

# Updates On 53<sup>rd</sup> GST COUNCIL MEETING



## UPDATES ON 53<sup>RD</sup> GST COUNCIL MEETING

We give below the summary of points discussed during 53rd GST Council meeting held on 22.06.2024. To make these decisions effective appropriate notifications / circulars will be issued in due course

### Measures for facilitation of trade

1. Waiver of interest or penalty for FY 2017-18, 2018-19 and 2019-20: In order to reduce the litigation burden in the system, it is proposed to waive off 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 31.03.2025 by inserting new section 128A in CGST Act 2017. However, there is no clarity on the interest and penalties which are already paid by the taxpayers. It is important to note that the waiver does not cover demand of erroneous refunds.
2. Monetary limits for filing of appeals by Department with objective to reduce the litigations: The Council proposed to set monetary limits for filing of appeals in GST by the department before GST Appellate Tribunal Rs. 20 lacs, High Court Rs. 1 Crore, and Supreme Court Rs. 2 Crores, to reduce government litigation. However, matters relating to classifications may be excluded which have got the recurring impact.
3. Reduction in pre-deposit amount for filing Appeal before Tribunal: The pre-deposit amount for filing appeals has been reduced,

Appeal	Earlier Pre-deposit	Proposed pre-deposit
<b>First Appeal</b>	<b>10% with maximum amount of Rs 50 Cr (25 Cr under CGST + 25 Cr SGST/ UTGST).</b>	<b>10% with maximum amount of Rs 40 Cr (20 Cr under CGST + 20 Cr SGST/ UTGST).</b>
<b>Second Appeal</b>	<b>Incremental 20% with maximum amount of Rs 100 Cr (50 Cr under CGST + 50 Cr SGST/ UTGST).</b>	<b>Incremental 10% with maximum amount of Rs 40 Cr (20 Cr under CGST + 20 Cr SGST/ UTGST)</b>
<b>Total Pre-deposit</b>	<b>30% with maximum amount of Rs 100 Cr (50 Cr under CGST + 50 Cr SGST/ UTGST).</b>	<b>20% with maximum amount of Rs 40 Cr (20 Cr under CGST + 20 Cr SGST/ UTGST).</b>

4. GST on Extra Neutral Alcohol (ENA) Taxation of ENA: It is proposed not to levy GST on Extra Neutral Alcohol used for manufacture of alcoholic liquor for human consumption by amending section 9(1) of CGST Act 2017 being considered as alcoholic liquor for human consumption to avoid mis-use of clearing the alcohol in guise of Extra Neutral Alcohol.
5. Tax Collection Rate: It is proposed to reduce that TCS rate applicable to E-Commerce operators. It is proposed to be reduced to 0.5% from the current rate of 1% which was payable on net value of the taxable supplies.

6. Time limit for filing appeals before GST Tribunals: As the GST tribunals are yet to start functioning, it is proposed to provide a timeline of 90 days for filing appeals from the date to be notified in this matter. Section 102 of CGST Act, 2017 provides the timeline of 90 days from the date of order against which the appeal is to be filed. The proposal is in line with the timelines specified in Section 102 of the CGST Act, 2017. However, the trade requires immediate formation of GSTAT.
7. Relaxation in condition of section 16(4) of the CGST Act:
  - a) Time limit for availing ITC for FY 17-18 to 20-21: It is proposed to extend the time limit for availing the ITC against Invoice or Debit note, through any return in FORM GSTR 3B filed upto 30.11.2021 for the financial years 2017-18, 2018-19, 2019-20 and 2020-21, may be deemed to be 30.11.2021. Necessary amendments will be made in section 16(4) of CGST Act, retrospectively, w.e.f. 01.07.2017. This is a welcome decision since in various judicial decisions wherein ITC was not allowed to the recipient even when late returns and hence as a corrective step ITC is allowed for FY 17-18 to 20-21 if the returns are filed till 30.11.2021
  - b) Cases where returns have been filed after revocation: It is proposed to relax the provision of section 16(4), where the return is filed by the taxpayer whose GSTN was cancelled and who files the files return within thirty days of the order of revocation. This is welcome decision since the GSTN were cancelled the taxpayer was not able to file their GST returns within the time limit and hence ITC was not available to the recipient.
8. Extension of due date for filing GSTR-4: It is proposed to amendment in clause (ii) of sub-rule (1) of Rule 62 of CGST Rules, 2017 to extend 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. This will apply for returns for the financial year 2024-25 onwards.
9. Interest will not be charged on the amount deposited in Cash Ledger: Recently, the Madras High Court (in the case of Eicher Motors Limited v. the Superintendent of GST and Central Excise) quashed a demand notice issued for recovery of interest and held that interest is not payable if Form GSTR-3B is filed belatedly but, the amount of tax is paid in the Electronic Cash Ledger ('ECL') within the time it was due.

