

**54<sup>th</sup> GST Council Meeting on 9<sup>th</sup> September 2024**

**Key issues resolved: US India Tax Forum Advocacy wins –**

1. Addressal of ambiguities relating to place of supply in respect of services of advertising and data-hosting, provided by Indian entities to foreign companies, in context of their export status.
2. Enabling e-invoicing for B2C supplies on a voluntary basis
3. Provisions causing denial of refunds of taxes paid on exports to advance authorization holders, EOUs, STPIs etc., availing duty exemptions are proposed to be prospectively omitted, in line with other tax-payers.
4. Import of services by an establishment (i.e., branch) of a foreign airlines company from a related person or any of its establishment outside India (i.e., by head office), when made without consideration, has been proposed to be exempted.
5. Recommended to clarify that when ancillary/intermediate services are provided by GTA in the course of transportation of goods by road and GTA also issues consignment note, the service will constitute a composite supply and all such ancillary/intermediate services like loading/unloading, packing/unpacking, transshipment, temporary warehousing etc. will be treated as part of the composite supply.
6. Section 128A which notifies the Amnesty scheme to come to effect wef 01 November 2024. Insertion of rule 164 in CGST Rules, 2017, along with certain Forms, has been recommended to provide for the procedure and conditions for availment of benefit of waiver of interest or penalty or both, relating to tax demands under section 73 of CGST Act, pertaining to FYs 2017-18, 2018-19 and 2019-20, as per section 128A of CGST Act. Also, recommended to issue a circular to provide clarity on various issues that exist.
7. Special procedure for rectification of orders to be recommended, when issued confirming demand for wrong availment of input tax credit on account of contravention of provisions of Section 16(4), in cases where the time limit to avail such credit for past-periods was extended to 20 November 2021.

## A Summary of Key Recommendations

### **1. Proposals which enable trade facilitation**

#### **A. Clarifications proposed to be issued on the following:**

- Place of supply for following services provided by Indian entities to foreign companies:
  - advertising services
  - data hosting services provided to cloud computing service providers
  - Availability of ITC, on demo vehicles, by dealers of the vehicle manufacturers

#### **B. Clarification on the IGST refunds on exports:**

- Refund with payment of taxes when IGST on imports is paid subsequently: It is clarified that, the refund of taxes paid on exports shall not be considered to be in contravention of GST provisions -
  - Where goods were initially imported without payment of IGST and compensation cess by availing benefits under the applicable customs notifications; and
  - IGST and compensation cess were subsequently paid, along with applicable interest, and the Bill of Entry is reassessed through the jurisdictional Customs authorities,
  - **Prospective omission of rule 96(10), 89(4A) and Rule 89(4B):** Restriction in respect of refund on exports, imposed vide rule 96(10), rule 89(4A) & rule 89(4B) of Central Goods and Services Tax Rules, 2017, in cases where benefit of the specified concessional/exemption notifications is availed on the inputs to be prospectively omitted.

#### **C. Procedure and conditions for waiver of interest or penalty for FY 2017-18 to FY 2019-20:**

- A new rule shall be inserted prescribing the procedure, conditions, and the relevant forms as applicable for availing the benefit of waiver of interest or penalty or both regarding the demands raised under section 73 of the Central Goods and Services Tax Act, 2017
- 31 March 2025 will be notified as the date on or before which the demand shall have to be paid to avail this benefit.
- This provision will be notified with effect from 01 November 2024 and also to issue a circular clarifying various issues relating to waiver of interest or penalty or both

**D. Relaxation regarding the time limit for claiming input tax credit pertaining to FY 2017-18 to FY 2020-21 and the input tax credit in cases where cancellation of registration is revoked**

- Special procedure for rectification of orders proposed where demands were previously raised on account of:
  - wrong availment of ITC beyond the prescribed period (considering the Union Budget amendments extended the time limit for FY 2017-18 to FY 2020-21 till November 2021)
  - availment of ITC by a person whose registration was cancelled and subsequently revoked, subject to the condition that such availment was done within the prescribed time period

