

Recommendations of 37th GST Council Meeting

The 37th GST Council meeting took place in Goa on 20th September 2019, under the Chairmanship of Smt Nirmala Sitharaman, Hon'ble Union Finance & Corporate Affairs Minister.

The council took the following decisions in respect to rates on goods.

A. GST rates reduction:

1. 18% to 12% on parts of Slide Fasteners
2. 18% to 5% on Marine Fuel 0.5% (FO)
3. 12% to 5% on Wet Grinders (consisting stone as a grinder)
4. 5% to Nil on:
 - o Dried tamarind
 - o Plates and cups made up of leaves/ flowers/bark
5. 3% to 0.25% on cut and polished semi-precious stones
6. Applicable rate to 5% on specified goods for petroleum operations undertaken under Hydrocarbon Exploration Licensing Policy (HELP)
7. Exemptions from GST/IGST on:-
 - o imports of specified defence goods not being manufactured indigenously (upto 2024)
 - o supply of goods and services to FIFA and other specified persons for organizing the Under-17 Women's Football World Cup in India.
 - o supply of goods and services to Food and Agriculture Organisation (FAO) for specified projects in India.

B. GST rates have been recommended to be increased from

1. 5% to 12% on goods, falling under chapter 86 of tariff like railway wagons, coaches, rolling stock (without refund of accumulated ITC). This is to address the concern of ITC accumulation with suppliers of these goods.
2. 18% to 28% +12% compensation cess on caffeinated Beverages

C. Measures for Export Promotion

1. Exemption from GST/IGST:-
 - o at the time of import on Silver/Platinum by specified nominated agencies
 - o supply of Silver/Platinum by specified nominated agency to exporters for exports of Jewellery,
2. Inclusion of Diamond India Limited (DIL) in the list of nominated agencies eligible for IGST exemption on imports of Gold/ Silver/Platinum so as to supply at Nil GST to Jewellery exporters.

D. A uniform GST rate of 12% on Polypropylene/Polyethylene Woven and Non- Woven Bags and sacks, whether or not laminated, of a kind used for packing of goods (from present rates of 5%/12%/18%)

E. GST concession in certain cases for specific period: -

1. Exemption to Fishmeal for the period 01.07.17 to 30.09.19. There were doubts as regards taxability of fishmeal in view of the interpretational issues. However, any tax collected for this period shall be required to be deposited.
2. 12% GST during the period 1.07.2017 to 31.12.2018, on pulley, wheels and other parts (falling under Heading 8483) and used as parts of agricultural machinery.

F. Passenger vehicles of engine capacity 1500 cc in case of diesel, 1200 cc in case of petrol and length not exceeding 4000mm designed for carrying upto 9 persons attract compensation cess of 1% for petrol and 3% for diesel vehicle. Council recommended same compensation cess rate for vehicles having these specifications (length and engine capacity) but designed for carrying more than 10 persons but upto 13 persons. (Presently these vehicles attract compensation cess at the rate of 15%)

G. Other miscellaneous Changes:

1. Aerated drink manufacturers shall be excluded from composition scheme.
2. Option to pay GST at the rate of 18% on transaction value at the time of disposal of specified goods for petroleum operations (on which concessional GST rate of 5% was paid at the time of original supply) provided that the goods are certified by Director General Hydrocarbon(DGH) as non-serviceable.
3. Restriction on refund of compensation cess on tobacco products (in case of inverted duty structure)
4. Prescribing modalities for allowing concessions on spare parts imported temporarily by foreign airlines for repair of their aircraft, while in India in transit in terms of the Chicago Convention on Civil Aviation.
5. Certain other changes of technical nature for the sake of clarity in application of notification.

The rate changes shall be made effective with effect from 1st October, 2019.

GST Council took following decisions relating to changes in Services GST rates, ITC eligibility criteria, exemptions and clarifications on connected issues:

(A) Exemptions / Changes In GST Rates / ITC Eligibility Criteria:

Hospitality and tourism:

1. To reduce the rate of GST on hotel accommodation service as:
 - Transaction Value per Unit (Rs) per day of Rs 1000 and less- Nil GST rate
 - Transaction Value per Unit (Rs) per day of Rs 1001 to Rs 7500- 12% GST rate
 - Transaction Value per Unit (Rs) per day of Rs 7501 and more- 18% GST rate
2. To reduce rate of GST on outdoor catering services other than in premises having daily tariff of unit of accommodation of Rs 7501 from present 18% with ITC to 5% without ITC. The rate shall be mandatory for all kinds of catering. Catering in premises with daily tariff of unit of accommodation is Rs 7501 and above shall remain at 18% with ITC.

Job work service

3. To reduce rate of GST from 5% to 1.5% on supply of job work services in relation to diamonds.
4. To reduce rate of GST from 18% to 12% on supply of machine job work such as in engineering industry, except supply of job work in relation to bus body building which would remain at 18%.

Exemption sector wise:

5. Warehousing: To exempt prospectively services by way of storage or warehousing of cereals, pulses, fruits, nuts and vegetables, spices, copra, sugarcane, jaggery, raw vegetable fibres such as cotton, flax, jute etc., indigo, unmanufactured tobacco, betel leaves, tendu leaves, rice, coffee and tea.
6. Transportation: To increase the validity of conditional exemption of GST on export freight by air or sea by another year, i.e. till 30.09.2020.
7. Insurance: To exempt "BANGLA SHASYA BIMA" (BSB) crop insurance scheme of West Bengal Government; to exempt services of life insurance business provided or agreed to be provided by the Central Armed Paramilitary Forces (under Ministry of Home Affairs) Group Insurance Funds to their members under the respective Group Insurance Schemes of these Central Armed Paramilitary forces.

