



## 45<sup>th</sup> GST Council Meeting Highlights

By: Taxpert Professionals

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## Introduction:

The 45<sup>th</sup> GST Council Meeting was concluded yesterday i.e. on 17<sup>th</sup> September, 2021 at Lucknow under the chairmanship of the Union Finance & Corporate Affairs Minister Smt. Nirmala Sitharaman.

In the same, GST Council made the recommendation regarding to the GST Rates on Goods & Services and changes thereto along with the clarifications. Council has also suggested measures for streamlining compliances in GST, issued recommendations relating to GST law and procedure in order to remove the ambiguities and to ease the compliance burden on various class of Taxpayers.

The key highlights are mentioned in the below paras.

### 1. COVID – 19 Relief Measures on various Medicines:

a) The concessional GST rates were earlier valid only till **30<sup>th</sup> September 2021**, on COVID - 19 medicines which were used in the treatment. However, in order to give benefit to the consumers council has recommended to extend till timelines for concessional rate of GST till **31<sup>st</sup> December 2021** on various medicines which has been tabulated below:

Sr No	COVID - 19 Treatment Drugs	GST Rate
1	Amphotericin B	Nil
2	Remdesivir	5%
3	Tocilizumab	Nil
4	Anti-coagulants like Heparin	5%
5	Itolizumab	5%
6	Posaconazole	5%
7	Infliximab	5%
8	Favipiravir	5%
9	Casirivimab & Imdevimab	5%
10	2 – Deoxy – D – Glucose	5%
11	Bamlanivimab & Etesevimab	5%

### 2. Major Recommendations on Changes in GST Rate of Goods & Services from 1<sup>st</sup> October, 2021:

Sr. No.	Description of Goods / Services	Existing Rates	Recommended Rate
1	Retro fitment kits for vehicles used by the disabled	Appl Rate	5%
2	Fortified Rice Kernels for schemes like ICDS etc.	18%	5%
3	Medicine Keytruda for treatment of cancer	12%	5%
4	Biodiesel supplied to OMCs for blending with Diesel	12%	5%
5	Ores and concentrates of metals such as iron, copper, aluminum, zinc and few others	5%	18%
4	Specified Renewable Energy Devices and parts	5%	12%
5	Cartons, boxes, bags, packing containers of paper etc.	12%/18%	18%
6	Waste and scrap of polyurethanes and other plastics	5%	18%
7	All kinds of pens	12%/18%	18%
8	Railway parts, locomotives & other goods in Chapter 86	12%	18%
9	Miscellaneous goods of paper like cards, catalogue, printed material (Chapter 49 of tariff)	12%	18%
10	IGST exemption on goods supplied at Indo-Bangladesh Border haats	Appl Rate	Nil
11	Validity of GST exemption on transport of goods by vessel and air from India to outside India is extended upto 30.9.2022	-	Nil
12	Services by way of grant of National Permit to goods carriages on payment	18%	Nil

	of fee		
13	Skill Training for which Government bears 75% or more of the expenditure [ <i>presently exemption applies only if Govt funds 100%</i> ]	18%	Nil
14	Licensing services/ the right to broadcast and show original films, sound recordings, Radio and Television Programmes.	12%	18%
15	Printing & reproduction services of recorded media where content is supplied by the publisher.	12%	18%
16	E – Commerce Operators are being made liable to pay tax on following services provided through them:  (i) transport of passengers, by any type of motor vehicles through it (ii) restaurant services provided through it with some exceptions.  The above 2 points are w.e.f. 1 <sup>st</sup> January, 2022.	Right now GST is paid by Transporter or Restaurant	Now GST to be paid by E – Commerce Operator.  <b>No Impact of GST to final consumer.</b>

- b) Brick kilns recommended to bring under special composition scheme under section 10 of CGST Act, 2017 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.
- c) According to the discussion in last GST Council Meeting GST rate changes in order to correct inverted duty structure, in footwear and textiles sector was deferred for an appropriate time, will be implemented with effect from **01.01.2022**.
- d) The specified petroleum products (*Petrol, Diesel, CNG, LPG, ATF etc.*) **will not come under the ambit of GST** as it was decided in council meeting that it is not appropriate to do so at this stage of time. The same was brought to the discussion as per the recent directions of the Hon'ble High Court of Kerala.
- e) All laboratory reagents and other goods falling under heading 3822 shall recommended to attract GST at the rate of 12%.
- f) Carbonated Fruit Beverages of Fruit Drink" and "Carbonated Beverages with Fruit Juice" attract GST rate of 28% and Cess of 12%. This is being prescribed specifically in the GST rate schedule.
- g) 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%.
- h) 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.
- i) It is being clarified that all pharmaceutical goods falling under heading 3006 attract GST at the rate of 12% [*not 18%*].
- j) Services by cloud kitchens / central kitchens are covered under 'restaurant service', and attract 5% GST [*without ITC*]. **This will cover the service provider such as Zomato and Swiggy etc.**

### 3. Other recommendations regarding the clarification or changes in GST Rate on Goods or Services:

- a) The supply of Mentha Oil from unregistered person has been recommended to bring under Reverse Charge Mechanism (RCM) & registered person procuring will be liable to pay Tax. Further, council has also recommended that exports of Mentha oil should be allowed only against LUT and consequential refund of Input Tax Credit.



