

45th GST Council meeting: Key recommendations/decisions

21 September 2021



Summary

The GST Council in its 45th meeting held on 17 September 2021 made various significant recommendations regarding reliefs due to COVID-19, trade facilitation, issuance of clarifications on various issues, rationalisation in relation to rates of duty, scope of exemption, etc. These recommendations shall be given effect through notifications and/or circulars, except where the effective dates have already been provided.

Key recommendations/decisions

- **Rate concessions:** The existing concessional rates on certain COVID-19 treatment drugs, namely Amphotericin B and Tocilizumab (Nil) and Remdesivir and Anti-coagulants, such as Heparin (5%) shall be applicable **until 31 December 2021**. In addition, GST rate shall be reduced to 5% **till 31 December 2021** for certain drugs, namely Itolizumab, Posaconazole, Infliximab, Favipiravir,, Casirivimab & Imdevimab, 2-Deoxy-D-Glucose and Bamlanivimab & Etesevimab.
- **GST rate reduction on certain goods and services:** GST rate applicable on certain goods and services shall be changed, **effective from 1 October 2021** unless otherwise stated (**Refer Annexure 1 and 2 for detailed rate changes**).
- **Correction in inverted duty structure:** GST rate changes in order to correct inverted duty structure, in footwear and textiles sector, will be implemented with effect **from 1 January 2022**.
- **Other rate changes/clarifications in relation to goods:**
 - Supply of mentha oil from unregistered person has been brought under reverse charge. Further, Council has also recommended that exports of mentha oil should be allowed only against LUT and consequential refund of input tax credit.
 - Brick kilns would be brought under special composition scheme with threshold limit of Rs. 20 lakhs, with effect from 1.4.2022. Bricks would attract GST at the rate of 6% without ITC under the scheme. GST rate of 12% with ITC would otherwise apply to bricks.
 - External batteries sold along with UPS systems/inverters attract GST rate applicable to batteries (28% for batteries other than lithium-ion battery), while UPS/inverter would attract 18%.
 - GST on specified renewable energy projects can be paid in terms of the 70:30 ratio for goods and services, respectively, during the period from 1.7.2017 to 31.12.2018
- All pharmaceutical goods falling under heading 3006 attract GST at the rate of 12% (not 18%)

Key changes / clarifications in relation to services:

- Validity of GST exemption on transport of goods by vessel and air from India to outside India is extended up to **30 September 2022**
- E-commerce operators are being made liable to pay tax on the following services provided through them, effective from **1 January 2022**:
 - i. transport of passengers, by any type of motor vehicles through it
 - ii. restaurant services provided through it with some exceptions
- Certain relaxations have been made in conditions relating to IGST exemption relating to import of goods on lease, where GST is paid on the lease amount.
- Services by cloud kitchens/central kitchens are covered under 'restaurant service' and shall attract 5% GST (without ITC)
- Admission to amusement parks having rides etc. attracts GST rate of 18%. The GST rate of 28% applies only to admission to such facilities that have casinos etc.
- Alcoholic liquor for human consumption is not food and food products for the purpose of the entry prescribing 5% GST rate on job work services in relation to food and food products.
- **Other measures:**
 - **Relaxation in filing form GST ITC-04:** The requirement of filing form GST ITC-04 has been relaxed as under:

Category of taxpayers	Filing requirement
AATO* in preceding year upto INR 5 crore	Annually
AATO* in preceding year above INR 5 crore	Once in six months

*AATO - Annual Aggregate Turnover

- Interest @18% can be recovered on ineligible input tax credit (ITC) availed and utilised and not on "ineligible ITC availed" effective from 1 July 2017.
- Transfer of unutilised balance of CGST and IGST cash ledger may be allowed between distinct persons without following refund procedure, subject to certain safeguards.
- Procedure and time limit for filing refund of tax wrongfully paid under GST shall be incorporated.
- Aadhaar authentication of registration to be made mandatory for being eligible for filing refund claim and application for revocation of cancellation of registration.

