

# Key Proposal from 54<sup>th</sup> GST Council Meeting

The 54<sup>th</sup> GST Council meeting was held on September 09, 2024 in New Delhi. The Council made several recommendations regarding GST rates, clarifications on various issues and other measures for facilitation of trade. This alert captures the key points from this meeting:

## A. Legislative Changes

- Rule 164 to be inserted in the CGST Rules with applicable forms to provide procedures and conditions for availment of waiver of interest or penalty or both in respect of tax demand raised under Section 73 of CGST Act, for the period FY 2017-18 to FY 2019-20 as per Section 128A of CGST Act.
- Rules 89(4A), (4B) and Rule 96(10) of the CGST Rules, which impose restrictions on refund in case of exports where benefits of concessional notifications have been availed on inputs, to be omitted prospectively.

## B. Rate Changes

- Reduction in GST rate on extruded or expanded savory products under HS 1905 90 30 from 18% to 12%, aligning it with other ready-to-eat products.
- Reduction in GST rate on Cancer drugs like Trastuzumab Deruxtecan, Osimertinib and Durvalumab from 12% to 5%
- Increase in GST rate on car seats from 18% to 28%, aligning it with GST rate of motorcycle seats.
- Service of passenger transport by helicopters on a seat-share basis to be taxed at 5%. Past practices to be regularised on 'as is where is' basis.
- Services of research and development ('R&D') by a Government entity or institutions notified under clauses (ii) or (iii) of section 35(1) of the Income Tax Act, 1961, using Government or private grants to be exempt. Past practices to be regularised on 'as is where is' basis.



- Services received by a foreign airline establishment in India from its related person or establishment outside India, when made without consideration, to be exempt from GST. Past practices to be regularised on 'as is where is' basis.
- GST to be applicable under Reverse Charge Mechanism ('RCM') on supply of renting of commercial property by an unregistered person to a registered person.
- GST on services incidental or ancillary to electricity transmission and distribution, such as application fees, meter rental charges, testing fees etc. to be exempt. Past practices to be regularised on 'as is where is' basis.
- GST to be paid under RCM on supply of metal scrap by an unregistered person to a registered person. Additionally, 2% TDS will be applicable on B2B metal scrap supplies by registered persons.

### C. Trade Remedial Measures

- Section 146 of the Finance (No. 2) Act, 2024, which introduced Section 128A in the CGST Act, allowing for the waiver of interest or penalties on tax demands raised under Section 73 for FY 2017-18 to FY 2019-20, to be made effective from November 1, 2024.
- Mechanism for implementing newly inserted Section 16(5) and (6) of the CGST Act along with special procedures for rectification of orders issued confirming demand for wrong availment of ITC on contravention of Section 16(4) to be notified.
- Life insurance and Health insurance GST issues to be reviewed by a Group of Ministers from 13 states, with a report due by October 2024.

### D. Compliance Related Changes

- Pilot rollout of B2C E-invoicing to be made for specific sectors and states.

### E. Proposed Clarifications

- Eligibility of ITC on demo vehicles by the dealers of the vehicle manufacturers.
- Place of Supply of advertising services and data hosting services provided by Indian service providers to foreign entities.
- Ratification of past practices regarding IGST refunds claimed on exported goods, where inputs were initially imported by availing IGST/Cess benefits under Notification No. 78/2017-Customs or Notification No. 79/2017-Customs, both dated October 13, 2017. However, the IGST/Cess amount was later deposited along with interest, and the Bill of Entry was reassessed by Customs authorities.
- Un-cooked or un-fried snack pellets produced through extrusion to attract 5% GST.
- Car seats classifiable under 9401 and attract 18% GST..
- Helicopter charter services to attract at 18% GST.



- Roof Mounted Package Unit (RMPU) air conditioning machines for railways to be classified under HSN 8415 and subject to 28% GST..
- Approved flying training courses conducted by DGCA-approved Flying Training Organizations (FTOs) to be exempt from GST.
- Preferential Location Charges (PLC) paid for construction services before issuance of completion certificate to be part of a composite supply and to be taxed the same as the construction services.
- Affiliation services by educational boards like CBSE are taxable, but those provided to Government Schools by State/Central boards will be exempt prospectively. Past liabilities from July 1, 2017, to June 17, 2021, to be regularized on an 'as is where is' basis.
- Affiliation services from universities to their constituent colleges to be subject to 18% GST.
- Ancillary services provided by a GTA during transportation of goods such as loading, unloading, packing, temporary warehousing etc to be a composite supply of transportation.
- To regularize GST liability for the period before October 01, 2021, on an 'as is where is' basis for film distributors or sub-distributors operating as principals in film distribution.



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