

Nangia Andersen LLP



Newsflash

Recommendations made by the GST Council in its
45th meeting held on 17 September 2021

The GST Council's 45th meeting was held at Lucknow on 17 September 2021. Amid lot of expectation, the GST Council has taken several decisions.

1. COVID-19 relief measure in form of GST rate concessions

- Existing concessional GST rates for certain specified drugs for COVID-19 treatment are to be extended till 31 December 2021. The existing concession in GST rates expiring on 30 September 2021.
- Reduction in GST rate to 5% on more specified drugs for COVID-19 treatment up to 31 December 2021 namely- Itolizumab, Posaconazole, Infliximab, Favipiravir, Casirivimab & Imdevimab, 2-Deoxy-D-Glucose, Bamlanivimab & Etesevimab.

2. Reduction in GST rates in relation to Goods

Reduction in GST rates from existing rate of 12/18% to 5% effective from 1 October 2021 in case of certain goods as tabulated below:

Description	Existing GST rate	Proposed GST 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%

3. Increase in GST rates on various goods and services

Increase in GST rates from existing rate of 5%/12% to 12/18% effective from 1 October 2021 in case of various goods and services as tabulated below:

S. No.	Description	Existing GST rate	Proposed GST rate
1	Ores and concentrates of metals such as iron, copper, aluminum, zinc and few others	5%	18%
2	Specified Renewable Energy Devices and parts	5%	12%
3	Cartons, boxes, bags, packing containers of paper etc.	12%/18%	18%
4	Waste and scrap of polyurethanes and other plastics	5%	18%
5	All kinds of pens	12%/18%	18%
6	Railway parts, locomotives & other goods in Chapter 86	12%	18%

S. No.	Description	Existing GST rate	Proposed GST rate
7	Miscellaneous goods of paper like cards, catalogue, printed material (Chapter 49 of tariff)	12%	18%
8	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%	12%
9	Printing and reproduction services of recorded media where content is supplied by the publisher [to bring parity with Colour printing of images from film or digital media]	12%	18%

4. Exemption on goods and services effective from 1 October 2021

- Exemption from IGST on import of certain specified medicines for personal use. Currently, these goods are taxable at 12 per cent.
- IGST exemption on goods supplied at Indo-Bangladesh Border haats.
- Exemption from GST on supply of unintended waste generated during the production of fish meal except for Fish Oil for the period 1 July 2017 to 30 September 2019.
- Exemption from payment of IGST on export freight (transportation of goods by vessel or air from customs station of clearance in India to a place outside India) extended up to 30 September 2022. The existing exemption expiring on 30 September 2021.
- Services by way of grant of National Permit to goods carriages on payment of fee exempted from GST now. Earlier these services were taxable @ 18 per cent.
- Services by way of Skill Training for which Government bears 75% or more of the expenditure exempted from GST now [presently exemption applies only if Govt funds 100%]. Earlier these services were taxable @ 18 per cent.
- Services related to AFC Women's Asia Cup 2022 exempted from GST now. Earlier these services were taxable @ 18 per cent.
- 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, to allow this exemption even if
 - (i) such goods are transferred to new lessee in India upon expiry or termination of lease; and
 - (ii) the lessor located in SEZ pays GST under forward charge.
- Exemption on leasing of rolling stock by IRFC to Indian Railways withdrawn.

5. E-commerce operator made liable to pay tax for passenger transport services and restaurant services provided through their platform

- Effective from 1 January 2022, E Commerce Operators are being made liable to pay tax on following services provided through them-
 - transport of passengers, by any type of motor vehicles.
 - restaurant services provided through it with some exceptions.

6. GST changes in relation to supply of mentha oil

- 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.

7. Special composition scheme for Brick Kiln sector

- Brick kilns would be brought under special composition scheme with threshold limit of Rs. 20 lakhs, with effect from 1 April 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.

8. Correction in Inverted Duty structure in Footwear and Textiles sector

- Changes in GST rates in order to correct inverted duty structure for footwear and textiles sector will be implemented from 01 January 2022.

9. Essentially certificate issued by DGH on imports suffice for subsequent inter-state stock transfer

- Essentiality certificate issued by Directorate General of Hydrocarbons (DGH) on imports would suffice for inter-state stock transfer. There is no need for taking a certificate every time on inter-state stock transfer.

10. Certain clarification in relation to GST rate on Goods

Some of the important are summarised below:

- Scented sweet supari and flavored and coated illachi falling under heading 2106 attract GST at the rate of 18%
- Carbonated Fruit Beverages of Fruit Drink and Carbonated Beverages with Fruit Juice" attract GST rate of 28% and Cess of 12%. This is being prescribed specifically in the GST rate schedule.
- External batteries sold along with UPS Systems/ Inverter 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 July 2017 to 31 December 2018, in the same manner as has been prescribed for the period on or after 1 January 2019.