The GST council has proposed to amend Rule 88B of the CGST Rules, 2017 to provide that interest will not be charged on the amount available in cash ledger on the due date of filing the GSTR-3B. It is important to note the wording of the proposal, it says that cash deposited as on due date of filing GSTR-3B. It would be interesting to understand the impact of amendment in cases where cash is deposited after the due date of filing of GSTR-3B.
10. It is proposed to insert 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.
11. Refund of IGST paid on debit note issued for Exports: It is proposed 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. It is to be seen whether IGST would made mandatory to pay IGST on issuance of Debit Note for export of goods where export were made with payment of IGST.
12. Valuation of supply of import of services by a related person where recipient is eligible to full input tax credit: It is proposed to clarify that in cases CERTAIN SERVICES where the foreign affiliate is providing certain services to the related domestic entity, for which full input tax credit is available to the said related domestic entity, the value of such supply of services de-

clared in the invoice by the said related domestic entity may be deemed as open market value in terms of second proviso to rule 28(1) of CGST Rules. Further, in cases where full input tax credit is available to the recipient, if the invoice is not issued by the related domestic entity with respect to any service provided by the foreign affiliate to it, the value of such services may be deemed to be declared as Nil, and may be deemed as open market value in terms of second proviso to rule 28(1) of CGST Rules. IT is expected that certain services for which the proposal is made will be notified.

13. Eligibility of input tax credit on manholes and ducts used in network of Optical Fiber Cables: GST council has recommended to issue clarification on eligibility of ITC on the manholes and ducts used in Optical Fiber Cables networks. GST council has recommended that ITC should be allowed on GST paid on manholes and ducts used while lying Optical Fiber Cables networks not treating it as immovable property and not restricting the same under Section 17 (5) (c) & (d).
14. Place of supply applicable for custodial services provided by banks: It is proposed 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
15. Valuation of corporate guarantee provided between related persons under Rule 28(2) of CGST Rules, 2017 inserted on 26.10.2023, i.e. 1% of guarantee amount will be made applicable retroactive from 1<sup>st</sup> July 2017. It is also clarified that valuation under rule 28(2) of CGST Rules would not be applicable in case of export of such services and also where the recipient is eligible for full input tax credit.
16. Time limit for claiming ITC for under RCM: Ambiguity w.r.t. time limit for availment of ITC in case of RCM will be clarified. Time limit given under section 16(4) of CSGT Act, 2017, for availment of ITC of GST paid under RCM will be applicable from the financial year in which Invoices is issued by recipient of services in cases where services are availed from unregistered person.
17. GST council recommended to issue Circulars for clarification on following issues:
  - i. Clarification on taxability of re-imburement of securities/shares as ESOP/ESPP/RSU provided by a company to its employees
  - ii. 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.
  - iii. Clarification on taxability of wreck and salvage values in motor insurance claims iv. Clarification in respect of Warranty/ Extended Warranty provided by Manufacturers to the end customers
  - iv. 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.
  - v. Clarification on taxability of loans granted between related person or between group companies.
  - vi. Clarification on time of supply on Annuity Payments under HAM Projects.

