

RVA INSIGHTS

June 2024



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Contents

GST Updates	1
Corporate Law Updates	13

Following are the recommendations of 53rd GST Council Meeting: -

A. Changes in GST Tax Rates:

I. Key Recommendations relating to change in GST rates on Goods:

1. A uniform rate of 5% IGST will apply to imports of 'Parts, components, testing equipment, tools and tool-kits of aircrafts, irrespective of their HS classification to provide a fillip to MRO activities subject to specified conditions.
2. All milk cans (of steel, iron and aluminum) 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. All types of sprinklers including fire water sprinklers will attract 12% GST

Extension of GST exemptions

1. IGST exemption on imports of specified items for defense forces for a further period of five years till 30th June, 2029.
2. Exemption of Compensation Cess on supply of aerated beverages and energy drinks to authorized customers by Unit Run Canteens under Ministry of Defense.

II. **Key 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.
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. To create a separate entry in notification No. 12/2017- CTR 28.06.2017 under heading 9963 to exempt 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. To extend similar benefit for past cases.
4. 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.
5. 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.

B. Measures for facilitation of trade:

1. **Insertion of Section 128A in CGST Act, to provide for conditional waiver of interest or penalty or both, relating to demands raised under Section 73, for FY 2017-18 to FY 2019-20 :** Considering the difficulties faced by the taxpayers, during the initial years of implementation of GST, the GST Council recommended, waiving 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**. The waiver does not cover demand of erroneous refunds. To implement this, the GST Council has recommended insertion of Section 128A in CGST Act, 2017.
2. **Reduction of Government Litigation by Fixing monetary limits for filing appeals under GST:** The Council recommended to prescribe monetary limits, subject to certain exclusions, for filing of appeals in GST by the department before GST Appellate Tribunal, High Court, and Supreme Court, to reduce government litigation. The following monetary limits have been recommended by the Council:
 - a. GSTAT: Rs. 20 lakhs
 - b. High Court: Rs. 1 crore
 - c. Supreme Court: Rs. 2 crores
3. **Amendment in Section 107 and Section 112 of CGST Act for reducing the amount of pre-deposit required to be paid for filing of appeals under GST:** The GST Council recommended reducing the amount of pre-deposit

for filing of appeals under GST to ease cashflow and working capital blockage for the taxpayers. The maximum amount for filing appeal with the appellate authority has been reduced from Rs. 25 crores CGST and Rs. 25 crores SGST to Rs. 20 crores CGST and Rs. 20 crores SGST. Further, the amount of pre-deposit for filing appeal with the Appellate Tribunal has been reduced from 20% with a maximum amount of Rs. 50 crores CGST and Rs. 50 crores SGST to 10 % with a maximum of Rs. 20 crores CGST and Rs. 20 crores SGST.

4. **Applicability of Goods and Services Tax on Extra Neutral Alcohol (ENA) Taxation of ENA under GST:** The GST Council, in its 52nd meeting, had recommended to amend GST Law to explicitly exclude rectified spirit/Extra Neutral Alcohol (ENA) from the scope of GST when supplied for manufacturing alcoholic liquors for human consumption. The GST Council now recommended amendment in sub-section (1) of Section 9 of the CGST Act, 2017 for not levying GST on Extra Neutral Alcohol used for manufacture of alcoholic liquor for human consumption.
5. **Reduction in rate of TCS to be collected by the ECOs for supplies being made through them:** Electronic Commerce Operators(ECOs) are required to collect Tax Collected at Source (TCS) on net taxable supplies under Section 52(1) of the CGST Act. The GST Council has recommended to reduce the TCS rate from present 1% (0.5% CGST + 0.5% SGST/ UTGST, or 1% IGST) to 0.5 % (0.25%CGST + 0.25% SGST/UTGST, or 0.5% IGST), to ease the financial burden on the suppliers' making supplies through such ECOs.
6. **Time for filing appeals in GST Appellate Tribunal:** The GST Council recommended amending Section 112 of the CGST Act, 2017 to allow the three-month period for filing appeals before the Appellate Tribunal to start from

a date to be notified by the Government in respect of appeal/ revision orders passed before the date of said notification. This will give sufficient time to the taxpayers to file appeal before the Appellate Tribunal in the pending cases.

