
HIGHLIGHTS OF 49th GST COUNCIL MEETING

The 49th GST Council (the ‘Council’) meeting was held on 18th February, 2023, under the chairmanship of Union Finance and Corporate Affairs Minister Smt. Nirmala Sitharaman. The Council has *inter-alia* made the following recommendations relating to GST compensation, GST Appellate Tribunal, approval of the Report of Group of Ministers (GoM) on Capacity Based Taxation and Special Composition Scheme in certain sectors on GST, recommendations relating to GST rates on Goods and Services and other measures for facilitation of trade:

1. The Central Government has decided to clear the pending balance GST compensation amounting to Rs. 16,982 crore for June’2022. The said amount will be released from Central Government’s own resources which will be recouped from future compensation cess collections.
2. The Council adopted the report of Group of Ministers on GST Appellate Tribunal. The final draft amendments to the GST laws shall be circulated to Members for their comments.
3. The Council approved the following recommendations of Group of Ministers on Capacity Based Taxation and Special Composition Scheme on commodities such as pan masala, gutkha and chewing tobacco:
 - i. the capacity based levy not to be prescribed;
 - ii. compliance and tracking measures to be taken to plug leakages/evasions;
 - iii. exports of such commodities to be allowed only against LUT with consequential refund of accumulated ITC;
 - iv. compensation cess levied on such commodities to be changed from ad valorem to specific tax based levy to boost the first stage collection of the revenue.

Decisions with respect to changes in GST

The Council took following decisions with respect to changes in GST:

1. Regularization of payment of GST on ‘rab’ during the past period on “as is basis” on account of genuine doubts over its classification and applicable GST rate.
2. Amendment in notification No. 104/94-Customs dated 16.03.1994 so that if a device like tag- tracking device or data logger is already affixed on a container, no separate IGST shall be levied on such affixed device and the ‘nil’ IGST treatment available for the containers under notification No. 104/94-Customs shall also be available to the such affixed device.
3. Amendment in entry at Sl. No. 41A of notification No. 1/2017-Compensation Cess (Rate) so that exemption benefit covers both coal rejects supplied to and by a coal washery, arising out of coal on which compensation cess has been paid and no input tax credit thereof has been availed by any person.
4. Extension of the exemption available to educational institutions and Central and State educational boards for conduct of entrance examination to any authority, board or a body set up by the Central Government or State Government including National Testing Agency for conduct of entrance examination for admission to educational institutions.
5. Extension of the dispensation available to Central Government, State Governments, Parliament and State Legislatures with regard to payment of GST under reverse charge

mechanism (RCM) to the Courts and Tribunals also in respect of taxable services supplied by them such as renting of premises to telecommunication companies for installation of towers, renting of chamber to lawyers etc.

Recommendations related to facilitation of trade:

The Council has made following recommendations related to facilitation of trade:

1. Amendment in section 30 of CGST Act, 2017 and rule 23 of CGST Rules, 2017 so as to provide that:
 - i. the time limit for making an application for revocation of cancellation of registration be increased from 30 days to 90 days;
 - ii. where the registered person fails to apply for such revocation within 90 days, the said time period may be extended by the Commissioner or an officer authorised by him in this behalf for a further period not exceeding 180 days.

The Council has also recommended that an amnesty may be provided in the past cases, where registration has been cancelled on account of non-filing of the returns, but application for revocation of cancellation of registration could not be filed within the time specified in section 30 of CGST Act, by allowing such persons to file such application for revocation by a specified date.

2. Amendment in section 62 so as to increase the time period for filing of return for enabling deemed withdrawal of such best judgment assessment order, from the present 30 days to 60 days, extendable by another 60 days. The Council has also recommended to provide an amnesty scheme for conditional deemed withdrawal of assessment orders in past cases where the concerned return could not be filed within 30 days of the assessment order but has been filed along with due interest and late fee up to a specified date, irrespective of whether appeal has been filed or not against the assessment order, or whether the said appeal has been decided or not.
3. Rationalisation of late fee for delayed filing of annual return in FORM GSTR-9 for FY 2022-23 onwards, for registered persons having aggregate turnover in a financial year up to Rs. 20 crore, as below:
 - **Registered persons having an aggregate turnover of up to Rs. 5 crores in the said financial year:** Rs 50 per day (Rs 25 CGST + Rs 25 SGST), subject to a maximum of an amount calculated at 0.04 per cent. of turnover in the State or Union territory (0.02% CGST + 0.02% SGST).
 - **Registered persons having an aggregate turnover of more than Rs. 5 crores and up to Rs. 20 crores in the said financial year:** Rs 100 per day (Rs 50 CGST + Rs 50 SGST), subject to a maximum of an amount calculated at 0.04 per cent. of his turnover in the State or Union territory (0.02% CGST + 0.02% SGST).
4. Amnesty schemes in respect of pending returns in FORM GSTR-4, FORM GSTR-9 and FORM GSTR-10 by way of conditional waiver/ reduction of late fee.
5. Deletion of section 13(9) of IGST Act, 2017 so as to provide that the place of supply of services of transportation of goods, in cases where location of supplier of services or location of recipient of services is outside India, shall be the location of the recipient of services.

Recommendations related to GST Rates on goods and services:

Changes in GST rates recommended by the Council:

Sr. No.	Description	From	To
1.	Rab	18%	5% - if sold pre-packaged and labelled Nil - if sold otherwise
2.	Pencil Sharpener	18%	12%

VA Comments:

The Council has dealt with various issues to streamline the compliances and facilitation of trade. The Council has also accepted the recommendations of GoM on setting up of GST Appellate Tribunal, which was long due since the inception of GST in 2017. The Appellate Tribunal would constitute a National Bench along with various regional benches, which would have two technical and two judicial members each, with equal representation from the Centre and States. Further, with the introduction of Capacity Based Taxation on commodities like pan masala, gutkha, chewing tobacco, the Government is aiming to go back to the old regime, which was present under Central Excise Act.

For any further information/ clarification, please feel free to write to:

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