

# 48<sup>th</sup> GST Council meeting: Key recommendations and decisions

19 December 2022



## Summary

The Goods and Service Tax (GST) Council in its 48th meeting, held through video conference on 17 December 2022, made various significant recommendations relating to changes in GST rates, measures for facilitation of trade and measures for streamlining compliances in GST. The GST Council has recommended to decriminalise certain offences u/s 132, increase in threshold of amount of tax for prosecution and reduction in the amount of compounding in GST. These recommendations shall be given effect through notifications and/or circulars except where the effective dates have already been provided.

## Key recommendations/decisions

<b>Decriminalisation under GST</b>	<ul style="list-style-type: none"><li>• Increase in minimum threshold of tax amount from INR 1 crore to INR 2 crore for launching prosecution</li><li>• The increased threshold shall not be applicable for offences related to fake invoices</li><li>• Reduce the compounding amount range from 50% to 150% of tax amount to 25% to 100%</li><li>• Decriminalisation of certain offences</li></ul>
<b>Amendment in rule 37(1) w.r.t. reversal of input tax credit (ITC)</b>	<ul style="list-style-type: none"><li>• Amendment in rule retrospectively w.e.f. 1 October 2022 to reverse only the <b>proportionate</b> ITC to the amount not paid to the supplier</li></ul>
<b>Mechanism for ITC reversal in case of non-payment of tax by supplier</b>	Proposed to insert Rule 37A to prescribe: <ul style="list-style-type: none"><li>• Mechanism for ITC reversal by the recipient in case of non-payment of GST by the supplier</li><li>• Mechanism for re-availment of ITC if the supplier pays tax subsequently</li></ul>
<b>Clarification on renting of residential dwelling</b>	<ul style="list-style-type: none"><li>• Pursuant to the recommendations of 47<sup>th</sup> GST Council meeting, the GST exemption was withdrawn when a residential dwelling was rented out to a registered person</li><li>• In this respect, it is clarified that GST would not be payable by a registered person if the residential property is rented out to him in his personal capacity and not on account of his business</li></ul>
<b>Amendment related to Schedule III</b>	<ul style="list-style-type: none"><li>• Earlier, the below transactions were inserted in Schedule III w.e.f. 1 Feb 2019<ul style="list-style-type: none"><li>○ Supplies of goods from a place outside the taxable territory to another place outside the taxable territory,</li><li>○ High sea sales and</li><li>○ Supply of warehoused goods before their home clearance</li></ul></li><li>• Above paras effective from 1 July 2017</li><li>• No refund of GST already paid during the period 1 July 2017 to 31 Jan 2019</li></ul>
<b>Facilitate e-commerce for micro enterprises</b>	<ul style="list-style-type: none"><li>• Facility to unregistered suppliers and composition taxpayers to make intra-state supply through e-commerce operators (ECOs), subject to certain conditions</li><li>• Implementation of this scheme w.e.f. <b>1 October 2023</b></li></ul>

<b>Appeal procedure</b>	<ul style="list-style-type: none"> <li>• Amendment in appeal provisions to provide clarity on <ul style="list-style-type: none"> <li>○ The requirement of submission of certified copy of the order appealed against</li> <li>○ The issuance of final acknowledgment by the appellate authority</li> </ul> </li> <li>• Insertion of rule and form to provide the facility for withdrawal of an appeal application up to certain specified stage</li> </ul>
<b>Issuance of circular</b>	<p>To clarify the below issues:</p> <ul style="list-style-type: none"> <li>• Deduction of no claim bonus for valuation of insurance services</li> <li>• Treatment of statutory dues under GST w.r.t. the taxpayers for whom the proceedings have been finalised under the Insolvency and Bankruptcy Code, 2016</li> <li>• Place of supply of services of transportation of goods and availability of ITC to the recipient</li> <li>• Procedure for ITC verification in cases involving difference of ITC in <b>form</b> GSTR-3B and GSTR-2A during FY2017-18 and 2018-19</li> <li>• Manner of re-determination of demand in terms of section 75(2)</li> <li>• Applicability of e-invoicing with respect to an entity</li> </ul>
<b>Amedment in Form GSTR-1</b>	<ul style="list-style-type: none"> <li>• Reporting of details of supplies made through ECOs both by the supplier and ECO</li> </ul>
<b>Intimation of difference in liability reported in form GSTR-1 and GSTR-3B, by the common portal</b>	<ul style="list-style-type: none"> <li>• Where there would be a difference between liability reported in GSTR-1 and 3B beyond a specified percentage, the taxpayer has to either pay the differential duty or explain the difference</li> <li>• Rule 88C and Form GST DRC-01B are to be inserted</li> <li>• Restrict furnishing of GSTR-1 for a subsequent tax period in case of failure of furnishing reply or depositing amount</li> </ul>
<b>Other amendments</b>	<ul style="list-style-type: none"> <li>• Procedure for filing refund application by the unregistered buyers in case where the contract for supply of services is cancelled and the time period for issuance of credit note by the supplier is over</li> <li>• Restrict filing of GST returns to a maximum period of three years from the due date</li> <li>• Facility for cancellation of GST registration to registered taxpayers deducting TDS or collecting TCS on their request</li> <li>• Amendment in registration rules to avoid fake registrations</li> <li>• Use of PAN-linked mobile number and e-mail address in FORM GST REG-01 and OTP-based verification at the time of registration</li> <li>• Amendment in definition of <ul style="list-style-type: none"> <li>• Non-taxable online recipient</li> <li>• Online Information and Database Access or Retrieval Services (OIDAR)</li> </ul> </li> </ul>

## Our comments

- The 48<sup>th</sup> GST council meeting, held after a gap of around six months, has taken various pathbreaking and taxpayer friendly measures.
- The clarification w.r.t. non-applicability of GST on renting of the residential property by registered person in his personal capacity has removed the unnecessary confusion and provided due relief to the registered taxpayers.
- Further, the recommendation to re-amend the Rule 37(1) w.e.f. 1 October 2022 to reverse only the proportionate ITC is also a welcoming decision for the taxpayers.
- Earlier, section 41 of the CGST Act, 2017 had been substituted vide the Finance Act 2022 requiring ITC reversal by the recipient in case of non-payment of taxes by the supplier. However, the mechanism was not prescribed for determination of such non-payment. The GST Council has now recommended to prescribe such mechanism.
- Further, the council has proposed to intimate the differences in liability reported in the GST returns, by the common portal. To avoid restriction on filing of GSTR -1, the taxpayers would be careful while filing their monthly returns and would act promptly in case of any difference. It would promote the taxpayers to correct their mistakes without the intervention of tax authorities.
- The proposed amendment related to facility for withdrawal of appeal application would help in reducing litigations at the level of appellate authorities.
- Further, to remove ambiguity, clarification is proposed on requirement of certified copy of order and issuance of final acknowledgement by the appellate authority. There have been cases where the appeals have been rejected due to non-submission of certified copy of order-in-original. This would help in timely processing of appeals and ease of compliance burden of the appellant.
- However, the industry will have to wait more on decisions on issues such as setting up of appellate tribunal, taxation on online gaming, etc.

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