

# TAX FLASH NEWS

1 July 2022

## Recommendations of the 47th GST Council

The 47<sup>th</sup> GST Council meeting was held physically at Chandigarh on 28-29 June 2022. At this meeting, the Council deliberated on reports of Group of Ministers, clarifications on GST rates on number of goods and services, pruning of exemptions and measures for trade facilitation and compliance. It is mentioned in the press release that the rate changes recommended by the Council will be made effective from 18 July 2022.<sup>1</sup>

### Gist of major recommendations

#### 1. Group of Ministers (GoM) recommendations:

Below are important decisions of the Council in this regard:

##### a. Rate Rationalisation:

Recommendation on correction of inverted rate structure and withdrawal of certain exemptions are made. These include:

- Increase/decrease in rate of certain goods and services from 5%/12%/18% to 5%/12%/18%;
- Refund of accumulated ITC will not be allowed on edible oil and coal;
- Exemption to be withdrawn on certain goods which includes pre-packaged and pre-labelled retail pack in terms of Legal Metrology Act including pre-packed, pre-labelled curd, lassi and butter milk;
- Exemption to be withdrawn on certain services which includes renting of residential dwelling to registered business entities as also the services provided by RBI, IRDA, SEBI, FSSAI and GSTN;
- 12% GST on Hotel accommodation priced upto INR 1,000/- per day;
- 5% GST without ITC on hospital room rent to the specified extent.

- b. *Casinos, race courses and online gaming:* GoM to re-examine the issues based on further inputs and submit its report to the Council.
- c. *GST System reforms:* Artificial Intelligence (AI) and an improved risk-based monitoring for verifying the antecedents of the registration applicants and identify non-compliant taxpayers to minimize risk to exchequer to be put in place.

#### 2. Clarifications:

- a. *Clarification on GST rate on number of goods and services which include:*
  - i. Renting of vehicle with operator for transportation of goods on time basis is classifiable under heading 9966 (rental services of transport vehicles with operators) and will attract GST of 18%. GST of 12% will be attracted where cost of fuel is included in the consideration charged.
  - ii. Services provided by the guest anchors to TV channels in lieu of honorarium attracts GST.
  - iii. Services in form of Assisted Reproductive Technology (ART)/In Vitro Fertilization (IVF) are covered under the definition of healthcare services for the purpose of exemption under GST.
  - iv. Sale of developed land not to attract GST levy.
  - v. Regularization of GST on ice-cream supplied by ice-cream parlours during the period from 1 July 2017 to 5 October 2021.
- b. *Clarification will be issued in respect of certain GST related issues which include:*
  - i. Interpretation of section 17(5) of the CGST Act;
  - ii. Perquisites provided by employer to the employees;

<sup>1</sup> Ministry of Finance, Press Release dated 29 June 2022

- iii. Utilization of the amounts available in the electronic credit ledger and electronic cash ledger for payment of tax and other liabilities.

- c. Goods Transport Agency to exercise option to pay GST at 5% or 12% under forward charge at the beginning of financial year. RCM option to continue.

### 3. GST law and procedure related:

#### a. Measures for trade facilitation:

- i. Waiver from mandatory registration to person supplying goods through e-commerce operators subject to certain conditions.
- ii. Composition taxpayers would be allowed to make intra-State supply through e-commerce operators subject to certain conditions.
- iii. Change in formula for calculation of refund under rule 89(5) to take into account utilization of ITC on account of inputs and input services for payment of output tax on inverted rated supplies in the same ratio in which ITC has been availed on inputs and input services during a particular tax period.
- iv. For exporters who are identified as 'risky' and whose IGST refunds are withheld, IGST refund claims (in Form GST RFD-01) will be transmitted to the jurisdictional GST authorities for processing.
- v. New Form GST PMT-03A to be introduced to enable the taxpayers to get re-credit of the amount of erroneous refund paid back by them, in their electronic credit ledger.
- vi. Present exemption of IGST on import of goods under AA/EPCG/EOU scheme to be continued and E-wallet scheme not to be pursued further.
- vii. No requirement of reversal of ITC for exempted supply of Duty Credit Scrips by the exporters.

