



Tax Flash News



10 September 2024

KPMG. Make the Difference.

Key recommendations of the 54th GST Council meeting

Executive summary



The 54th GST Council meeting was held on 9 September 2024, following the previous meeting held in June 2024. Although industry expectations were high, it appears the Council addressed only part of the expectations. The remaining items are expected to be discussed in the next meeting scheduled in November 2024. However, several key clarifications and amendments were proposed during this meeting, including implementation of GST amnesty, exemptions on the import of services by foreign airline branches, IGST refunds for exporters, place of supply for advertising services, and ITC for demo vehicles, amongst others.

GST Rate Changes



- a. Extruded or expanded food products, savoury or salted (other than unfried or uncooked) – 12%
- b. Specific cancer drugs– 5%
- c. Car seats – 28%
- d. Transport of passengers by helicopters on seat share basis – 5%*
- e. R&D services by a Government entity; or a notified university¹ using Govt/private grants to be exempt*
- f. Import of services by an establishment of a foreign airline company from a related person/ its establishments outside India without consideration to be exempt*
- g. Services incidental/ancillary/integral to supply of transmission and distribution of electricity by transmission and distribution utilities to customers when provided as composite supply to be exempt*

Clarifications regarding GST rate



- a. Roof Mounting package unit (RMPU) Air conditioning machines for railways – 28%
- b. Un-fried or un-cooked snack pellets manufactured through process of extrusion – 5%
- c. Motor-cycle seats – 28%
- d. Charter of helicopter – 18%
- e. Approved flying courses by DGCA-approved FTOs² are exempt
- f. PLC³ charges paid along with consideration for construction services form part of composite supply, with construction services being the principal supply
- g. Past period (before 1 October 2021) GST regularization on 'as is where is basis' where distributor/sub-distributor acts as a principal to acquire and distribute films

*Past demands to be regularized on 'as is where is basis'

¹ Notified under clause (ii) or (iii) of section 35(1) of Income Tax Act, 1961

² Flying Training Organizations

³ Preferential Location Charges

Clarifications regarding GST rate

h. Affiliation services by

- Educational boards taxable
- State/Central educational boards, educational councils and other similarly placed bodies to Government schools to be exempt prospectively

Past demands (for period between 1 July 2017 to 17 June 2021 to be regularized on 'as is where is basis')

- Universities to their constituent colleges liable to 18%

i. Ancillary/intermediate services provided by GTA

- if in the course of transportation of goods and GTA issues a consignment note –composite supply
- if not in the course of transportation of goods and invoiced separately – not a composite supply

RCM Applicability

Supply of metal scrap:

- RCM to be introduced on the supply of metal scrap by URP⁴ supplier to RP⁵. The supplier shall take registration on crossing the threshold.
- TDS of 2% on B2B supply of metal scrap.

Renting of commercial property

- RCM applicable on renting of commercial property by URP to RP.

Earlier renting of residential property by URP to RP was brought under RCM via Notification 5/2022-CT (Rate) dated 13 July 2022)

⁴. Unregistered persons

⁵. Registered persons

Measures for trade facilitation



- a. GST Amnesty – Section 128A of CGST Act
 - To be notified w.e.f. 1 November 2024
 - New Rule 164 to CGST Rules to prescribe procedures and conditions.
 - 31 March 2025 to be notified as the last date for availing amnesty.
- b. Implementation of Section 16(5) and 16(6) of CGST Act
 - To be notified at the earliest.
 - Special procedure to enable ITC through rectification of orders which confirmed wrong availment of ITC in contravention of section 16(4), but where such ITC is now available as per section 16(5) & 16(6), and where no appeal has been filed.
- c. Amendments to Rule 89 and Rule 96 to CGST Rules
 - Rule 96(10) *inter-alia* restricts refund of IGST on payment of tax when exporting unit avails IGST exemption for Imports under advance authorisations or as an EOU.
 - Where IGST and Cess on such imports are subsequently paid, along with interest, and the BoE is reassessed then the IGST refund to the exporter shall not be in contravention of rule 96(10).
 - Council recommended omitting prospectively rule 96(10), rule 89(4A) & rule 89(4B) to simplify and expedite the procedure for refunds.

Presently separate refund mechanisms are prescribed under these rules for claiming refunds by taxpayers availing the benefits under Deemed exports, Advance Authorisation, EPCG, EOU, Concessional rate of 1% for exports subject to conditions

Clarifications to be issued



- a. Waiver of interest and penalty under section 128A of the CGST Act.
- b. Implementation of the provisions of Section 16(5) and 16(6) of the CGST Act.
- c. Place of supply of advertising services provided by Indian advertising companies to foreign entities. The place of supply is proposed to be clarified as the location of the recipient⁶
- d. Availability of ITC on demo vehicles by the dealers of the vehicle manufacturers.
- e. Place of Supply of data hosting services provided by suppliers in India to cloud computing service providers located outside India. The place of supply is proposed to be clarified as the location of the recipient⁶

Other Measures



- a. Roll-out of a pilot for B2C e-invoicing on a voluntary basis in selected Sectors and States. This will benefit the consumer in verifying the validity of invoices and would also help in processing refund claims for foreign tourists on goods taken outside India⁶.
- b. Constitution of GoM to look into GST issues relating to life and health insurance.

Our Comments



Industry expected clarification on Branch HO transactions, review of inverted duty structure, clarity on continuance of compensation cess, operationalisation of GSTAT, regularisation of notices issued for online gaming, GST rate rationalization, etc. In the press conference held by the Finance Minister it was clarified that some of these issues are work in progress.

Overall, these recommendations follow the path of offering relief to taxpayers and improving the ease of doing business by streamlining GST procedures and reducing litigation.

⁶ As highlighted during the press conference of the Finance Minister

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