

The GST Council inter-alia made the following recommendations relating to changes in GST tax rates, measures for facilitation of trade and measures for streamlining compliances in GST.

Key Highlights:

- Extra Neutral Alcohol (ENA) used in manufacture of alcoholic liquor for human consumption is proposed to be kept out of ambit of GST.
- Input Service Distributor (ISD) Mechanism to be made mandatory prospectively.
- Taxation of Personal Guarantee & Corporate Guarantee.
- Amnesty Scheme for filing Appeals when time-barred.
- Provisional attachment to be valid only upto 1 year of attachment.
- Supplies by Indian Railways to be applicable on Forward Charge Mechanism basis.



Recommendations relating to change in rate of goods:

Changes in GST rates of goods

- The GST rates on “Food preparation of millet flour in powder form, containing at least 70% millets by weight”, falling under HSN 1901 to be reduced as follows:
 - From 18% to 5% for Pre-packaged and labelled form and
 - From 18% to 0% in other than Pre-packaged and labelled form.
- The GST rate on Molasses is proposed to be reduced from 28% to 5%.
- The GST rates on Imitation Zari thread falling under HSN 5605, made out of metallised polyester film /plastic film, is recommended to be reduced from 18% to 5%. Also, the refund as per inverted duty structure on polyester film(metallised) /plastic film to be restricted.
- Foreign going vessels are liable to pay 5% IGST on the value of the vessel if it converts to coastal run. GST Council recommends conditional IGST exemption to foreign flag foreign going vessel when it converts to coastal run subject to its reconversion to foreign going vessel in six months.

Taxation of Extra Neutral Alcohol (ENA):

- The Extra Neutral Alcohol (ENA) used in manufacture of alcoholic liquor for human consumption is proposed to be removed from ambit of GST. The respective amendment in the GST law shall be made subsequently based on Law Committee decision.
- ENA for industrial use to attract 18% GST. For this, a separate tariff as per Customs Tariff to be created and rate notification to be amended.

Recommendations relating to change in rate of Services:

Retaining Exemption for certain services provided to Central/State Government and Local Authorities:

- Continuation of exemption to pure and composite services under Sl.no 3 and 3A provided to Central/State Govt and local authorities ‘in relation to’ functions entrusted to Panchayat/ Municipality under Article 243G and 243W of the Constitution:



New exemption entry for the specified services provided to Government Authority:

- Council has recommended to exempt services of water supply, public health, sanitation conservancy, solid waste management and slum improvement and upgradation when supplied to Governmental Authorities.

GST Rate applicable for job work services for processing of barley into malt:

- It is clarified that job work services for processing of barley into malt attracts GST at 5% as applicable to "job work in relation to food and food products" and not at 18%.

GST on registered bus operators providing passenger transportation service through ECOs:

- With effect from 1st January 2022, liability to pay GST on bus transportation services supplied through Electronic Commerce Operators (ECOs) has been placed on the ECO under section 9(5) of CGST Act, 2017. This recommendation has been made based on the representation of industry association that most of the bus operators supplying services through ECO owned one or two buses and were not in a position to take registration and meet GST compliances. To arrive at a balance between the need of small operators for ease of doing business and the need of large organized players to take ITC, GST Council has recommended that bus operators organised as companies may be excluded from discharging GST under Section 9(5) of CGST Act, 2017. This would enable them to pay GST on their supplies and utilise ITC.

Exemption on Services provided by District Mineral Foundations:

- It is clarified by the Council that District Mineral Foundations Trusts (DMFT) set up by the State Governments across the country in mineral mining areas are "Governmental Authorities" and thus are eligible for the same exemptions from GST as available to any other Governmental Authority.

Supplies by Indian Railways are taxable under forward charge instead of reverse charge:

- Presently, amongst others, the transportation services of goods or passengers provided by Indian Railways, are taxable under forward charge mechanism. Other services such as renting of immovable property, granting of catering licenses are taxable under the reverse charge mechanism (RCM). The supply of used vehicles, seized and confiscated goods, old and used goods, waste and scrap by Government (which includes Indian Railways as well) to a registered person was taxable in the hands of registered person (Customer) under RCM. Thereby, to enable the Indian Railways to avail the Input Tax Credit, the supply of goods and services made by the Indian Railways are recommended to be made taxable under forward charge.