Export promotion:

8. To exempt services provided by an intermediary to a supplier of goods or recipient of goods when both the supplier and recipient are located outside the taxable territory.
9. To issue a notification under Section 13(13) of IGST Act notifying the place of supply of specified R&D services (such as Integrated discovery and development, Evaluation of the efficacy of new chemical/ biological entities in animal models of disease, Evaluation of biological activity of novel chemical/ biological entities in in-vitro assays, Drug metabolism and pharmacokinetics of new chemical entities, Safety Assessment/ Toxicology, Stability Studies, Bio Equivalence and Bio Availability Studies, Clinical trials, Bio analytical studies) provided by Indian pharma companies to foreign service recipients, as the place of effective use and enjoyment of a service i.e. location of the service recipient.

10. To clarify that the place of supply of chip design software R&D services provided by Indian companies to foreign clients by using sample test kits in India is the location of the service recipient and section 13(3)(a) of IGST Act, 2017 is not applicable for determining the place of supply in such cases.

(B) Rationalization/ Trade Facilitation Measures:

11. To allow payment of GST on securities lending service under reverse charge mechanism (RCM) at the merit rate of 18% and to clarify that GST on securities lending service for period prior to RCM period shall be paid on forward charge basis. IGST shall be payable on supply of these services and in cases where CGST/SGST/UTGST have been paid, such taxpayers will not be required to pay tax again.
12. To allow RCM to suppliers paying GST @ 5% on renting of vehicles, from registered person other than body corporate (LLP, proprietorship) when services provided to body corporate entities.

Recommendations of GST council related to law and procedure

1. Relaxation in filing of annual returns for MSMEs for FY 2017-18 and FY 2018-19 as under:
 - o waiver of the requirement of filing FORM GSTR-9A for Composition Taxpayers for the said tax periods; and
 - o filing of FORM GSTR-9 for those taxpayers who (are required to file the said return but) have aggregate turnover up to Rs. 2 crores made optional for the said tax periods.
2. A Committee of Officers to be constituted to examine the simplification of Forms for Annual Return and reconciliation statement.
3. Extension of last date for filing of appeals against orders of Appellate Authority before the GST Appellate Tribunal as the Appellate Tribunals are yet not functional.
4. In order to nudge taxpayers to timely file their statement of outward supplies, imposition of restrictions on availment of input tax credit by the recipients in cases where details of outward supplies are not furnished by the suppliers in the statement under section 37 of the CGST Act, 2017.
5. New return system now to be introduced from April, 2020 (earlier proposed from

October, 2019), in order to give ample opportunity to taxpayers as well as the system to adapt and accordingly specifying the due date for furnishing of return in FORM GSTR-3B and details of outward supplies in FORM GSTR-1 for the period October, 2019 - March, 2020.

6. Issuance of circulars for uniformity in application of law across all jurisdictions:
 - o procedure to claim refund in FORM GST RFD-01A subsequent to favourable order in appeal or any other forum;
 - o eligibility to file a refund application in FORM GST RFD-01A for a period and category under which a NIL refund application has already been filed; and
 - o clarification regarding supply of Information Technology enabled Services (ITeS services) (in supersession of Circular No. 107/26/2019-GST dated 18.07.2019) being made on own account or as intermediary.
7. Rescinding of Circular No.105/24/2019-GST dated 28.06.2019, ab-initio, which was issued in respect of post-sales discount.
8. Suitable amendments in CGST Act, UTGST Act, and the corresponding SGST Acts in view of creation of UTs of Jammu & Kashmir and Ladakh.
9. Integrated refund system with disbursal by single authority to be introduced from 24th September, 2019.
10. In principle decision to link Aadhar with registration of taxpayers under GST and examine the possibility of making Aadhar mandatory for claiming refunds.
11. In order to tackle the menace of fake invoices and fraudulent refunds, in principle decision to prescribe reasonable restrictions on passing of credit by risky taxpayers including risky new taxpayers.

Clarifications related to GST rate on Services:

1. To clarify the scope of the entry 'services of exploration, mining or drilling of petroleum crude or natural gas or both'.
2. To clarify taxability of Passenger Service Fee (PSF) and User Development Fee (UDF) levied by airport operators.

Clarifications related to GST rate on Goods:

Clarifications as regards applicability of GST rate in respect of certain goods recommended by GST Council which inter-alia includes:

1. Mere heating of leguminous vegetables (gram/lentil) for removing moisture, or to soften and puff it or removing the skin, and not subjecting to any other processing or addition of any other ingredients (salt, oil etc.) would be classified under HS code 0713.
2. All "mechanical sprayers" falling under HS Code 8424 would attract 12% GST.
3. Parts like Solar Evacuation tubes for solar power based devices like solar water heater, solar steam, generation systems, would be eligible to 5% GST rate.
4. Exclusive parts and accessories suitable for use solely or principally with a medical device (falling under headings 9018, 9019, 9021 or 9022) would fall in respective headings and attract GST at the concessional rate of 12%.
5. Almond milk is classifiable under HS code 22029990 and attracts GST rate of 18%.
6. Imported stores for Navy would be entitled to exemption from IGST.

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