7. Change in due date for filing of return in FORM GSTR-4 for composition taxpayers from 30 April to 30 June:

The GST Council recommended an amendment in clause (ii) of sub-rule (1) of Rule 62 of CGST Rules, 2017 and **FORM GSTR-4** to extend the 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. The same would give more time to the taxpayers who opt to pay tax under composition levy to furnish the said return.

8. Relaxation in condition of section 16(4) of the CGST Act:

a) In respect of initial years of implementation of GST, i.e., financial years 2017-18, 2018-19, 2019-20 and 2020-21:

The GST Council recommended that the time limit to avail input tax credit in respect of any invoice or debit note under Section 16(4) of CGST Act, 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. For the same, requisite amendment in section 16(4) of CGST Act, retrospectively, w.e.f.01.07.2017, has been recommended by the Council.

b) with respect to cases where returns have been filed after revocation:

The GST Council recommended retrospective amendment in Section 16(4) of CGST Act, to be made effective from July 1, 2017, to conditionally relax the provisions of section 16(4) of CGST Act in cases where returns for the period from the date of cancellation of registration/ effective date of cancellation of registration till the date of revocation of cancellation of the registration, are filed by the registered person within thirty days of the order of revocation.

9. Amendment of Rule 88B of CGST Rules, 2017 in respect of interest under Section 50 of CGST Act on delayed filing of returns, in cases where the credit is available in Electronic Cash Ledger (ECL) on the due date of filing the said return: The GST Council recommended amendment in rule 88B of CGST Rules to provide that an amount, which is available in the Electronic Cash Ledger on the due date of filing of return in FORM GSTR-3B, and is debited while filing the said return, shall not be included while calculating interest under section 50 of the CGST Act in respect of delayed filing of the said return
10. **Insertion of Section 11A in CGST Act for granting power not to recover duties not levied or short-levied as a result of general practice under GST Acts:** The GST Council recommended inserting 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 additional Integrated Tax (IGST) paid on account of upward revision in price of the goods subsequent to export :** The GST Council recommended 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. This will facilitate a large

number of taxpayers, who are required to pay additional IGST on account of upward revision in price of the goods subsequent to export, in claiming refund of such additional IGST.

12. **Clarification regarding valuation of supply of import of services by a related person where recipient is eligible to full input tax credit:** The Council recommended to clarify that in cases 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 declared 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.
13. **Clarification regarding availability of Input Tax Credit (ITC) on ducts and manholes used in the network of Optical Fiber Cables (OFCs):** The Council recommended to clarify that input tax credit is not restricted in respect of ducts and manhole used in network of optical fiber cables (OFCs), under clause (c) or under clause (d) of sub-section (5) of section 17 of CGST Act.
14. **Clarification on the place of supply applicable for custodial services provided by banks:** The Council recommended 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. **Clarification on valuation of corporate guarantee provided between related persons after insertion of Rule**

28(2) of CGST Rules, 2017: GST Council recommended amendment of rule 28(2) of CGST Rules retrospectively with effect from 26.10.2023 and issuance of a circular to clarify various issues regarding valuation of services of providing corporate guarantees between related parties. It is *inter alia* being 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. **Clarification regarding applicability of provisions of Section 16 (4) of CGST Act, 2017, in respect of invoices issued by the recipient under Reverse Charge Mechanism (RCM):** The Council recommended to clarify that in cases of supplies received from unregistered suppliers, where tax has to be paid by the recipient under reverse charge mechanism (RCM) and invoice is to be issued by the recipient only, the relevant financial year for calculation of time limit for availment of input tax credit under the provisions of section 16(4) of CGST Act is the financial year in which the invoice has been issued by the recipient.
17. The Council recommended amendment in section 140(7) of CGST Act retrospectively w.e.f. 01.07.2017 to provide for transitional credit in respect of invoices pertaining to services provided before appointed date, and where invoices were received by Input Service Distributor (ISD) before the appointed date.
18. The Council recommended providing 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. This will facilitate taxpayer to add any particulars of supply of the current tax period missed out in reporting in **FORMGSTR-1** of the said tax period or to amend any particulars

