th September 2021, at Lucknow, Uttar Pradesh, chaired by Union Finance Minister Nirmala Sitharaman. The Council meeting was held physically for the first time after one and a half years of virtual meetings.

Highlights of the 45th GST Council Meeting

Key matters discussed in the Council meeting

Construction Industry: Brick kilns would be brought under special composition scheme with threshold limit of Rs.20 lakhs, with effect from 1.4.2022. Bricks would attract GST at the rate of 6% without ITC under the scheme. GST rate of 12% with ITC would otherwise apply to bricks.

Compliance Changes for the taxpayer:

- Aadhaar authentication of registration to be made mandatory for being eligible for filing refund claim and application for revocation of cancellation of registration.
- Late fee for delayed filing of FORM GSTR-1 to be auto-populated and collected in next open return in FORM GSTR-3B.
- Rule 59(6) of the CGST Rules to be amended with effect from 01.01.2022 to provide that a registered person shall not be allowed to furnish FORM GSTR-1, if he has not furnished the return in FORM GSTR-3B for the preceding month.

Compliance Changes for the taxpayer:

- Refund to be disbursed in the bank account, which is linked with same PAN on which registration has been obtained under GST.
- Rule 36(4) of CGST Rules, 2017 to be amended, once the proposed clause (aa) of section 16(2) of CGST Act, 2017 is notified, to restrict availment of ITC in respect of invoices/ debit notes, to the extent the details of such invoices/ debit notes are furnished by the supplier in FORM GSTR-1/ IFF and are communicated to the registered person in FORM GSTR-2B. Input Tax Credit Input Tax Credits.
- W.e.f. 01.01.2021, the date of issuance of debit note (and not the date of underlying invoice) shall determine the relevant financial year for the purpose of section 16(4) of CGST Act, 2017.

Compliance Changes for the taxpayer:

- There is no need to carry the physical copy of tax invoice in cases where invoice has been generated by the supplier in the manner prescribed under rule 48(4) of the CGST Rules, 2017.
- Supply of Mentha oil from unregistered person has been brought under reverse charge. Further, Council has also recommended that exports of Mentha oil should be allowed only against LUT and consequential refund of input tax credit.

Compliance Changes for the taxpayer:

- Refunds of Only those goods which are actually subjected to export duty i.e., on which some export duty has to be paid at the time of export, will be covered under the restriction imposed under section 54(3) of CGST Act, 2017 from availment of refund of accumulated ITC.
- Provision to be incorporated in CGST Rules, 2017 for removing ambiguity regarding procedure and time limit for filing refund of tax wrongfully paid as specified in section 77(1) of the CGST/SGST Act and section 19(1) of the IGST Act.
- Interest u/s 50(3) Interest u/s 50(3) Interest is to be charged only in respect of net cash liability, section 50 (3) of the CGST Act to be amended retrospectively, w.e.f. 01.07.2017, to provide that interest is to be paid by a taxpayer on “ineligible ITC availed and utilized” and not on “ineligible ITC availed”. It has also been decided that interest in such cases should be charged on ineligible ITC availed and utilized at 18% w.e.f. 01.07.2017.

Compliance Changes for the taxpayer:

- Transfer of Balances in Cash Ledger – Distinct Persons
Transfer of Balances in Cash Ledger – Distinct Persons
Unutilized balance in CGST and IGST cash ledger may be allowed to be transferred between distinct persons (entities having same PAN but registered in different states).
- ITC -04 Filing ITC-04 Filing Requirement of filing FORM GST ITC-04 under rule 45 (3) of the CGST Rules has been relaxed as under:
- Taxpayers whose annual aggregate turnover in preceding financial year is above Rs.5 crores shall furnish ITC-04 once in six months;

Compliance Changes for the taxpayer:

- Taxpayers whose annual aggregate turnover in preceding financial year is up to Rs. 5 crores shall furnish ITC-04 annually.
- Changes proposed are aligned to Filing of Form GSTR 9C – Self attested Reconciliation Statements. Aggregate Turnover Section 2(6) defines “aggregate turnover” means the aggregate value of all taxable supplies (excluding the value of inward supplies on which tax is payable by a person on reverse charge basis), exempt supplies, exports of goods or services or both and inter-State supplies of persons having the same Permanent Account Number, to be computed on all India basis but excludes central tax, State tax, Union territory tax, integrated tax and cess;

Changes in Rates and Exemptions:

– COVID-19 relief measure in form of GST rate concessions: up to 31st December, 2021:

- i. Amphotericin B – nil
- ii. Remdesivir – 5%
- iii. Tocilizumab -nil
- iv. Anti-coagulants like Heparin – 5%.

Reduction of GST rate to 5% on more Covid19 treatment drugs, up to 31st December, 2021,

- i. Itolizumab
- ii. Posaconazole
- iii. Infliximab
- iv. Favipiravir
- v. Casirivimab & Imdevimab
- vi. 2-Deoxy-D-Glucose
- vii. Bamlanivimab & Etesevimab

Changes in Rates – Goods W.e.f October 1,2021:

- Retro fitment kits for vehicles used by the disabled
Applicable Rate 5%
- Fortified Rice Kernels for schemes like ICDS etc. 18% to 5%
- Medicine Keytruda for treatment of cancer 12% to 5% .
- Biodiesel supplied to OMCs for blending with Diesel 12% to 5% .
- Ores and concentrates of metals such as iron, copper, aluminum, zinc and few others 5% to18%.
- Specified Renewable Energy Devices and parts 5% to 12%
- Cartons, boxes, bags, packing containers of paper etc. 12% to 18% 18%
- Waste and scrap of polyurethanes and other plastics 5% to 18%.

