

TAX FLASH NEWS

31 May 2021

GST update | 43rd GST Council meeting

In the backdrop of the second wave of the pandemic COVID-19, GST Council on 28 May 2021 held its 43rd Council meeting. The council has recommended various measures primarily focusing on relaxing compliance related burden. In addition, the Council has also announced constituting a Group of Ministers to deliberate on the recommendation made by the fitment committee on GST rates for certain COVID-19 related relief items such as vaccine, medical supplies, etc.

Gist of the key announcements made by the GST Council are as under –

1. Adhoc IGST exemption on import of certain COVID-19 related relief material

IGST exemption has been granted up to 31 August 2021 on following goods imported either 'free of cost' or 'on payment basis', for donating to the government or on recommendation of state authority to any relief agency.

- i) medical oxygen,
- ii) oxygen concentrators and
- iii) other oxygen storage and transportation equipment,
- iv) certain diagnostic markers test kits and v) COVID-19 vaccines, etc.
- v) Amphotericin B

2. GST rate rationalization on COVID-19 related items

GST Council to constitute Group of Ministers ('GoM') to deliberate and submit report by 8 June 2021 on the need to rationalize GST rate on individual COVID-19 related items.

3. Rationalization of late fee on filing in returns

- a) Late fee reduced for delay in filing GSTR-3B return for the tax period July 2017 to April 2021. The benefit of reduced late fee shall be available subject to condition that returns are furnished between 1 June 2021 to 31 August 2021.
 - Taxpayers having no GST liability: Late fee for non-furnishing of GSTR 3B will be capped at **INR 500/- per return** (INR 250 CGST +INR 250 SGST)
 - Other taxpayers: Late fee for non-furnishing of GSTR-3B capped at **INR 1000/- per return** (INR 500 CGST +INR 500 SGST) for others,

b) **For prospective period:** Late fees for delay in furnishing GSTR 3B and GSTR 1 to be capped as under:

Returns	Type of Taxpayers	Upper cap of Late fees (per return)
GSTR-3B and GSTR-1	NIL tax liability in GSTR-3B or nil outward supplies in GSTR-1	INR 500 (INR 250 CGST + INR 250 SGST)
	Annual Aggregate Turnover ('AATO') in preceding year upto INR 1.5 crore	INR 2,000 (INR 1,000 CGST + INR 1000 SGST)
	AATO in preceding year between INR 1.5 crore to INR 5 crore	INR 5,000 (INR 2,500 CGST + INR 2,500 SGST)
	AATO in preceding year above INR 5 crores	INR 10,000 (INR 5,000 CGST + INR 5,000 SGST)

Similar relaxation is also announced for GSTR-4 (for composition taxpayers) and GSTR – 7 (for tax deducted at source)

4. Further relaxations to taxpayers in addition to relaxations already provided vide notification dated 1st May 2021:

For filing of monthly return in Form GSTR-3B (and payment of tax liability):

S.No.	Type of Taxpayers	Tax period	Relief in Interest	Relief in Late fees
1	Small taxpayers having aggregate turnover upto INR 5 crore	March 2021	<ul style="list-style-type: none"> First 15 days from due date of GSTR-3B - NIL rate For next 45 days – 9 percent 	Late fees waived for delay of 60 days
		April 2021	<ul style="list-style-type: none"> First 15 days from due date of GSTR-3B - NIL rate For next 30 days – 9 percent 	Late fees waived for delay of 45 days
		May 2021	<ul style="list-style-type: none"> First 15 days from due date of GSTR-3B - NIL rate For next 15 days – 9 percent 	Late fees waived for delay of 30 days
2	Taxpayers having aggregate turnover more than INR 5 crore	May 2021	<ul style="list-style-type: none"> First 15 days from due date of GSTR-3B – 9 percent 	Late fees waived for delay of 15 days
3	Composition dealers	Quarter ending March 2021	<ul style="list-style-type: none"> First 15 days from due date of GSTR-3B - NIL rate For next 45 days – 9 percent 	-

5. GST Annual Return (GSTR9) and GST Audit Report (GSTR9C) for FY 2020-21:

- Filing of annual return in GSTR-9 to be optional for taxpayers having aggregate annual turnover up to INR 2 crore;
- GST Audit report in GSTR-9C will be required to be filed by taxpayers with annual aggregate turnover more than INR 5 crore;
- Taxpayers would be able to self-certify the reconciliation statement (GSTR 9C), instead of getting it certified by chartered accountants.

6. Other GST compliances related relaxations

- Due date for filing of GSTR-1/IFF for the month of May 2021 extended by 15 days
- Due date for filing of GSTR-4 for FY 2020-21 extended to 31 July 2021
- Due date for filing of ITC-04 for quarter ending March 2021 extended to 30 June 2021
- Facility to allow companies to file return using electronic verification code ('EVC') instead of digital signature extended till 31 August 2021.

7. Period of limitation

Time limit for completion of various actions, by any authority or by any person, under the GST Act, which falls during the period 15 April 2021 to 29 June 2021 to be extended to 30 June 2021.

8. GST Relaxation relating to Real Estate Sector:

Appropriate changes to be made in the relevant notification to make it clear that Land owner promoters could utilize credit of GST charged to them by developer promoters in respect of such apartments that are subsequently sold by the land promotor and on which GST is paid. The developer promotor shall be allowed to pay GST relating to such apartments any time before or at the time of issuance of completion certificate.

9. GST Exemption to corporate donation provided to educational Institution:

Services supplied to an educational institution including anganwadi (which provide pre-school education also), by way of serving of food including mid- day meals under any midday meals scheme, sponsored by Government is exempt from levy of GST irrespective of funding of such supplies from government grants or corporate donations.

10. GST rate reduction for Maintenance, Repair and Operations ('MRO') of Ship / vessels:

- GST on MRO services in respect of ships/vessels shall be reduced to 5%.
- Further, PoS (Place of Supply) of B2B supply of MRO Services in respect of ships/ vessels would be location of recipient of service.

11. Other announcements

- Retrospective amendment in Section 50 of the CGST Act, 2017 w.e.f. 1 July 2017, providing for payment of interest on net cash basis, to be notified at the earliest.
- GST is payable on annuity payments received as deferred payment for construction of road. Benefit of exemption is for such annuities which are paid for service by way of access to a road or a bridge.
- Services supplied to a Government Entity by way of construction of a ropeway attract GST at the rate of 18%.
- Services supplied by Govt. to its undertaking/PSU by way of guaranteeing loans taken by such entity from banks and financial institutions is exempt from GST.

- The CGST Act and Rules would be amended so as to remove GSTR-2 and GSTR-3 related provisions so that GSTR 3B and GSTR 1 would be the return filing system only. It is to be noted that GSTR-2 and GSTR-3 have never been implemented keeping the said provisions in the GST Law are not required anymore.

Our comments

As expected, GST Council has provided certain relief on compliances and in regard to rate on COVID-19 relief items which has been a subject matter of debate, a GoM has been formed. Hope an appropriate resolution is identified for the same so that there is no additional cost to consumer or Industry.

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