- vii. 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.
  - viii. Clarification relating to place of supply of goods supplied to unregistered persons, where delivery address is different from the billing address
  - ix. 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 Credit Note with GST issued for post-sale discounts, to the effect that input tax credit has been reversed by the recipient on the said amount.
  - x. Clarifications on various issues pertaining to special procedure for the manufacturers of the specified commodities, like pan masala, tobacco etc.
18. **Transitional Credit of Services Tax through ISD:** There were issues w.r.t. transitional credit where services provided & invoices were received before appointed day. It is recommended to amend section 140(7) of CGST Act retrospectively w.e.f. 01.07.2017 to allow transitional credit in respect of invoices pertaining to services provided before appointed date, and invoices were received by ISD before the appointed date.
19. **New form of GSTR-1A:** It is proposed to provide 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. Similar extension is also required for e invoice preparation for the cases which are missed out.
20. **GSTR-9/9A for FY 23-24:** It is proposed 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 2 crore rupees.
21. **Applicability of penalty to E-Com operator:** It is proposed to amend section 122(1B) of CGST Act retrospectively w.e.f. 01.10.2023, so as to 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.
22. **Pre-deposit for Appeal:** Amendment in Rule 142 is proposed to prescribe mechanism to adjust an amount paid in respect of demand through FORM GST DRC-03 against the amount to be paid as pre-deposit for filing appeal. Part amount paid during proceeding will be considered for pre-deposit for filing appeal for the said dispute.
23. **GST Registration:** It is proposed to roll-out the biometric-based Aadhaar authentication of registration applicants on pan-India basis in a phased manner.
24. **Time limit for issuance of the demand orders:** The GST council has proposed to do away with two separate timelines for issuing demand notices under GST. Currently there are 2 types of timelines for issuance of demands:
- a. Demand to be issued within a period of 3 years in case of demand on account of non-fraud cases (Demand under Section 73).
  - b. Demand to be issued within a period of 5 years in case of demand on account of fraud cases (Demand under Section 74)

For ease of understanding and implementation, the GST council has proposed to have one time for both the cases by inserting new section (Section 74A) in the CGST Act, 2017 for the demands from the year 2024-25.

25. **Sunset clause for anti-profiteering:** It is proposed to provide a sunset clause for anti-profiteering under GST and sun set date of 01.04.2025 for receipt of any new application. Further it is proposed for handling of anti-profiteering cases by Principal bench of GST Appellate Tribunal (GSTAT).
26. **No GST Refund for export subjected to Export duty:** It is proposed to amend section 16 of IGST Act, 2017 and section 54 of CGST Act, 2017, to restrict refund in case of export of goods including supplies to SEZ where are goods are subjected to export duty under Customs Act, 1962.
27. **Threshold for reporting B2C invoices** council has proposed to reduce the threshold for reporting of invoices under B2C category from currently 2.5 Lacs to Rs 1 Lac.
28. **Frequency for filing TDS return GSTR-7:** The GST council has proposed to define the frequency for filing GSTR-7 monthly. Currently, the return needs to be filed for the period in which Tax has been deducted. It further proposed that no late fees be charged in case the return is NIL.

## Changes in GST tax Rates

### I. Recommendations relating to GST rates on Goods:

1. A uniform rate of 5% IGST will apply to imports of 'Parts, components, testing equipment, tools and toolkits of aircrafts, irrespective of their HSN Code.
2. All milk cans (of steel, iron and aluminium) irrespective of their use will attract 12% GST.
3. GST rate on 'carton, boxes and cases of both corrugated and non-corrugated paper or paper-board' (HS 4819 10; 4819 20) to be reduced from 18% to 12%.
4. All solar cookers, whether single or dual energy source, will attract 12% GST.
5. Parts of Poultry keeping Machinery and sprinklers including fire water sprinklers will attract GST @12% to regularize past practice on 'as is where is' basis to avoid genuine interpretational issues.
6. Extension of IGST Exemption for a further period of five years till 30<sup>th</sup> June 2029 on imports of specified items for defence forces.
7. Extension of IGST Exemption on imports of research equipment/buoys imported under the Research Moored Array for African-Asian-Australian Monsoon Analysis and Prediction (RAMA) programme subject to specified conditions.
8. Exemption of Compensation Cess on the imports in SEZ by SEZ Unit/developers for authorised operations with retrospective effect from 01.07.2017.
9. Exemption of Compensation cess on supply of aerated beverages and energy drinks to authorised customers by Unit Run Canteens under Ministry of Defence.
10. Adhoc IGST exemption on imports of technical documentation for 'AK-203 rifle kits' imported for Indian Defence forces.