Measures for facilitation of trade:

Amnesty Scheme for filing of appeals against demand orders in cases where appeal could not be filed within the allowable time period:

- The Council has recommended providing an amnesty scheme through a special procedure under section 148 of the CGST Act, 2017 for taxable persons, who could not file an appeal under section 107 of the said Act, against the demand order under section 73 or 74 of CGST Act, 2017 passed on or before the 31st day of March, 2023, or whose appeal against the said order was rejected solely on the grounds that the said appeal was not filed within the time period specified in subsection (1) of section 107. In all such cases, filing of appeal by the taxpayers will be allowed against such orders upto 31st January 2024, subject to the condition of payment of an amount of pre-deposit of 12.5% of the tax under dispute, out of which at least 20% (i.e. 2.5% of the tax under dispute) should be debited from Electronic Cash Ledger. This will facilitate a large number of taxpayers, who could not file appeal in the past within the specified time period.

Automatic restoration of provisionally attached property:

- The Council has recommended an amendment in Rule 159(2) of CGST Rules, 2017 and Form DRC22 to provide that the order for provisional attachment in Form DRC-22 shall not be valid after the expiry of one year from the date of the said order. This will facilitate the release of provisionally attached properties after the expiry of period of one year, without need for separate specific written order from the Commissioner.

Place of Supply in the case of transportation of goods by mail or courier, advertising services and co-location services:

- The GST Council after receiving various representations on issues arising in determining the place of supply in the following cases of supply of services- (i) Transportation of goods by mail or courier, where the location of supplier or recipient is outside India, (ii) Advertising services, 13 (iii) Co-location services, It has been recommended to issue Circulars to remove the ambiguity and to provide a standard solution for the industries.

Eligibility of export services where export remittances are received in INR:

- The GST Council has recommended to issue a circular to clarify whether the export of services where the consideration for such supply is received in Special INR Vostro account, as permitted by RBI, will still qualify as export of services in terms of provisions of section 2(6)(iv) of the IGST Act, 2017.

Suppliers supplying to SEZ units or developer for authorized operations can claim refund of IGST paid:



- The GST Council has recommended to amend the Notification No. 1/2023-Integrated Tax (Rate) dated 31-07-2023, to extend the benefit of paying integrated tax and claiming refund of such tax paid to the suppliers of SEZ units or developers for authorized operations.

Taxability of Personal and Corporate Guarantee

The Council has inter-alia recommended to:

- (a) issue a circular clarifying that when no consideration is paid by the company to the director in any form, directly or indirectly, for providing personal guarantee to the bank/financial institutes on their behalf, the open market value of the said transaction/ supply may be treated as zero and hence, no tax to be payable in respect of such supply of services.
- to insert sub-rule (2) in Rule 28 of CGST Rules, 2017, to provide for taxable value of supply of corporate guarantee provided between related parties as one percent of the amount of such guarantee offered, or the actual consideration, whichever is higher.
- to clarify through the circular that after the insertion of the said sub-rule, the value of such supply of services of corporate guarantee provided between related parties would be governed by the proposed sub-rule (2) of rule 28 of CGST Rules, 2017, irrespective of whether full ITC is available to the recipient of services or not.

Other measures pertaining to law and procedures:

Input Service Distributor to be made mandatory prospectively:

- Input Service Distributor procedure as laid down in Section 20 of the CGST Act, 2017 may be made mandatory prospectively for distribution of ITC in respect of input services procured by Head Office (HO) from a third party but attributable to both HO and Branch Office (BO) or exclusively to one or more BOs. The Council has now recommended amendments in Section 2(61) and section 20 of CGST Act, 2017 as well amendment in rule 39 of CGST Rules, 2017 in respect of the same.

Appointment of Members to the proposed GST Appellate Tribunals:

- Amongst others, a person is qualified for appointment as a Judicial member of the GST Tribunal, if he has been an advocate for ten years with substantial experience in litigation under the Indirect Tax Laws in the Appellate Tribunal, CESTAT and State VAT Tribunals, by whatever name called, High Court or Supreme Court. Further, the minimum age to be eligible for appointment as the President or Member of the GST Appellate Tribunal would be 50 years respectively. The President of the Tribunal shall hold office for a term of 4 years or until he attains the age of 70 years, whichever is earlier. [Earlier it was 67 years] The member of the Tribunal shall hold office for a term of 4 years or until he attains the age of 67 years, whichever is earlier. [Earlier it was 65 years] This recommendation is made to be aligned with the Tribunals Reforms Act, 2021.

Note: The recommendations of the GST Council have been presented in this release containing major item of decisions in simple language for information of the stakeholders. The same would be given effect through the relevant circulars / notifications/ law amendments which alone shall have the force of law.