

TAX FLASH NEWS

20 February 2023

Key recommendations of the 49th GST Council Meeting

The 49th GST Council meeting was held on 18 February 2023 in New Delhi. At this meeting, the GST Council made certain recommendations relating to amnesty schemes, adoption of reports of the Group of Ministers, changes in GST tax rates for a few items and measures for the facilitation of trade, among others¹.

Gist of key recommendations

1. Amendment to GST law

a. Assessment of non-filers of returns

As per section 62(2) of the CGST Act, 2017, the best judgment assessment order issued under sub-section (1) of this section shall be deemed to be withdrawn if the relevant return is filed within 30 days of service of the said assessment order. It is recommended to increase the time period of filing of return from the present 30 days to 60 days, extendable by another 60 days, subject to certain conditions.

b. Section 13(9) of the IGST Act would be deleted

Section 13(9) of IGST Act, 2017 on the place of supply of services of transportation of goods to be deleted. This implies that the place of supply of services of transportation of goods shall be the location of the recipient of services in cases where the location of the supplier of services or the location of the recipient of services is outside India.

2. Amnesty Schemes

a. Revocation of cancellation of registration

An amnesty scheme may be provided for past cases where registration has been cancelled on account of non-filing of the returns, but the application for revocation of cancellation of registration could not be filed within the time specified in section 30 of the CGST Act by allowing such persons to file such application for revocation by a specified date, subject to certain conditions.

b. Best judgement assessments in case of non-filers

An amnesty scheme may be provided for conditional deemed withdrawal of assessment orders in past cases where the concerned return could not be filed within 30 days of the assessment order but has been filed along with due interest and late fee upto a specified date, irrespective of whether an appeal has been filed or not against the assessment order, or whether the said appeal has been decided or not.

c. Pending returns in Form GSTR-4, GSTR-9 and GSTR-10

To provide relief to a large number of taxpayers, the GST Council has recommended amnesty schemes in respect of pending returns in FORM GSTR-4 (Composition Levy), FORM GSTR-9 (Annual Return) and FORM GSTR-10 (Final Return) by way of conditional waiver/ reduction of late fee.

¹ Press Release dated 18 February 2023, Ministry of Finance

3. Measure for trade facilitation

a. Rationalisation of late fees for annual return

Late fee for delayed filing of annual return in FORM GSTR-9 for FY 2022-23 onwards for registered persons having aggregate turnover in a financial year up to INR 20 crore would be rationalised as per below table:

| Turnover in a FY | Late Fees |
|---------------------------------------|--|
| Upto INR 5 crores | INR 50 per day subject to a maximum of 0.04 per cent of turnover |
| Between INR 5 crores to INR 20 crores | INR 100 per day subject to a maximum of 0.04 per cent of turnover |
| Above INR 20 crores | No change, i.e. present late fees of INR 200 per day subject to a maximum of 0.50 per cent of turnover would apply |

b. Services by Courts and Tribunals under reverse charge mechanism

The dispensation available to the Central Government, State Governments, Parliament and State Legislatures with regard to payment of GST under the reverse charge mechanism would be extended to the Courts and Tribunals in respect of taxable services (such as renting of premises to telecommunication companies for installation of towers, renting of chambers to lawyers, etc.) supplied by them.

4. Reports of Group of Ministers

a. GST Appellate Tribunal

The GST Council has adopted the report of the Group of Ministers (GoM) with certain modifications. The final draft amendments to the GST laws will be circulated to Members for their comments.

b. Capacity Based Taxation and Special Composition Scheme in certain sectors

To plug the leakages and improve the revenue collection from the commodities like pan masala, gutkha, and chewing tobacco, the GST Council has approved the recommendations of the GoM.

5. Other miscellaneous recommendations

- a. Centre would clear the entire provisionally admissible compensation due for five years, amounting to INR 16,982 crores to respective states, from its resources as this amount is not available in the compensation fund.
- b. It is decided to suitably amend notification No. 104/94-Customs dated 16 March 1994 so that if a device (like a tag-tracking device or data logger) is already affixed on a container, no separate IGST shall be levied on such affixed device and the 'nil' IGST treatment available for the containers under this notification shall also be available to such affixed device subject to the existing conditions.

Our comments

GST Council has focused on streamlining compliance which is evident from the amnesty schemes. There are recommendations to amend certain provisions of the CGST Act and IGST Act. There has also been a positive movement towards setting up of GST Tribunal. However, there is no discussion on the GoM report on GST on Casinos, Race Courses and Online Gaming in this GST Council meeting.

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