

# 52nd GST Council meeting: Key recommendations and decisions

7 October 2023



## Summary

The Goods and Services Tax (GST) Council held its 52nd meeting on 7 October 2023, wherein the Council inter-alia proposed various recommendations relating to changes in the GST rates on goods and services, clarifications on certain issues, including taxability of personal guarantee and corporate guarantee, an amnesty scheme for filing appeals for time-barred cases, etc.

The recommendations of the GST Council shall be given effect through notifications and/or circulars and/or amendments in the law.

## Key recommendations/decisions made by the GST Council:

### A. Legislative and clarificatory changes:

<b>Taxability of corporate guarantee provided by the related persons</b>	Amendments proposed in the valuation rules to prescribe the taxable value of supply as one per cent of the guarantee amount offered or the actual consideration, whichever is higher, irrespective of whether the recipient is eligible for full input tax credit (ITC) or not.
<b>Personal guarantee</b>	In case the company does not pay any consideration to the director for providing a personal guarantee to the bank/financial institutes, the open market value may be deemed as zero, and hence, no GST would be levied.
<b>Amnesty scheme for filing appeals</b>	<ul style="list-style-type: none"><li>• Taxpayers who were unable to file appeals to the Appellate Authority against the demand order issued on or before 31 March 2023 or whose appeals were rejected on the grounds of time barred will be allowed to file appeals up to <b>31 January 2024</b></li><li>• In these cases, taxpayers will make a pre-deposit of 12.5% of the tax under dispute, subject to a minimum payment of 20% amount through an electronic cash ledger</li></ul>
<b>Export of services</b>	Export remittances received in Special INR Vostro account, approved by the Reserve Bank of India (RBI) to be admissible as consideration for supply of services to qualify as export of services.
<b>Input service distributor (ISD)</b>	In line with the 50 <sup>th</sup> council meeting recommendations, necessary amendments proposed in the Central GST Act, 2017 (CGST Act) as well as the Central GST Rules, 2017 (CGST Rules) to make the ISD mechanism mandatory for

	the distribution of ITC of input services procured by head office on a prospective basis.
<b>Automatic restoration of provisionally attached property</b>	Amendment proposed in the relevant rule and form to specify that the order of provisional attachment be invalid after the expiry of one year from the date of the order.
<b>Amendments in provisions relating to the appointment of President and Members of the GST Appellate Tribunal (GSTAT)</b>	<ul style="list-style-type: none"> <li>• Advocates with ten years of experience, substantially in indirect tax litigations, eligible for appointment as judicial members of the GSTAT</li> <li>• Minimum age of 50 years for persons eligible for appointment as the President and Members</li> <li>• The President can serve tenure until the age of 70 years, increased from the present prescribed age of 67 years</li> <li>• The Members can hold office until the age of 67 years, increased from the current age of 65 years</li> </ul>
<b>Supply to special economic zones (SEZ) units/developers allowed for authorised operations with payment of Integrated GST (IGST)</b>	Amendment proposed in the relevant notification to allow the suppliers to make supply of goods and/or services to SEZ units/developers allowed for authorised operations upon payment of IGST.
<b>Place of supply of services</b>	Clarity to be provided on the place of supply of the below services: <ul style="list-style-type: none"> <li>• Supply of service of transportation of goods, including by mail or courier, in cases where the location of supplier or the location of the recipient of services is outside India</li> <li>• Supply of advertising services</li> <li>• Supply of the co-location services</li> </ul>

## B. Changes related to goods and services:

### B.1 In respect of goods

<b>Extra neutral alcohol (ENA)</b>	<ul style="list-style-type: none"> <li>• ENA used for the manufacture of alcoholic liquor for human consumption to be kept outside the GST ambit</li> <li>• A separate entry to be inserted for ENA for industrial use, attracting a GST @ 18% rate</li> </ul>
<b>Millet flour</b>	<ul style="list-style-type: none"> <li>• No GST on food preparation of millet flour in powder form, having at least 70% millets by weight, falling under HSN 1901, in case sold without packaging and labelling</li> <li>• If the above goods are sold in pre-packaged and labelled form, GST @ 5% rate is applicable</li> </ul>

<b>Molasses</b>	GST rate reduction on molasses from 28% to 5% to increase liquidity with mills and expedite clearance of dues
-----------------	---------------------------------------------------------------------------------------------------------------

## B.2 In respect of services

<b>Foreign going vessel</b>	Conditional IGST exemption to be provided to foreign flag foreign going vessel when it converts to coastal run, subject to reconversion to foreign going vessel within six months.
<b>Public services</b>	Exemption on services of water supply, public health, sanitation conservancy, solid waste management and slum improvement and upgradation supplied to the governmental authorities.
<b>Job work services</b>	Job work services for processing of barley into malt leviable to GST @ 5% rate.
<b>GST on bus transportation services</b>	The bus operators organised as companies proposed not to be considered as electronic commerce operators liable to pay GST under section 9(5) of the CGST Act. This would enable them to pay GST on its supplies using ITC.
<b>GST on supply by railways</b>	Supply of all goods and services by Indian Railways to be taxed under forward charge mechanism enabling them to avail ITC.

### Our comments

The Council has provided significant clarifications to address longstanding concerns amongst taxpayers, particularly regarding the taxation of corporate and personal guarantees. Notably, personal guarantees have been excluded from GST, provided there is no direct or indirect consideration involved. However, the term 'indirect consideration' is subject to interpretation and may cause litigation. On the other hand, corporate guarantees will now be subject to taxation, calculated at 1% of the guarantee's value, even when no consideration is exchanged.

As part of an effort to facilitate trade and provide relief to taxpayers, the Council has introduced an amnesty scheme that extends the deadline for filing appeals until 31 January 2024. Additionally, the Council has allowed supplies to SEZ to be made with the option of paying tax, offering more flexibility in such transactions.

The Council meeting decisions may have a far-reaching implications on businesses and aim to create a more transparent and tax-efficient environment.

# Contact us



Scan the QR code to view our office addresses

[www.grantthornton.in](http://www.grantthornton.in)

For more information or for any queries, write to us at [GTBharat@in.gt.com](mailto:GTBharat@in.gt.com)



Follow us [@GrantThorntonIN](https://twitter.com/GrantThorntonIN)

© 2023 Grant Thornton Bharat LLP. All rights reserved.

“Grant Thornton Bharat” means Grant Thornton Advisory Private Limited, the sole member firm of Grant Thornton International Limited (UK) in India, and those legal entities which are its related parties as defined by the Companies Act, 2013, including Grant Thornton Bharat LLP.

Grant Thornton Bharat LLP, formerly Grant Thornton India LLP, is registered with limited liability with identity number AAA-7677 and has its registered office at L-41 Connaught Circus, New Delhi, 110001. References to Grant Thornton are to Grant Thornton International Ltd. (Grant Thornton International) or its member firms. Grant Thornton International and the member firms are not a worldwide partnership. Services are delivered independently by the member firms.