



## GST Alert

### Major Recommendations by GST Council - (54<sup>th</sup> Meeting held on 09<sup>th</sup> Sep, 2024)

#### FOLLOWING (MAJOR) CHANGES RECOMMENDED:

##### A. Changes\clarifications in GST tax rates:

###### **GOODS**

###### **1. Cancer Drugs**

- The GST rate on cancer drugs namely, Trastuzumab Deruxtecan, Osimertinib and Durvalumab to be reduced from 12% to 5%.

###### **2. Metal Scrap**

- Reverse Charge Mechanism (RCM) to be introduced on supply of metal scrap by unregistered person to registered person provided that the supplier shall take registration as and when it crosses threshold limit and the recipient who is liable to pay under RCM shall pay tax even if supplier is under threshold.
- A TDS of 2% will be applicable on supply of metal scrap by registered person in B to B supply.

###### **3. Roof Mounted Package Unit (RMPU) Air Conditioning Machines for Railways**

- To clarify that Roof Mounted Package Unit (RMPU) Air Conditioning Machines for Railways would be classified under HSN 8415 attracting a GST rate of 28%.

#### **4. Car and Motor cycle seats**

- To clarify that car seats are classifiable under 9401 and attract a GST rate of 18%.
- GST rate on car seats classifiable under 9401 to be increased from 18% to 28%. This uniform rate of 28% will be applicable prospectively for car seats of motor cars in order to bring parity with seats of motorcycles which already attract a GST rate of 28%.

### **SERVICES**

#### **1. Supply of research and development services**

- To exempt supply of research and development services by a Government Entity; or a research association, university, college or other institution, notified under clauses (ii) or (iii) of sub-section (1) of section 35 of the Income Tax Act, 1961 using Government or private grants.
- Past demands to be regularised on 'as is where is' basis.

#### **2. Preferential Location Charges (PLC)**

- To clarify that location charges or Preferential Location Charges (PLC) paid along with the consideration for the construction services of residential/commercial/industrial complex before issuance of completion certificate forms part of composite supply where supply of construction services is the main service and PLC is naturally bundled with it and are eligible for same tax treatment as the main supply that is, construction service.

### **3. Renting of commercial property**

- To bring renting of commercial property by unregistered person to a registered person under Reverse Charge Mechanism (RCM) to prevent revenue leakage.

### **4. Ancillary/intermediate services are provided by GTA**

- To clarify that when ancillary/intermediate services are provided by GTA in the course of transportation of goods by road and GTA also issues consignment note, the service will constitute a composite supply and all such ancillary/intermediate services like loading/unloading, packing/unpacking, transshipment, temporary warehousing etc. will be treated as part of the composite supply. If such services are not provided in the course of transportation of goods and invoiced separately, then these services will not be treated as composite supply of transport of goods.

### **Other changes**

- To regularise the GST liability for the past period prior to 01.10.2021 on 'as is where is' basis, where the film distributor or sub-distributor acts on a principal basis to acquire and distribute films.
- To exempt supply of services such as application fees for providing electricity connection, rental charges against electricity meter, testing fees for meters/transformers/capacitors, labour charges from customers for shifting of meters/service lines, charges for duplicate bills etc. which are incidental, ancillary or integral to the supply of transmission and distribution of electricity by transmission and distribution utilities to their consumers, when

provided as a composite supply. GST for the past period to be regularised on 'as is where is' basis.

## **B. Measures for facilitation of trade**

1. Procedure and conditions for waiver of interest or penalty or both, in respect of tax demands under section 73 of CGST Act, 2017 for FYs 2017-18, 2018-19 and 2019-20 as per section 128A of CGST Act, 2017:

The GST Council recommended insertion of rule 164 in CGST Rules, 2017, along with certain Forms, providing for the procedure and conditions for availment of benefit of waiver of interest or penalty or both, relating to tax demands under section 73 of CGST Act, pertaining to FYs 2017-18, 2018-19 and 2019-20, as per section 128A of CGST Act. The Council also recommended to notify under sub-section (1) of section 128A of CGST Act, 31.03.2025 as the date on or before which the payment of tax may be made by the registered persons, to avail the said benefit as per section 128A of the CGST Act. The Council also recommended the issuance of a circular to clarify various issues related to availment of waiver of interest or penalty or both as per section 128A of CGST Act. The Council also recommended that section 146 of Finance (No. 2) Act, 2024, which provides for insertion of section 128A in CGST Act, 2017, may be notified with effect from 01.11.2024.

