

## 53rd GST Council meeting: Key recommendations and decisions

23 June 2024



## Summary

The Goods and Services Tax (GST) Council held its 53rd meeting on 22 June 2024, wherein the Council inter-alia proposed various tax-friendly measures, including an extension of the input tax credit (ITC) timeline, conditional waiver of interest and penalty, reduction in pre-deposit amount, sunset clause for anti-profiteering provisions, changes in the GST rates on goods and services, etc. Clarifications on certain key issues, including import of services between related parties, taxability of corporate guarantee, and ITC eligibility under the reverse charge mechanism (RCM), aim to reduce litigation and simplify tax compliances.

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. Proposed legislative changes:

<b>Relaxation in the time limit for availing ITC</b>	The time limit for availing ITC from FY 2017-18 to FY 2020-21 is proposed to be extended to 30 November 2021.
<b>Conditional waiver of interest or penalty</b>	Waiver of the amount of interest or penalty or both for demand notices issued under Section 73 for FY 2017-18, 2018-19, and 2019-20, where the total amount of tax is paid up to 31 March 2025.
<b>Reduction in pre-deposit for filing an appeal under GST</b>	Reduction in amount for filing appeal before: <ul style="list-style-type: none"><li>• Appellate authority: Reduced to INR 20 crore for both CGST and SGST</li><li>• GST Appellate Tribunal (GSTAT): Reduced from 20% to 10% with a maximum cap of INR 20 crore for both CGST and SGST</li></ul>
<b>Time limit for filing appeals before GSTAT</b>	The three-month time period for filing an appeal before the GSTAT will commence from a date that will be notified by the government.
<b>Interest applicability on delayed filing of return</b>	Exclusion of the amount available in the electronic cash ledger (ECL) for the purpose of interest computation in the case of delayed return filing.
<b>Monetary limits for filing appeals by the department</b>	Monetary limits for filing appeals by the department before the GSTAT, High Court, and Supreme Court are set to be notified as follows:

	<b>Forum</b>	<b>Monetary Limit (INR)</b>
	GSTAT	20 lakhs
	High Court	1 crore
	Supreme Court	2 crores
<b>Sunset clause for anti-profiteering applications</b>	<ul style="list-style-type: none"> <li>The addition of a sunset clause for anti-profiteering cases and shifting the hearing panel to the principal bench of GSTAT.</li> <li>1 April 2025 has been proposed as the sunset date for the new application.</li> </ul>	
<b>ENA taxation</b>	An amendment to be made in the CGST Act to exclude extra neutral alcohol (ENA) from GST when used to manufacture alcoholic liquor for human consumption.	
<b>Reduction in rate of TCS collected by ECOs</b>	A reduction in the TCS rate to 0.5% (0.25% CGST + 0.25 % SGST) has been proposed to ease the financial burden on the suppliers making supplies through an ECO.	
<b>Refund of additional IGST on upward price revision</b>	A mechanism will be prescribed for claiming a refund of additional IGST paid owing to an upward price revision after the export of goods.	
<b>Insertion of Section 11A</b>	Section 11A will be inserted to regularise non-levy or short-levy of GST where tax was short-paid or unpaid due to standard trade practices.	
<b>ISD transitional provisions</b>	A retrospective amendment w.e.f. 1 July 2017 proposed to allow transitional credit for invoices pertaining to services provided before the appointed date and where invoices were received by the input service distributor (ISD) before the appointed date.	
<b>Common time limit for demand notice and order</b>	<ul style="list-style-type: none"> <li>Introduction of Section 74A to prescribe a common time limit for issuance of demand notices and orders from FY 2024-25 onwards</li> <li>The time limit for availing the benefit of reduced penalty is to be increased from 30 to 60 days.</li> </ul>	
<b>Refund restrictions</b>	The refund benefit would not be available where goods are subject to export duty, irrespective of whether the goods are exported with/without payment of IGST, including SEZ supplies.	

## B. Proposed clarificatory changes:

<b>Time limit for availing ITC under RCM</b>	The date of issuance of the self-invoice would be considered for determining the time limit for availing the ITC on supplies received from unregistered suppliers under the reverse charge mechanism (RCM).
<b>Import of services by a related person</b>	A clarification is to be issued, providing the value of supply in case of import of services from a related person, where full input tax credit (ITC) is eligible: <ul style="list-style-type: none"><li>• <u>Case 1: Invoice issued</u> The value declared in the invoice would be deemed as open market value (OMV).</li><li>• <u>Case 2: Invoice not issued</u> NIL value may be deemed as OMV for the purpose of GST</li></ul>
<b>Valuation of corporate guarantee arrangements</b>	Rule 28(2) would not be applicable in case of: <ul style="list-style-type: none"><li>• Export of services</li><li>• Where the recipient of service is eligible for full ITC</li></ul>
<b>Co-insurance and re-insurance commission</b>	The following activities or transactions would be deemed as 'no supply' under GST in terms of Schedule III of the CGST Act: <ul style="list-style-type: none"><li>• Apportionment of co-insurance premium</li><li>• Ceding re-insurance commission/premium</li></ul>
<b>ITC eligibility on ducts and manholes</b>	The ITC would be eligible for ducts and manholes used in a network of optical fiber cables.
<b>Place of supply for custodial services</b>	The place of supply of custodial services supplied by banks to foreign portfolio investors (FPI) would be the location of such FPI where the address is available in the bank records.