#### b. Measures for streamlining compliances:

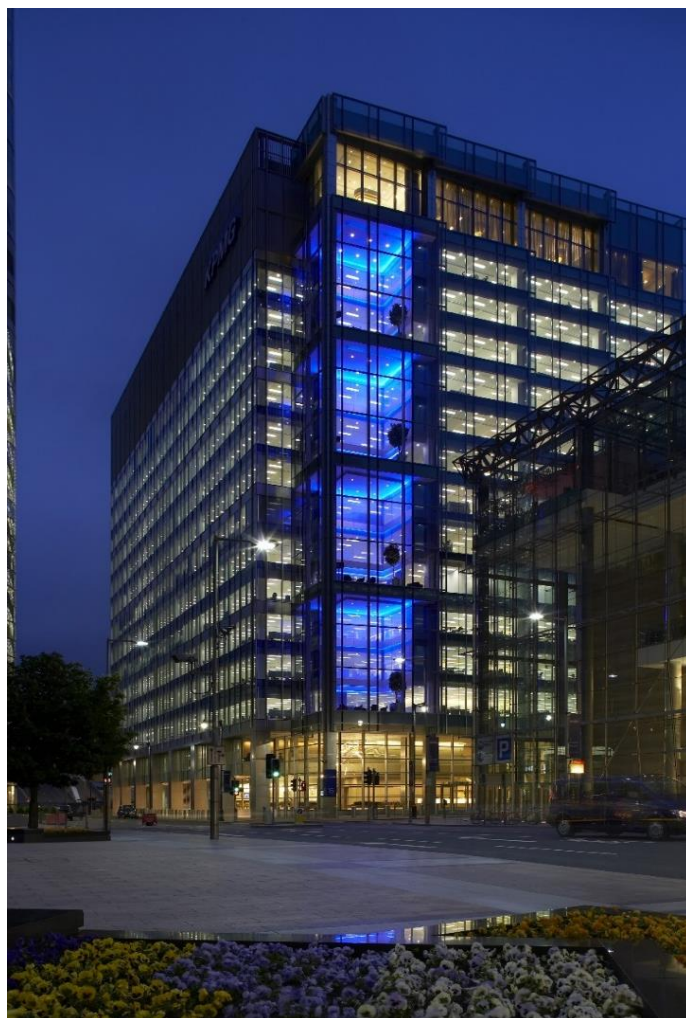
- i. Period from 1 March 2020 to 28 February 2022 to be excluded for calculation of the limitation period for filing refund claim and issuance of demand/order by proper officer in respect of erroneous refunds under section 73 of CGST Act.
- ii. Limitation under section 73 for FY 2017-18 for issuance of order in respect of other demands linked with due date of annual return to be extended till 30 September 2023.

### 4. Other miscellaneous changes:

- a. All taxable services of Department of Posts would be subject to forward charge.
- b. Renting of motor vehicles for transport of passengers to a body corporate for a period of time is taxable in the hands of body corporate under RCM.

### Our comments

During the course of two days, the Council had holistic discussion on policy, compliance and rate related matters. Decision to constitute GoM for setting up GST Tribunals and proposal to invite public to suggest changes in Form GSTR-3B is a positive step towards trade facilitation. The recommendations also propose for more clarity on the disputed supplies such as developed land, ice-cream by ice-cream parlours and on the inclusion of ITC on supply of input services in refund arising from inverted rate structure. This is a welcome approach. It is expected that in the coming days, several notifications and circulars will be issued to implement the recommendations of GST Council. This will certainly create challenges (such as interpretation, implementation and system configuration) to business entities. A reassessment of the entire supply chain will have to be undertaken on account of rate change, exemption, ITC and change in forward charge and reverse charge mechanism. Moreover, suppliers affected by the rate change will have challenges in managing their stock on account of old MRP printed thereon.



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