2. The Council also recommended that a special procedure for rectification of orders may be notified under section 148 of the CGST Act, to be followed by the class of taxable persons, against whom any order under section 73 or section 74 or section 107 or section 108 of the CGST Act has been issued confirming demand for wrong availment of input tax credit on account of contravention of

provisions of sub-section (4) of section 16 of the CGST Act, but where such input tax credit is now available as per the provisions of sub-section (5) or subsection (6) of section 16 of the CGST Act, and where appeal against the said order has not been filed. The Council also recommended issuance of a circular to clarify the procedure and various issues related to implementation of the said provisions of sub-section (5) and subsection (6) of section 16 of CGST Act, 2017.

3. Amendments in rule 89 and rule 96 of CGST Rules, 2017 and to provide clarification in respect of IGST refunds on exports where benefit of concessional/ exemption notifications specified under rule 96(10) of CGST Rules, 2017 has been availed on the inputs:

The GST Council recommended to clarify that where the inputs were initially imported without payment of integrated tax and compensation cess by availing benefits under Notification No. 78/2017-Customs dated 13.10.2017 or Notification No. 79/2017-Customs dated 13.10.2017, but IGST and compensation cess on such imported inputs are subsequently paid, along with applicable interest, and the Bill of Entry in respect of the import of the said inputs is got reassessed through the jurisdictional Customs authorities to this effect, then the IGST paid on exports, refunded to the said exporter shall not be considered to be in contravention of provisions of sub-rule (10) of rule 96 of CGST Rules.

Further, considering the difficulty being faced by the exporters due to restriction in respect of refund on exports, imposed vide rule 96(10), rule 89(4A) & rule 89(4B) of CGST Rules, 2017, in cases where benefit of the specified concessional/ exemption notifications is availed on the inputs, the Council recommended to prospectively omit rule 96(10), rule 89 (4A) & rule 89(4B) from CGST Rules, 2017.

This will simplify and expedite the procedure for refunds in respect of such exports.

The partial issue has already been clarified in circular 233/27/2024-GST

## **C. Other measures**

### **1. B2C E-invoicing:**

The GST Council recommended roll out of a pilot for B2C e-Invoicing, following the successful implementation of e-invoicing in the B2B sector. The Council recognized potential benefits of e-invoicing in retail, such as improved business efficiency, environmentally friendly, cost efficiency to the business, etc.

It would also provide an opportunity to the retail customers to verify the reporting of the invoice in the GST return. The pilot will be rolled out on voluntary basis in selected Sectors and States.

### **2. Invoice Management System and new ledgers:**

The Council also took note of the agenda on the enhancements being made to the existing GST return architecture. These enhancements include the introduction of a Reverse Charge Mechanism (RCM) ledger, an Input Tax Credit Reclaim ledger and an Invoice Management System (IMS). Taxpayers would be given the opportunity to declare their opening balance for these ledgers by 31st October 2024.

IMS will allow the taxpayers to accept, reject, or to keep the invoices pending for the purpose of availment of Input Tax Credit. This will be an optional facility for taxpayers to reduce errors in claiming input tax credit and improve reconciliation. This is expected to reduce notices issued on account of ITC mismatch in the returns.

Note: The above changes will be effective ONLY after issue of relevant circulars\notifications\amendments.

We, at Varaiya & Shah LLP

Date: 18<sup>th</sup> September, 2024

*Compiled by Harshad Kadam*