already declared in **FORM GSTR-1** of the current tax period (including those declared in IFF, for the first and second months of a quarter, if any, for quarterly taxpayers), to ensure that correct liability is auto-populated in **FORM GSTR-3B**.

19. The Council recommended that filing of annual return in **FORM GSTR-9/9A** for the FY 2023-24 may be exempted for tax payers having aggregate annual turnover upto two crore rupees.
20. Amendment was recommended to be made in 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.
21. The Council recommended amendment in rule 142 of CGST Rules and issuance of a circular to prescribe a mechanism for adjustment of an amount paid in respect of a demand through **FORM GST DRC-03** against the amount to be paid as pre-deposit for filing appeal.
22. **Clarification on following issues to provide clarity to trade and tax officers and to reduce litigation:**
 - 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

- v. 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.
- vi. Clarification on taxability of loans granted between related person or between group companies.
- vii. Clarification on time of supply on Annuity Payments under HAM Projects.
- viii. Clarification regarding time of supply in respect of allotment of Spectrum to Telecom companies in cases where payment of license fee and Spectrum usage charges is to be made in instalments.
- ix. Clarification relating to place of supply of goods supplied to unregistered persons, where delivery address is different from the billing address
- x. 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 of post-sale discounts, to the effect that input tax credit has been reversed by the recipient on the said amount.
- xi. Clarifications on various issues pertaining to special procedure for the manufacturers of the specified commodities, like pan masala ,tobacco etc.

C. Other measures pertaining to Law and Procedures

1. **Rolling out of bio-metric based Aadhaar authentication on All-India basis:** The GST Council recommended to roll-out the biometric-based Aadhaar authentication of registration applicants on pan-India basis in a phased manner. This will strengthen the registration process in GST and will help in combating fraudulent input tax credit (ITC) claims made through fake invoices.

2. **Amendments in Section 73 and Section 74 of CGST Act, 2017 and insertion of a new Section 74A in CGST Act, to provide for common time limit for issuance of demand notices and orders irrespective of whether case involves fraud, suppression, willful misstatement etc., or not:** Presently, there is a different time limit for issuing demand notices and demand orders, in cases where charges of fraud, suppression, willful misstatement etc., are not involved, and in cases where those charges are involved. In order to simplify the implementation of those provisions, the GST Council recommended to provide for a common time limit for issuance of demand notices and orders in respect of demands for FY 2024-25 onwards, in cases involving charges of fraud or willful misstatement and not involving the charges of fraud or willful misstatement etc. Also, the time limit for the taxpayers to avail the benefit of reduced penalty, by paying the tax demanded along with interest, has been recommended to be increased from 30 days to 60 days.
3. The Council recommended amendment in section 171 and section 109 of CGST Act, 2017 to provide a sunset clause for anti-profiteering under GST and to provide for handling of anti-profiteering cases by Principal bench of GST Appellate Tribunal (GSTAT). Council has also recommended the sun-set date of **01.04.2025** for receipt of any new application regarding anti-profiteering.
4. **Amendment in Section 16 of IGST Act and section 54 of CGST Act to curtail refund of IGST in cases where export duty is payable:** The Council recommended amendments in section 16 of IGST Act and section 54 of CGST Act to provide that the refund in respect of goods, which are subjected to export duty,

is restricted, irrespective of whether the said goods are exported without payment of taxes or with payment of taxes, and such restrictions should also be applicable, if such goods are supplied to a SEZ developer or a SEZ unit for authorized operations.

