

**Gist of Recommendations of 50<sup>th</sup> meeting of GST Council held on 11<sup>th</sup> July 2023, under the chairpersonship of the Union Finance & Corporate Affairs Minister Smt. Nirmala Sitharaman**

**Various recommendations relating to GST on Goods are as follows:**

- To reduce GST on uncooked/unfried snack pellets, imitation Zari thread or yarn, fish soluble paste from 18% to 5% and to regularize GST during the past period on “as is basis”.
- To exempt IGST on Dinutuximab (Quarziba) medicine when imported for personal use.
- To exempt IGST on medicines and Food for Special Medical Purposes (**FSMP**) used in the treatment of rare diseases enlisted under the National Policy for Rare Diseases, 2021 when imported for personal use subject to existing conditions. Similarly, IGST exemption is also being extended to FSMP when imported by Centres of Excellence for Rare Diseases or any person or institution on recommendation of any of the listed Centres of Excellence.
- To provide clarification that supply of raw cotton, including kala cotton, by agriculturists to cooperatives is taxable under reverse charge mechanism (**RCM**) and to regularise the past period issues on “as is basis”.
- To make amendment in entry 52B in compensation cess notification for including vehicles of Length > 4000 mm, Engine > 1500 cc and Ground Clearance of 170 mm & above, resulting in increase of Cess from 20% to 22%.
- To reduce GST rate on LD slag from 18% to 5%.
- To regularise the matters relating to trauma, spine and arthroplasty implants for the period prior to 18.07.2022 and matters relating to desiccated coconut for the period 1.7.2017 to 27.7.2017 on “as is basis”.
- To levy Compensation Cess on pan masala/ tobacco products, where it is not required to declare the retail sale price. Ad Valorem rate as on 31<sup>st</sup> March 2023 shall be notified for levying such Compensation Cess.
- To include RBL and ICBC bank in Annexure 4B (HBP) of FTP (Foreign Trade Policy) as specified banks for IGST exemption on gold/ silver/ platinum imports.
- To regularise the issues relating to GST on plates/cups made of areca leaves prior to 01.10.2019 and the issues relating to GST on biomass briquettes for the period 01.7.2017 to 12.10.2017.

**Various recommendations relating to GST on Services are as follows:**

- Exemption from GST applicable to satellite launch services supplied by ISRO, Antrix Corporation Limited and New Space India Limited (NSIL) may be extended to organisation in private sector to encourage start-ups.
- Goods Transport Agencies (**GTAs**) will not to be required to file declaration for paying GST under forward charge mechanism (**FCM**) every financial year (**FY**). Option exercised for a FY shall be applied for future FY's unless they file a declaration to revert to RCM. Last date to exercise the option by GTA to pay GST under FCM shall be 31<sup>st</sup> March of preceding FY.
- To clarify that, services by a director to the company in his personal capacity, such as supplying services by way renting of immovable property to the company, are not taxable under RCM.
- To clarify that supply of food and beverages in cinema halls is taxable as restaurant service as long as (a) they are supplied as part of a service and (b) supplied independently of the cinema exhibition service. Where the sale of cinema ticket and supply of food and beverages are clubbed together, and such bundled supply satisfies the test

of composite supply, the entire supply will attract GST at the rate applicable to service of exhibition of cinema, the principal supply.

### Various other recommendations for streamlining compliances, for facilitation of trade, for amendments in CGST Rules, for clarifications etc. are as follows:

