

Highlights of 52nd GST Council meeting

The 52nd GST Council was held on October 7th in New Delhi under the Chairpersonship of Union Minister for Finance & Corporate Affairs Smt. Nirmala Sitharaman.

Following recommendations of the USISPF's Tax forum have been considered by the council.

- (a) Setting up of Tribunals can now be expected to be fast tracked.
- (b) Clarification regarding guarantee provided by Directors/ holding companies – fine print would be key and the impact of this on other such similar related party transactions will need to be examined.
- (c) Allowing supplies to SEZ units/ developer for authorised operations for IGST refund route
- (d) Clarification regarding place of supply for transportation through mail/ courier.

As regards clarification regarding place of supply for co-location and advertising, we have little information about the actual clarification expected to be issued and this will be important to watch out for.

Press release available [here](#).

Key points	Description
Law/ procedural amendments	
Alignment of provisions of the CGST Act, 2017 with the provisions of the Tribunal Reforms Act, 2021 in respect of Appointment of President and Member of the proposed GST Appellate Tribunals	<ul style="list-style-type: none"> • The council has decided to amend relevant sections to provide that an advocate for ten years with substantial experience in litigation under indirect tax laws in the Appellate Tribunal, CESTAT, State VAT Tribunals, High Court or Supreme Court to be eligible for the appointment as judicial member; • Minimum age of appointment as a president and member be 50 years and shall have a tenure up maximum age of 70 years and 67 years respectively. • This move should help put the ongoing debate and dispute in connection with the Petition filed by the Madras Bar Association and fast track setting up of the Tribunals.
Law amendment with respect to ISD as recommended by the GST Council in its 50th meeting	<ul style="list-style-type: none"> • GST Council in its 50th meeting had recommended that ISD (Input Service Distributor) procedure may be made mandatory prospectively for distribution of common ITC in respect of input services procured by Head Office (HO) but attributable to both HO and Branch Office (BO) or exclusively to one or more BOs.

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	<ul style="list-style-type: none"> • The Council has now recommended amendments in Section 2(61) and section 20 of CGST Act, and amendment in rule 39 of CGST Rules, to give effect to the above recommendation.
Measures for facilitation of trade	
<p>Amnesty scheme for filing of appeals against demand orders in cases where appeal could not be filed within the allowable time period:</p>	<ul style="list-style-type: none"> • It was decided to extend the time period for filing appeals under 107 of CGST Act, against the demand order under section 73 or 74 of CGST Act, passed on or before the 31st day of March, 2023 up to January 31st 2024. • The above extension is subject to the condition of payment of an amount of pre-deposit of 12.5% (which is generally 10%) 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 amnesty scheme is a welcome move and will help provide some relief in specific cases.
<p>Clarification regarding personal and corporate guarantee</p>	<ul style="list-style-type: none"> • Where personal guarantee is offered by directors to the bank against the credit limits/loans being sanctioned to the company for which no consideration is paid by the company to the director, 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. • For the corporate guarantee provided for related persons including corporate guarantee provided by holding company to its subsidiary company, the taxable value of supply of corporate guarantee provided between related parties shall be 1% of the amount of such guarantee offered, or the actual consideration, whichever is higher. • The detailed Circular on this issue will be key to look out for, as it will be important to analyse the implications it could have on other related party transactions.
<p>Other recommendations</p>	<ul style="list-style-type: none"> • Issue a circular to clarify the admissibility of export remittances received in Special INR Vostro account, as permitted by RBI, for the purpose of consideration of supply of services to qualify as export of services. • Amend Rule 159 of CGST Rules, to provide that the order for provisional attachment of property in FORM GST DRC-22 shall not be valid after expiry of one year from the date of the said order.

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	<ul style="list-style-type: none"> Amend Notification No. 1/2023-Integrated Tax dated 31.07.2023 w.e.f. 01.10.2023 so as to allow the suppliers of goods and services to a SEZ developer / unit for authorised operations on payment of integrated tax and claim the refund of tax so paid. Clarifications are also agreed to be issued regarding place of supply in respect of (a) exports vide mail/courier (b) advertising services and (c) co-location services. <p>The fine print of all of the above proposals will again be important to watch out for.</p>
Recommendation relating to Goods and Services	
Other recommendations relation to Goods and Services	<ul style="list-style-type: none"> Extra Neutral Alcohol (ENA) used for manufacture of alcoholic liquor for human consumption to be kept outside GST. The GST rate notification will be amended to create an entry for ENA for industrial use attracting 18% GST. Reduce GST on molasses from 28% to 5%. Job work services for processing of barley into malt attracts GST @ 5% and not 18%. Bus transportation services supplied through Electronic Commerce Operators (ECOs) has been placed on the ECO under section 9(5) of CGST Act. It is recommended that bus operators organised as companies may be excluded from the purview of section 9(5) of CGST Act, to enable them to pay GST on their supplies using their ITC.
Recommendation for changes in GST Rates of Goods and Services	<ul style="list-style-type: none"> GST rates on “Food preparation of millet flour in powder form, containing at least 70% millets by weight”, falling under HS 1901 will be taxed at 0% if sold in other than pre-packaged and labelled form and 5% if sold in pre-packaged and labelled form Imitation zari thread or yarn made out of metallised polyester film /plastic film, falling under HS 5605, are covered by the entry for imitation zari thread or yarn will attract 5% GST rate Pure and composite services provided to Central/State/UT governments and local authorities in relation to any function entrusted to Panchayat/ Municipality under Article 243G and 243W of the

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	<p>Constitution of India will continue to be exempted from GST</p> <ul style="list-style-type: none">• Services by way of water supply, public health, sanitation conservancy, solid waste management and slum improvement and upgradation, supplied to Governmental Authorities shall be exempted from GST