5. The threshold for reporting of B2C inter-State supplies invoice-wise in Table 5 of **FORM GSTR-1** was recommended to be reduced from Rs 2.5 Lakh to Rs 1 Lakh.
6. The Council recommended that return in **FORM GSTR-7**, to be filed by the registered persons who are required to deduct tax at source under section 51 of CGST Act, is to be filed every month irrespective of whether any tax has been deducted during the said month or not. It has also been recommended that no late fee may be payable for delayed filing of Nil **FORM GSTR-7** return. Further, it has been recommended that invoice-wise details may be required to be furnished in the said **FORM GSTR-7** return.

MCA RELAXES FILING DEADLINE FOR LLPS

MCA vide its earlier notification dated 9th November, 2023 mandated every LLPs to disclose the Significant Beneficial Owners in their LLPs to the Registrar in Form LLP BEN-2 within 90 days from the commencement of LLP (SBO) Rules, 2023 (i.e., by February 07, 2024). Further, MCA vide its notification dated October 27, 2023 has notified Limited Liability Partnership (Third Amendment) Rules, 2023 and prescribed E-Form LLP Form No. 4D to file Return to the Registrar in respect of declaration of beneficial interest in contribution received by LLP within 30 days from the receipt of such declaration.

Pursuant to General Circular No - 03/ 2024 dated May 07, 2024, MCA has provided relaxation of additional fees and extension of last date of filing of Form LLP BEN-2 and LLP Form No. 4D under the Limited Liability Partnership Act, 2008 without payment of any further additional fees, up to July 01, 2024. Earlier relaxation has been provided to file the above forms without any additional fees up to May 15, 2024.

DETAILS REQUIRED FOR THE SRN'S PENDING FOR E-VERIFICATION REPORT FOR WHICH COMPANY IS UNABLE TO UPLOAD REVISED VR/ DOCUMENTS

Investor Education and Protection Fund Authority under The Ministry of Corporate Affairs vide Notice dated May 28, 2024 directs the companies to resubmit the required documents for the SRNs pending for E-Verification Report for which

the company is unable to upload the revised documents for the financial years 2019, 2020, 2021 and 2022 and for the Financial Years 2023 & 2024:

ACTION TO BE TAKEN FOR SRN's PENDING FOR E-VERIFICATION REPORT	FOR THE FINANCIAL YEARS 2019, 2020, 2021 & 2022	FOR THE FINANCIAL YEARS 2023 & 2024
	A list of SRN's to be provided by the Company to IEPFA whose status as on the date is pending for EVR and the Company is unable to upload the documents for further processing on MCA.	
	All those SRNs that are pending for EVR with the Company in which Company is unable to upload the documents will be given the resubmission option to upload the documents on MCA 21.	
	All the necessary documents required for the above-mentioned SRNs are to be uploaded by the Company with the recommended Approved / Rejected	All the necessary documents required for the above-mentioned SRNs are to be uploaded by the Company with the recommended

	Verification Report on or before June 05, 2024.	Approved / Rejected Verification Report within 30 days of opening for resubmission option.
COMPLAINCE	On time waiver option is granted for FY 2019, 2020, 2021 & 2022. If no response is received from the Companies by this date, all such SRNs will be rejected.	

Companies are required to provide the list of SRNs on the last working day of every month that is pending for EVR and unable to upload the documents, so that the Resubmission option can be opened for the Company to upload the documents.

If any discrepancies are raised after the approval of any SRN's, the documents/ clarifications has to be communicated to the IEPFA by the registered Nodal Officer or Deputy Nodal Officer of the Company in its letterhead only. In case if the documents are received from Claimants mail id or any other mail Id of the Company/Claimant, then such documents will not be considered for processing the claim.

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