- k) Ice cream parlor sells already manufactured ice-cream. Such supply of ice cream by parlors would attract GST at the rate of 18%.
- l) The services by way of grant of mineral exploration and mining rights attracted GST rate of 18% w.e.f. 01.07.2017.
- m) It was clarified that 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.
- d) The GST council recommended to issue the circular with respect to the clarification on scope of **“Intermediary Services”**. Clarification relating to interpretation of the term “merely establishment of distinct person” in section 2 (6) (v) of IGST Act, 2017 for Export of Service.

GST council has recommended that, a person incorporated in India under the Companies Act, 2013 & 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 section 2 (6) of the IGST Act, 2017 for considering a supply of service as export of services.

The above recommendation will be welcomed with open arms by the taxpayers as it was long pending litigation matter in Indirect Taxes from ages and this would benefit large number of taxpayers who provides services to its Parent Company situated outside India.

#### **4. Recommendations & Discussion for streamlining Compliances & reducing Legal Ambiguity in GST Law:**

- a) According to Rule 45 (3) of CSGT Rules, 2017 a registered manufacturer or a principal is required to file a declaration in Form GST ITC - 04 in case of job work on monthly / quarterly basis. However, council has recommended following frequency:

Sr. No.	Turnover of Preceding FY	Proposed Frequency
1	TO > Rs. 5 Crores	Half Yearly
2	TO < Rs. 5 Crores	Yearly

- b) Presently, Interest u/s 50 (3) of CGST Act, 2017 is required to be paid @ The taxpayer will be required to pay Interest @18%. However, w.e.f. **01-07-2017** giving retrospective amendment to section 50 (3), any taxpayer is required to pay Interest @ 18% in respect to Ineligible ITC availed and utilized and not 24%.
- c) Due to business in multiple states, taxpayer need to take registration from where supply is being made. Due to this it has been noticed that taxpayer is available with GST cash balance in one state & need to pay GST in cash in another state which was leading to heavy working capital pressure.
- e) 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;
- f) There is no need to carry the physical copy of Tax Invoice in cases where **E - Invoice** has been generated by the supplier in the manner prescribed under Rule 48 (4) of the CGST Rules, 2017.

The above recommendation would reduce the paper work at the time of transportation of goods.

- g) 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.

In order to reduce the working capital pressure, 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*) without going through the refund procedure.

- h) Aadhaar authentication of registration to be made mandatory for being eligible for filing refund claim & application for revocation of cancellation of registration.

The above recommendation of Aadhar Authentication will assist in reduction of undue benefit of refunds being taken by the exporter.

- i) It has been recommended that Late Filing Fees for delayed filing of Form GSTR - 1 to be auto -populated & collected in next open return in Form GSTR - 3B.

The above recommendation will lead to higher compliances by the taxpayers and taxpayer would be diligent in timely filing of GSTR – 1 as now Late Filing Fees is also applicable which was not applicable previously.

- j) Refund to be disbursed in the bank account, which is linked with same PAN on which registration has been obtained under GST.

- k) Rule 59 (6) of the CGST Rules, 2017 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.

The above recommendation will lead to higher collection of Tax as it was noticed that taxpayer used to file GSTR – 1 & not file GSTR – 3B which lead to Tax evasion.

- l) The GST council recommended that the ITC availment shall be on the basis of GSTR - 2B generated by the GST portal. The said recommendation & amendment will have effect only after the proposed clause (aa) of Section 16 (2) of CGST Act, 2017 is notified.

The above recommendation means that once clause (aa) of section 16 (2) is notified, taxpayer is liable to avail ITC on basis of GSTR – 2B and not on basis of GSTR – 2A which is currently in use.

### Conclusion of the 43<sup>rd</sup> GST Council Meeting:

By concluding, the GST Council meeting's decisions and recommendations would help many taxpayers in order to remove their ambiguities in relation to the application of Tax rate and changes with respect to the Tax rates. The recommendations of the GST Council have been presented in this release containing major item of decisions in simple language for information of all stakeholders. The same would be given effect through relevant Circulars / Notifications / Law amendments which alone shall have the force of law.

Many changes were recommended in public interest and many things were also discussed in council meeting and the implementation of the same is expected to be notified and clarified by notifications and circulars from CBIC.

We will keep you updated once the above mentioned proposal are notified as & when.

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