- Late fee for delayed filing of **FORM GSTR-1 shall be** auto-populated and collected in next **FORM GSTR-3B**.
- Refund shall be disbursed in the bank account linked with PAN used to obtain GST registration.
- With effect from **1 January 2022** a registered person shall not be allowed to furnish FORM GSTR-1, if he has not furnished the return in FORM GSTR-3B for the preceding month.
- Rule 36(4) of the CGST Rules, 2017 shall be amended to restrict availment of ITC in respect of invoices/debit notes, to the extent the details of such invoices/debit notes are furnished by the supplier in FORM GSTR-1/ IFF and are communicated to the registered person in FORM GSTR-2B.
- **Issuance of clarifications:** In order to remove ambiguity and legal disputes on various issues, for benefiting taxpayers at large, clarifications shall be issued on scope of intermediary services, interpretation of the term ‘merely establishment of distinct person’, determination of relevant financial year for the purpose of Section 16(4) of the CGST Act, 2017, etc.
- **Formation of GoM:** A GoM shall be set up to examine the issue of correction of inverted duty structure for major sectors. Further, a GoM shall be set up to discuss ways and means of using technology to further improve compliance, including monitoring through improved e-way bill systems, e-invoices, FASTag data and strengthening the institutional mechanism for sharing of intelligence and coordinated enforcement actions by the Centre and the states.

Our comments

The first physical council meeting, after a gap of almost two years, has taken various taxpayer friendly measures. It has been recommended that the long due correction in inverted duty structure in footwear and textiles sector will be implemented with effect from 1 January 2022. Further, understanding the ambiguity revolving around various issues such as scope of intermediary services, interpretation of the term “mere establishment of distinct entities” etc., the council has recommended to issue due clarifications in relation thereto. These clarifications are awaited and once released they may help provide due clarity on such litigative issues.

However, the industry will have to wait as regards bringing of specified petroleum products within the ambit of GST as the Council has stated that it is not appropriate to do so at this stage.

Annexure – 1 – Rate changes related to services

Goods	Existing rate	Revised rate
Retro fitment kits for vehicles used by the disabled	Appl. Rate	5%
Fortified Rice Kernels for schemes like ICDS, etc.	18%	5%
Medicine Keytruda for treatment of cancer	12%	5%
Biodiesel supplied to OMCs for blending with Diesel	12%	5%
Ores and concentrates of metals such as iron, copper, aluminum, zinc and few others	5%	18%
Specified Renewable Energy Devices and parts	5%	12%
Cartons, boxes, bags, packing containers of paper, etc.	12%/18%	18%
Waste and scrap of polyurethanes and other plastics	5%	18%
All kinds of pens	12%/18%	18%
Railway parts, locomotives & other goods in Chapter 86	12%	18%
Miscellaneous goods of paper like cards, catalogue, printed material (Chapter 49 of tariff)	12%	18%
IGST on import of medicines for personal use, namely Zolgensma for Spinal Muscular Atrophy, Viltepso for Duchenne Muscular Dystrophy and other medicines used in treatment of muscular atrophy	12%	Nil
IGST exemption on goods supplied at Indo-Bangladesh border haats	Appl. rate	Nil
Unintended waste generated during the production of fish meal except for fish oil	Nil (for the period 1 Jul 2017 to 30 Sept 2019)	

Annexure – 2 – Rate changes related to services

Services	Existing rate	Revised rate
Services by way of grant of National Permit to goods carriages on payment of fee	18%	Nil
Skill Training for which Government bears 75% or more of the expenditure [presently exemption applies only if Govt funds 100%]	18%	Nil
Licensing services/ the right to broadcast and show original films, sound recordings, Radio and Television programmes [to bring parity between distribution and licencing services]	12%	18%

Printing and reproduction services of recorded media where content is supplied by the publisher (to bring it on parity with colour printing of images from film or digital media)	12%	18%
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