11. Clarification in relation to GST rate on services

Some of the key clarifications are summarised below:

- Coaching services to students provided by coaching institutions and NGOs under the central sector scheme of 'Scholarships for students with Disabilities" is exempt from GST.
- Services by cloud kitchens/central kitchens are covered under 'restaurant service' and attract 5% GST [without ITC].
- Ice cream parlour sells already manufactured ice-cream. Such supply of ice cream by parlours would attract GST at the rate of 18%.
- Overloading charges at toll plaza are exempt from GST being akin to toll.

- The renting of vehicle by State Transport Undertakings and Local Authorities is covered by expression 'giving on hire' for the purposes of GST exemption.
- Services by way of grant of mineral exploration and mining rights attracted GST rate of 18% effective from 01 July 2017.
- 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 entry prescribing 5% GST rate on job work services in relation to food and food products.

12. Relaxation in the requirement of filing FORM GST ITC-04

- Requirement of filing FORM GST ITC-04 under Rule 45(3) of the Central Goods and Services Tax Rules, 2017 (CGST Rules) has been relaxed.

13. Interest to be paid on ineligible ITC availed and utilized and not on ineligible ITC availed but not utilized

- Retrospective amendment in Section 50(3) of the Central Goods and Services Tax Act, 2017 (CGST Act) will be brought effective from 01 July 2017 to provide that interest is applicable only if ineligible ITC is availed and utilized and not merely on availment. This was one of the demands of the industry.

14. Unutilized balance in CGST and IGST cash ledger allowed to be transferred between distinct persons

- Unutilized balance in CGST and IGST cash ledger to be allowed to be transferred between distinct persons (entities having same PAN but registered in different states).

15. Circulars to be issued in order to remove legal disputes on various issues

- Clarification on scope of "intermediary services".
- Clarification relating to interpretation of the term "merely establishment of distinct person" in condition (v) of the Section 2 (6) of the Integrated Goods and Services Tax Act, 2017 (IGST Act) for export of services. A person incorporated in India under the Companies Act, 2013 and a person incorporated under the laws of any other country are to be treated as separate legal entities and would not be barred by the condition (v) of the sub-section (6) of the section 2 of the IGST Act for considering a supply of service as export of services.
- Effective from 1 January 2021, the date of issuance of debit note (and not the date of underlying invoice) shall determine the relevant financial year for the purpose of section 16(4) of CGST Act.
- There is no need to carry the physical copy of tax invoice in cases where invoice has been generated by the supplier in the manner prescribed under Rule 48(4) of the CGST Rules.
- Only those goods which are actually subjected to export duty will be covered under the restriction imposed under section 54(3) of CGST Act from availment of refund of accumulated ITC.
- Provision to be incorporated in the CGST Rules for removing ambiguity regarding procedure and time limit for filing refund of tax wrongfully.

16. Aadhaar Authentication made mandatory to claim refund or revoke cancellation of registration

- Aadhaar authentication of registration being mandatory for taxpayers to claim a refund or revoke cancellation of registration. The Aadhaar authentication of existing taxpayers will be done in a phased manner.

17. Measures for streamlining GST compliances

- Late fee for delayed filing of FORM GSTR-1 to be auto-populated and collected in next open return in FORM GSTR-3B.
- Refund to be disbursed in the bank account, which is linked with same PAN on which registration has been obtained under GST.
- Rule 59(6) of the CGST Rules to be amended with effect from 1 January 2022 to provide that 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 CGST Rules to be amended, once the proposed clause (aa) of section 16(2) of CGST Act is notified. After this amendment, availment of ITC would be restricted 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. Presently, the ITC is available to the extent of 105% of the eligible credit available in Form GSTR-2B.

18. Decision on the below agenda postponed

- In terms of the recent directions of the Hon'ble High Court of Kerala, the issue of whether specified petroleum products should be brought within the ambit of GST was placed for consideration before the Council. After due deliberation, the Council concluded that it is not appropriate time to do so at this stage.
- On the issue of compensation scenario, a presentation was made. Compensation Cess collected beyond June 2022 till April 2026 would be used for repayment of borrowings made to bridge the gap in FY2020-21 and 2021-22.
- GoMs to set up for the following:
 - o To examine the issue of correction of inverted duty structure for certain sectors; rationalisation of rates and review exemptions
 - o To discuss ways and means of using technology to further improve compliances and strengthening the institutional mechanism for sharing of intelligence and coordinated enforcement actions by the Centre and the States.



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