

Recommendations of the 48th GST Council Meeting

The 48th GST Council meeting was held via virtual mode on 17 December 2022. At this meeting, the Council made recommendations relating to changes in GST tax rates, measures for facilitation of trade, measures streamlining compliances in GST, among others.¹

Gist of major recommendations

1. GST law related

- a. Sections 37, 39, 44 and 52 of the CGST Act, 2017 to be amended to restrict the filing of returns/statements to a maximum period of three years from the due date of filing of the relevant return/statement.
- b. For launching prosecution under GST, threshold to be increased from INR 1 crore to INR 2 crores, except for the offence of issuance of invoices without the supply of goods or services or both.
- c. Compounding amount to be reduced from the present range of 50% to 150% to 25% to 100% of tax involved.
- d. Definition of “non-taxable online recipient” under section 2(16) of IGST Act, 2017 and definition of “Online Information and Database Access or Retrieval Services (OIDAR)” under section 2(17) of IGST Act, 2017 to be amended.
- e. Proviso to section 12(8) of IGST Act dealing with transportation of goods to a place outside India may be omitted.

2. Retrospective amendments

- a. *Effective date for Schedule III activities:*
 - i. Paragraph 7 [supplies of goods from a place outside the taxable territory to another place outside the taxable territory], paragraph 8(a) [high sea sales] and paragraph 8(b) [supply of warehoused goods before their home clearance] will be made effective from 1 July 2017 instead of earlier notified date of 1 February 2019.
 - ii. Refunds will not be allowed if GST is paid in respect of such activities during the period 1 July 2017 to 31 January 2019.
- b. *Reversal of ITC when payment is not made to a supplier:*

Rule 37(1) to be amended retrospectively with effect from 1 October 2022 to provide for reversal of ITC, in terms of the second proviso to section 16 of CGST Act, only proportionate to the amount not paid to the supplier vis-à-vis the value of the supply, including tax payable.

3. Clarifications

- a. *Compensation cess on motor vehicle:*

To clarify that the higher rate of compensation cess of 22% applies to motor vehicles fulfilling all four conditions, namely, it is popularly known as SUV; has engine capacity exceeding 1,500 cc; length is exceeding 4,000 mm; and a ground clearance of 170 mm or above.

¹ Press Release dated 17 December 2022, Ministry of Finance

b. Petroleum operations:

To clarify that goods falling in the lower rate category of 5% under schedule I of the above notification imported for petroleum operations will attract a lower rate of 5%, and the rate of 12% shall be applicable only if the general rate is more than 12%.

c. Residential dwelling:

No GST is payable where the residential dwelling is rented to a registered person for use as their residence in a personal capacity and not on account of business.

d. Incentive vis-à-vis subsidy:

Incentive paid to banks by the Central Government under the scheme for the promotion of RuPay Debit Cards and low-value BHIM-UPI transactions are in the nature of subsidy and thus not taxable.

e. Deduction for valuation of insurance services:

No Claim Bonus offered by the insurance companies to the insured is an admissible deduction for the valuation of insurance services.

4. Measures for trade facilitation and streamlining compliances

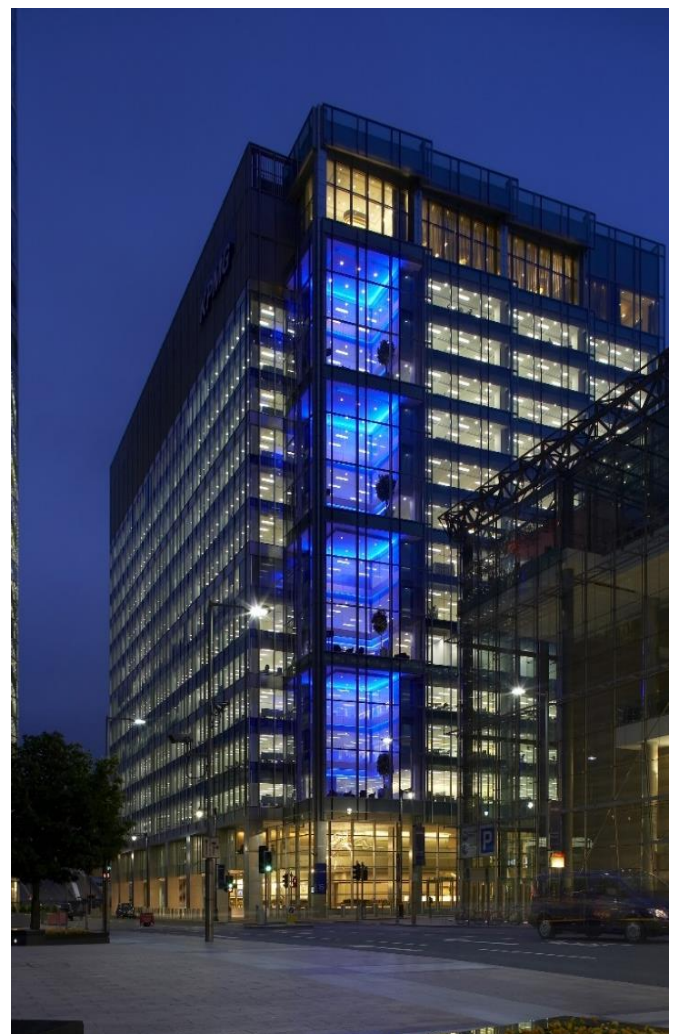
- a.* Procedure for refund of tax borne by unregistered persons will be prescribed.
- b.* Mechanism for reversal of ITC by a registered person in the event of non-payment of tax by the supplier by a specified date and mechanism for re-availment of such credit, if the supplier pays tax subsequently, will be prescribed.
- c.* Clarity on the requirement of a certified copy for an appeal to Appellate Authority will be provided.
- d.* Facility for withdrawal of an application of appeal up to a certain specified stage will be provided.

e. Facility for cancellation of registration obtained for TDS and TCS will be prescribed.

f. Furnishing of Form GSTR-1 for a subsequent tax period to be restricted if the taxpayer has neither deposited the amount specified in the intimation nor furnished a reply explaining the reasons for the amount remaining unpaid.

Our comments

This was much awaited Council meeting as there were expectations on the taxability of online gaming, casinos and horse racing, the setting up of the GST Appellate Tribunal and rate rationalization. However, no decision has been taken on these matters in this meeting. The Council has taken decisions on several areas covering several points where representations were made. These will bring relief to the industry and help in reducing litigations. Several notifications and circulars will be issued in the forthcoming days to implement the recommendations of the GST Council.



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