Changes in Rates – Goods W.e.f October 1,2021:

- All kinds of pens 12%to 18%
- Railway parts, locomotives & other goods in Chapter 86 12% to 18%.
- Miscellaneous goods of paper like cards, catalogue, printed material (Chapter 49 of tariff) 12% to 18%.
- IGST on import of medicines for personal use, namely
 - Zolgensma for Spinal Muscular Atrophy
 - Viltepso for Duchenne Muscular Dystrophy
 - Other medicines used in treatment of muscular atrophy recommended by Ministry of Health and Family Welfare and Department of Pharmaceuticals. 12% to NIL
- IGST exemption on goods supplied at Indo-Bangladesh Border Applicable Rate NIL

Supply of service extension/exemption w.e.f. 01.10.2021:

- Validity of GST exemption on transport of goods by vessel and air from India to outside India is extended up to 30.9.2022.
- Services by way of grant of National Permit to goods carriages on payment of fee 18% to NIL
- Skill Training for which Government bears 75% or more of the expenditure [presently exemption applies only if Govt funds 100%]. 18% to NIL
- Services related to AFC Women's Asia Cup 2022. 18% to NIL.
- Licensing services/ the right to broadcast and show original films, sound recordings, Radio and Television programmes [to bring parity between distribution and licencing services] 12% to 18%.

Supply of service extention/exemption w.e.f. 01.10.2021:

- Printing & reproduction services of recorded media where content is supplied by the publisher (to bring it on parity with Colour printing of images from film or digital media) 18% to NIL.
- Exemption on leasing of rolling stock by IRFC to Indian Railways withdrawn.
- E Commerce Operators are being made liable to pay tax on following services provided through them
 - transport of passengers, by any type of motor vehicles through it [w.e.f. 1st January, 2022]
 - restaurant services provided through it with some exceptions [w.e.f. 1st January, 2022]

Clarifications Regarding Goods

- Pure henna powder and paste, having no additives, attract 5% GST rate under Chapter 14.
- Scented sweet supari and flavored and coated illachi falling under heading 2106 attract GST at the rate of 18%
- Carbonated Fruit Beverages of Fruit Drink" and "Carbonated Beverages with Fruit Juice“attract GST rate of 28% and Cess of 12%.
- Tamarind seeds fall under heading 1209 would attract 5% GST rate (w.e.f. 1.10.2021) for use other than sowing. Seeds for sowing will continue at nil rate. • Distinction between fresh and dried fruits and nuts is being clarified for application of GST rate of “nil” and 5%/12% respectively;
- All laboratory reagents and other goods falling under heading 3822 attract GST at the rate of 12%. (Pathological & Testing Laboratory Industry) Clarifications - Goods

Clarifications Regarding Goods

- It is being clarified that all pharmaceutical goods falling under heading 3006 attract GST at the rate of 12% [not 18%].
- Brewers' Spent Grain (BSG), Dried Distillers' Grains with Soluble [DDGS] and other such residues, falling under HS code 2303 attract GST at the rate of 5%. (Spirit Industry).
- External batteries sold along with UPS Systems/ Inverter attract GST rate applicable to batteries [28% for batteries other than lithium-ion battery] while UPS/inverter would attract 18%. (Electronics and Electronic Components Industry)
- GST on specified Renewable Energy Projects can be paid in terms of the 70:30 ratio for goods and services, respectively, during the period from 1.7.2017 to 31.12.2018, in the same manner as has been prescribed for the period on or after 1st January 2019. (Solar Energy Industry).
- Due to ambiguity in the applicable rate of GST on Fibre Drums, the supplies made at 12% GST in the past have been regularised. Henceforth, a uniform GST rate of 18% would apply to all paper and paper board containers, whether corrugated or non-corrugated.

Clarifications Regarding Goods

- Goods Essentiality certificate issued by Directorate General of Hydrocarbons on imports would suffice; no need for taking a certificate every time on inter-state stock transfer.
- Intermediary Services Clarification relating to interpretation of the term “merely establishment of distinct person” in condition (v) of the Section 2 (6) of the IGST Act 2017 for export of services. A person incorporated in India under the Companies Act, 2013 and a person incorporated under the laws of any other country are to be treated as separate legal entities and would not be barred by the condition (v) of the sub-section (6) of the section 2 of the IGST Act 2017 for considering a supply of service as export of services;
- Coaching services to students provided by coaching institutions and NGOs under the central sector scheme of ‘Scholarships for students with Disabilities’ is exempt from GST.
- Services by cloud kitchens/central kitchens are covered under ‘restaurant service’, and attract 5% GST [without ITC].

Clarifications Regarding Goods

- Ice cream parlor sells already manufactured ice- cream. Such supply of ice cream by parlors would attract GST at the rate of 18%.
- Overloading charges at toll plaza are exempt from GST being akin to toll.
- The renting of vehicle by State Transport Undertakings and Local Authorities is covered by expression 'giving on hire' for the purposes of GST exemption
- The services by way of grant of mineral exploration and mining rights attracted GST rate of 18% w.e.f. 01.07.2017.
- Admission to amusement parks having rides etc. attracts GST rate of 18%. The GST rate of 28% applies only to admission to such facilities that have casinos etc.
- Alcoholic liquor for human consumption is not food and food products for the purpose of the entry prescribing 5% GST rate on job work services in relation to food and food products.

Thank You