**2. Proposals pertaining to GST Compliance**

- To strengthen the compliance process, electronic invoicing (e-invoicing) is to be introduced for B2C transactions as well. The pilot project will be rolled out on voluntary basis for selected sectors and states.
- Introduction of RCM ledger, ITC reclaim ledger and Invoice management system (IMS). The taxpayers will be provided time till 31 October 2024 to declare their opening balance for RCM and ITC reclaim ledger, whereas the IMS will be optional to allow the taxpayers to accept, reject or keep the invoices pending for the purpose of availment of ITC.

**3. Proposals for rate rationalization on goods and services**

### **Goods**

- The following changes have been proposed with respect to the rates applicable for goods:

Nature of goods	HSN	Existing rate	Proposed rate
Extruded or expanded products, Savory or salted (other than unfried or un-cooked snack pellets, by whatever name called, manufactured through process of extrusion)	19059030	18%	12%
Cancer drugs namely, Trastuzumab Deruxtecan, Osimertinib and Durvalumab	As applicable	12%	5%
Roof Mounted Package Unit (RMPU) Air Conditioning Machines for Railways	8415	As applicable	28%
Car and Motor cycle seats	9401	18%	28%

- Reverse charge mechanism (“RCM”) payment is proposed to be introduced on supply of metal scrap by unregistered person to registered person, wherein registered person is required to remit the taxes.
- Further, tax deduction at source (TDS) of 2% will be applicable on supply of metal scrap by registered person to another registered person.

### **Services**

- A. The following transactions shall be *exempted*:**

- Supply of research and development (R&D) services by a Government Entity; or a research association, university, college, or other institution, notified under clauses (ii) or (iii) of sub-section (1) of section 35 of the Income Tax Act, 1961 using Government or private grants.
- Import of services by an establishment of a foreign airlines company from a related person or any of its establishment outside India, when made without consideration.
- Supply of services such as application fees for providing electricity connection, rental charges against electricity meter, testing fees for meters/transformers/capacitors, labor charges from customers for shifting of meters/service lines, charges for duplicate bills etc. which are incidental, ancillary, or integral to the supply of transmission and distribution of electricity by transmission and distribution utilities to their consumers, when provided as a composite supply.

B. The following proposals have also been made with respect to **rate of tax applicable to services**:

- To notify GST @ 5% on the transport of passengers by helicopters on seat share basis and to regularize for past period on as is where is basis. It is also recommended to clarify that the charter of helicopter will continue to attract 18% GST.
- To bring the renting of commercial property by unregistered person to a registered person under RCM to prevent revenue leakage.
- To clarify that Preferential Location Charges (“PLC”) paid with consideration for construction services of residential/ commercial/ industrial complex before issuance of completion certificate forms part of composite supply and is naturally bundled to main service of construction services - eligible for same tax treatment as the main supply.

- To clarify that the affiliation services provided by universities to their constituent colleges are not covered within the ambit of exemptions provided to educational institutions in the Notification No. 12/2017- Central Tax (Rate) dated 28 June 2017 and GST at the rate of 18% is applicable on the affiliation services provided by the universities.
- To clarify that the ancillary / intermediary services (viz., loading/unloading, packing/unpacking, transshipment, temporary warehousing etc.) provided by the Goods Transport Agency (“GTA”) during transportation of goods by road shall be treated as a composite supply. However, if these services are not provided in course of transportation of goods by road by the GTA and invoiced separately then, these services shall not be treated as composite supply.
- To regularize the GST liability for the past period prior to 01 October 2021 on ‘as is where is’ basis, where the film distributor or sub-distributor acts on a principal basis to acquire and distribute films.
- It has also been recommended to constitute a Group of Ministers (GoM) to holistically investigate the issues pertaining to GST on the life insurance and health insurance.

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