- To make amendments in GST law to include online gaming and horse racing in Schedule III as taxable actionable claims. Casino, Horse Racing and Online Gaming to be taxed at the uniform rate of 28% on full face value.
- To introduce GST Appellate Tribunal (Appointment and Conditions of Service of President and Members) Rules, 2023 and shall notify the amendment before 01.08.2023 so that the same can be brought into operation at the earliest.
- Relaxations provided in FY 2021-22 in respect of tables of GSTR-9/ 9C shall be continued for FY 2022-23.
- Taxpayers having aggregate annual turnover up to Rs. 2 crores shall not be required to file GSTR-9/9A for FY 2022-23.
- To clarify through a circular that Input Services Distributor (ISD) mechanism is not mandatory for distribution of input tax credit (**ITC**) of common input services procured from third parties to the distinct persons and also about taxability of internally generated services provided by one distinct person to another.
- To clarify through a circular that replacement during warranty period without any consideration will require no GST to be charged by the manufacturer and no reversal of ITC.
- To clarify through a circular refund related issue such as:
  - i. Refund of ITC u/s 54(3) CGST to be restricted to amount reflected in GSTR-2B of the respective period.
  - ii. Value of export goods” for calculating “adjusted total turnover” under rule 89(4) of CGST Rules shall be determined as per explanation inserted in Rule 89(4)
  - iii. Admissibility of refund where export of goods or payment realization for export of services, is made after time limit under Rule 96A.
- To clarify through a circular about TCS liability where multiple E-commerce Operators (ECOs) are involved in a single transaction of supply.
- To amend Rule 46(f) of CGST Rules to require only recipient’s state name, and not the full address on tax invoice for services supplied by/ through an E-commerce operator or by a supplier of Online Information Database Access and Retrieval services (**OIDAR**) services to an unregistered recipient.
- Issuance of circulars to clarify applicability of E-invoicing rule for supplies to Government departments registered solely for the purpose of TDS.
- Issuance of circulars to clarify calculation of interest u/s 50(3) of CGST for wrongly availed and utilized IGST credit, the balance ITC in electronic credit ledger under the heads of IGST, CGST and SGST taken together, has to be considered while calculating such interest liability as per rule 88B of CGST Rules, 2017.
- To extend the Amnesty Scheme for non-filers of Form GSTR4/9/10 and revocation of cancellation of registration and deemed withdrawal of assessment orders till 31.08.2023.
- To extend the special procedure regarding mismatch in ITC availed in GSTR 3B and 2A for 2 more years i.e., 2019-20 and 2020-21.

- To extend due dates for filing of GSTR-1, 3B and 7 for April, May and June, 2023 in the State of Manipur till 31.07.2023.
- To amend CGST Rules regarding registration such as providing bank details, restriction on filing GSTR 1/ Invoice Furnishing Facility (IFF) if bank details are not given, to do away with the requirement of physical verification of business premises to be conducted in applicant's presence.
- To provide system-based intimation to the taxpayers in respect of ITC in GSTR 3B vis-à-vis that made available in GSTR 2B.
- To amend GSTR3A for issuance of notice for failure to furnish GSTR-9/9A by due date.
- To amend Rule 64 of CGST Rules to require OIDAR supplier to provide the details of supplies made to registered persons in India in GSTR-5A.
- To clarify that mere holding of securities of a subsidiary company by a holding company cannot be treated as a supply of services and therefore, cannot be taxed under GST.
- Rule 108(1) and rule 109(1) to be amended to provide for manual filing of appeal under certain circumstances.
- Explanation 3 shall be inserted in Rule 43 of CGST Rules to include the value of supply of goods from Duty Free Shops at arrival terminal of international airports to the incoming passengers in value of exempt supplies for the purpose of ITC reversal.

### **CNK Comments:**

The GST Council has made several noteworthy recommendations during its 50<sup>th</sup> meeting such as:

1. Taxing Casino, Horse Racing, and Online gaming at a uniform rate of 28% on full face value which will standardise the taxation approach. However, this move is against what was desired by the Gaming Industry which would lead to prolonged litigation.
2. Supply of food and beverages in Cinema Hall at 5% when supplied independently, reducing the tax rates from 18% to 5% on uncooked/unfried snack palettes, fish soluble paste, LD slag, and imitation Zari thread will rationalise the GST rate and promote certain industries.
3. Transporter will not be required to file declaration for paying GST under FCM every year which will reduce procedural burden.
4. No RCM on supply of services by way of renting of immovable property by director of a company in his personal capacity will reduce the burden of tax payout of company and shall help to mitigate the disputes of taxability at audit and scrutiny level.
5. The Council also recommended that provisions of Finance Act, 2023 pertaining to GST Appellate Tribunal may be notified by the Centre with effect from 01.08.2023, so that the same can be brought into operation at the earliest.

6. It has recommended to issue circulars to remove ambiguity and legal disputes on various issues such as refund of ITC for a tax period to be restricted to ITC appearing in Form GSTR 2B of the said tax period or any previous period, manner of calculation of interest in respect of wrongly availed and utilized IGST credit.
7. A very welcome recommendation is with respect to distribution of ITC of common input services procured from third parties can be made through ISD or through cross charge basis. It is also recommended that issues regarding taxability of internal services between distinct persons would be clarified through a circular.
8. Recommendation to clarify that no GST is chargeable by the manufacturer on replacement of parts and repair services during warranty period without any consideration and not to reverse ITC will bring big relief to manufacturer who offer product warranty.
9. Recommendations relating to registration procedure will strengthen the registration process and will deal with the menace of fake/fraudulent registrations in GST effectively.
10. Council also recommends several measures for streamlining compliances in GST and for facilitation of trade.

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