## II. Recommendations relating to GST rates on Services:

1. To exempt the services provided by Indian Railways to general public, namely, sale of platform tickets, facility of retiring rooms/waiting rooms, cloak room services and battery-operated car services and to also exempt the Intra-Railway transactions. The issue for the past period will be regularized from 20.10.2023 to the date of issue of exemption notification in this regard.
2. To exempt GST on the services provided by Special Purpose Vehicles (SPV) to Indian Railway by way of allowing Indian Railway to use infrastructure built & owned by SPV during the concession period and maintenance services supplied by Indian Railways to SPV. The issue for the past will be regularized on 'as is where is' basis for the period from 01.07.2017 till the date of issue of exemption notification in this regard.
3. Exemption for the accommodation services having value of supply of accommodation up to Rs. 20,000/- per month per person subject to the condition that the accommodation service is supplied for a minimum continuous period of 90 days. New separate entry to be inserted in notification No. 12/2017- CTR 28.06.2017 under heading 9963.
4. 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.
5. Transaction of ceding 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.
6. GST liability on reinsurance services of specified insurance schemes covered by Sr. Nos. 35 & 36 w.r.t. General Insurance and Life Insurance as specified in 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.
7. 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.
8. To issue clarification on 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.
9. 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 as "Services by governmental authority by way of any activity in relation to any function entrusted to a municipality under article 243 W of the Constitution."
10. To issue clarification that further sharing of the incentive by acquiring bank with other stakeholders, where the sharing of such incentive is clearly defined under Incentive scheme for promotion of RuPay Debit Cards and low value BHIM-UPI transactions and is decided in the proportion and manner by NPCI in consultation with the participating banks is not taxable.

# TDS/TCS Mismatch & Follow Up

## Handling TDS / TCS Mismatches & Follow-Up With Suppliers & Customers

### Identifying TDS/TCS deducted by Suppliers/Vendor's

- Obtain the list of TDS/TCS deducted by your suppliers/vendor's, TDS/TCS receivable GL listing
- Download the Form 26AS from TRACS website
- Reconciliation of TDS reflected in Form 26AS and TDS receivable GL
- Prepare summary report of Matched, Mismatch transactions

### Suppliers Follow-ups

- Interaction with suppliers for the identified mismatches
- Follow up for correction of mismatches with the supplier within the agreed timeline
- Guiding the suppliers w.r.t. methodologies for updation of TDS/TCS details
- Any other field work required in relation to above scope
- Providing MIS from time to time for these activities

### Identifying TDS deducted by Customer's

- Obtain the list of TDS deducted by customer's u/s 194Q, TDS receivable GL listing
- Download the Form 26AS from TRACS website
- Reconciliation of TDS reflected in Form 26AS and TDS receivable GL
- Prepare summary report of Matched, Mismatch transactions

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- Preparing supplier-wise summary report of mismatches.

### Suppliers Follow-ups

- Interaction with suppliers and customers for the identified mismatches.
- Follow up for correction of mismatches with the supplier within the agreed timeline.
- Guiding the suppliers w.r.t. methodologies for correction of the invoices.
- Working out strategies for agreed mismatches.
- Any other field work required in relation to above scope.
- Providing MIS from time to time for these activities.

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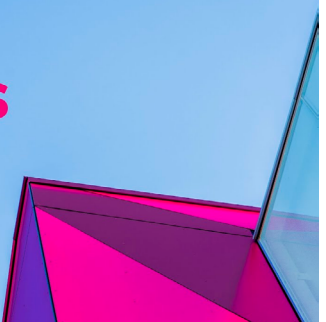
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Bizsolindia Services Pvt. Ltd.  
CIN: U74999PN2004PTC019256  
14-17, Suyash Commercial Mall, Above  
Union Bank of India, Baner Road,  
Baner, Pune-411045  
Tel: +91 20 40702001 /2002  
corporate@bizsolindia.com  
www.bizsolindia.com

We welcome your valuable feedback on this  
issue at [editor@bizsolindia.com](mailto:editor@bizsolindia.com)

Core Team  
R. Venkitachalam  
Ashok Nawal  
Manoj Behede  
Pravin Arote  
Manoj Malpani

Chief Editor  
Preeti Kulkarni  
Editorial Team  
Vinay Jain, Kiran Sawale,  
Amit Devdhe, Abhishek Malpani,  
Anita Patil, Swaraj Chhallani,  
Sourabh Lahoti, Shravan Biyani,  
Nidhi Nawal (Biyani)

Nasik: +91 9860791794, Mumbai: +91 99700 61039  
Aurangabad: +91 9422927642, Satara: +91 9423866197  
Hyderabad-+91 91771 00430, Ahmedabad- +91 90330 24545

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