### C. GST compliance and functionalities changes:

<b>Introduction of FORM GSTR-1A</b>	An optional facility by way of Form GSTR-1A will be introduced to enable taxpayers to amend the details in FORM GSTR-1 for a tax period and/or declare additional information before filing GSTR-3B for the said tax period.
<b>Bio-metric-based Aadhaar authentication</b>	Biometric-based Aadhaar authentication of registered applicants on a pan-India basis will be implemented in a phased manner.
<b>Exemption from filing annual return for small taxpayers</b>	Taxpayers with an aggregate annual turnover of up to 2 crore rupees are to be exempted from filing the annual return in FORM GSTR-9/9A for the financial year 2023-24.
<b>Reporting of B2C supplies in GSTR-1</b>	The threshold for reporting B2C inter-state supplies invoice-wise in Table 5 of FORM GSTR-1 is to be reduced from INR 2.5 lakh to INR 1 lakh.
<b>Mechanism for adjustment of amount paid towards demand as pre-deposit</b>	A mechanism will be prescribed to adjust an amount paid in respect of demand via GST DRC-03 against the pre-deposit for appeal filing.
<b>Mandatory filing of FORM GSTR-7 by ECO</b>	<ul style="list-style-type: none"><li>• GSTR-7 is to be filed every month by the registered persons who are required to deduct tax at source under Section 51, regardless of whether any tax has been deducted during that month.</li><li>• No late fee is applicable for the delayed filing of a nil GSTR-7 return.</li><li>• Invoice-wise details are to be furnished in FORM GSTR-7.</li></ul>
<b>Extension in the filing of GSTR-4</b>	From FY 2024-25 onwards, the due date for filing the GSTR-4 return for composition taxpayers has been extended from 30 April to 30 June, following the end of the FY.

## D. Rate changes related to goods and services:

### D.1 In respect of goods

<b>Rate changes</b>	
<b>Milk cans (steel, iron, and aluminium)</b>	All milk cans (of steel, iron, and aluminium) will attract 12% GST, irrespective of use.
<b>Carton, boxes, and cases</b>	Reduction on cartons, boxes, and cases (corrugated, non-corrugated paper, or paper-board) from 18% to 12%.
<b>Solar cookers</b>	12% GST rate on all solar cookers (single or dual energy source).
<b>Fire sprinklers</b>	All types of sprinklers, including fire water sprinklers, will attract a uniform rate of 12%.

<b>Rate exemption</b>	
<b>Imports of specified items for defence forces</b>	Exemption on imports of specified items for the defence forces extended till 30 June 2029.
<b>Imports of research equipment/buoys imported under the RAMA programme</b>	Exemption on imports of research equipment/buoys under the Research Moored Array for African-Asian-Australian Monsoon Analysis and Prediction (RAMA) programme will be extended, subject to specified conditions.

<b>Rate clarification</b>	
<b>Parts, components, testing equipment, tools, and toolkits of aircraft</b>	Import of parts, components, testing equipment, tools, and toolkits of aircraft, irrespective of their HS classification, to boost maintenance, repair, and overhaul (MRO) activities, subject to specified conditions liable to 5% IGST.
<b>Poultry-keeping Machinery</b>	Poultry-keeping machinery, including 'parts of poultry-keeping machinery,' will attract 12% GST.

### D.2 In respect of services

<b>Rate exemption</b>	
<b>Services provided by Indian Railways</b>	Exemption on services by the Indian Railways w.r.t the sale of platform tickets, facility of retiring rooms/waiting rooms, cloak room services, battery-operated car services, and intra-railway transactions.

<b>Accommodation service</b>	Accommodation services with a value of up to INR 20,000 per month per person will be exempted, provided the service is supplied continuously for a minimum period of 90 days.
<b>Services by RERA</b>	Statutory collections made by RERA fall within the function entrusted to the municipality, exempted under GST.

### D.3 Other recommendations

<b>Compensation cess exemption</b>	
<b>Import by SEZ unit/developer</b>	Exemption on compensation cess on the imports by SEZ Unit/developers in SEZ for authorised operations w.e.f. 1 July 2017.
<b>Aerated beverages to canteens under MoD</b>	Exemption on compensation cess on the supply of aerated beverages and energy drinks to authorised customers by unit-run canteens under the Ministry of Defence (MoD).

#### **Our comments**

The much-anticipated GST Council meeting, convened after nearly eight months, and following the formation of the new government, has introduced essential reforms such as GST exemption on hostels, ITC relaxation, introduction of GSTR-1A, no interest on electronic cash balance, etc., in order to streamline compliance, ease cash flow requirements, and reduce litigation while providing clarifications conducive to the taxpayers.

The recommendations put forth by the GST Council not only lay down the groundwork for the upcoming budget but emphasise the objective of further enhancing the ease of doing business through effective and business-friendly tax measures.

While discussions on the taxation of online gaming and rate rationalisation were deferred in light of the ongoing budget preparations, the upcoming council meeting scheduled for August 2024 is expected to discuss these pivotal issues, including the potential inclusion of petroleum products.

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