

Highlights of 49th GST council meeting

Relfi Paul

Research Assistant, Gulati Institute of Finance and Taxation, Thiruvananthapuram.

The 49th Meeting of GST Council was held under the Chairpersonship of Union Minister for Finance & Corporate Affairs Smt. Nirmala Sitharaman in New Delhi on 18th February 2023. The meeting was also attended by Union Minister of State for Finance Shri Pankaj Chaudhary besides Finance Ministers of States & UTs. The GST Council has, inter-alia, made the following recommendations relating to GST compensation, GST Appellate Tribunal, approval of the Report of GoM on Capacity Based Taxation and Special Composition Scheme in certain Sectors, recommendations relating to rates on some goods and other measures for facilitation of trade:

1. GST Compensation

The GST Council has decided to clear the pending GST compensation of Rs. 16,982 crore for June, 2022. As no amount was available in the GST compensation Fund, Centre decided to release this amount from its own resources and the same will be recouped from the future compensation Cess collection. With this release, Centre cleared the entire provisionally admissible compensation due for five years as envisaged in the GST (Compensation to States) Act, 2017. In addition, Centre would also clear the admissible final GST compensation to those States who have provided the revenue figures as certified by the Accountant General of the States. The details of GST compensation released to each states for the last five years as given below (Table -1)

Table - 1 Details of GST compensation released to states (FY-wise)

S.No	State/UT	2017-18	2018-19	2019-20	2020-21	2021-22	2022-23	Total
1	Andhra Pradesh	619	0	3028	5220	2536	2034	13438
2	Arunachal Pradesh	15	0	0	6	0	0	21
3	Assam	980	454	1306	1875	40	384	5039
4	Bihar	2922	2805	5441	4039	0	184	15390
5	Chhattisgarh	1262	2608	4538	2846	657	1782	13693
6	Delhi	326	5868	9148	10793	7230	3194	36560
7	Goa	281	502	1093	1395	1085	446	4802
8	Gujarat	4277	8788	15558	13719	2181	2903	47426
9	Haryana	1461	3835	6617	5453	949	1627	19942
10	Himachal Pradesh	1059	2084	2619	1623	452	841	8678
11	J & K	1160	1667	3281	1834	0	418	8360
12	Jharkhand	1368	1098	2219	2625	933	1132	9374
13	Karnataka	7670	12465	18463	19301	9877	6775	74551
14	Kerala	2102	3532	8111	7063	4121	3125	28054
15	Madhya Pradesh	2668	3302	6538	5788	1946	2626	22868
16	Maharashtra	3077	8467	18844	35498	13626	4702	84215
17	Manipur	0	0	0	0	0	0	0
18	Meghalaya	140	66	157	270	0	0	633
19	Mizoram	0	0	0	11	0	0	11
20	Nagaland	0	0	0	14	0	0	14
21	Odisha	2348	4241	5332	4243	834	1052	18051
22	Puducherry	387	693	1057	586	348	374	3446
23	Punjab	5109	8985	12187	7826	3481	4388	41976
24	Rajasthan	2989	2570	7085	7625	741	1843	22853
25	Sikkim	6	0	0	36	0	0	42
26	Tamil Nadu	1018	5363	11423	16963	8169	3822	46758
27	Telangana	0	0	2891	5891	1561	1090	11434
28	Tripura	149	172	293	219	0	0	833
29	Uttar Pradesh	2432	0	9123	13680	8028	3263	36526
30	Uttarakhand	1432	2442	3375	2519	1030	1106	11904
31	West Bengal	1608	2615	6200	7828	5383	2845	26478
	Total	48865	84623	165928	186790	75209	51955	613370

Source: Lok Sabha Unstarred Question No. 1964 dated 13.03.2023

II. GST Appellate Tribunal

The report of the Group of Ministers on GSTAT was accepted by the Council with certain modifications. The final draft amendments to the GST laws shall be circulated to Members for their comments. The Chairperson has been authorised to finalise the same.

III. Approval of the Report of GoM

With a view to plug the leakages and improve the revenue collection from the commodities such as pan masala, gutkha, chewing tobacco, the Council approved the recommendations of the GoM on capacity based taxation and special composition scheme including, inter alia,

- that the capacity-based levy not to be prescribed;
- compliance and tracking measures to be taken to plug leakages/evasions;
- exports of such commodities to be allowed only against LUT with consequential refund of accumulated ITC;
- compensation cess levied on such commodities to be changed from ad valorem to specific tax-based levy to boost the first stage collection of the revenue.

IV. Recommendations relating to GST rates on goods (Table -2).

Table - 2 Changes in GST rates of goods

Sl.No	Description	From	To
1	'Rab'	18%	5% - if sold prepackaged & labelled Nil - if sold otherwise
2	Pencil Sharpener	18%	12%

Other major changes

1. It has been decided to regularize payment of GST on 'rab' during the past period on "as is basis" on account of genuine doubts over its classification and the applicable GST rate.
2. It was decided to suitably amend Notification No. 104/94- Customs dated 16.03.1994 so that if a device like tagtracking device or data logger is already affixed on a container, no separate IGST shall be levied on such affixed device and the 'nil' IGST treatment available for the containers under Notification No. 104/94-Customs shall also be available to the such affixed device subject to the existing conditions.
3. It has been decided to amend Entry at Sl. No. 41A of Notification No. 1/2017- Compensation Cess (Rate) so that exemption benefit covers both coal rejects supplied to and by a coal washery, arising out of coal on which compensation cess has been paid and no input tax credit thereof has been availed by any person.

4. It has been decided to extend the exemption available to educational institutions and Central and State educational boards for conduct of entrance examination to any authority, board or a body set up by the Central Government or State Government including National Testing Agency for conduct of entrance examination for admission to educational institutions.
5. It has been decided to extend the dispensation available to Central Government, State Governments, Parliament and State Legislatures with regard to payment of GST under reverse charge mechanism (RCM) to the Courts and Tribunals also in respect of taxable services supplied by them such as renting of premises to telecommunication companies for installation of towers, renting of chamber to lawyers etc.

V. Measures for facilitation of trade

1. Extension of time limit for application for revocation of cancellation of registration and one-time amnesty for past cases: The Council has recommended amendment in Section 30 of CGST Act, 2017 and Rule 23 of CGST Rules, 2017 so as to provide that -
 - the time limit for making an application for revocation of cancellation of registration be increased from 30 days to 90 days;
 - where the registered person fails to apply for such revocation within 90 days, the said time period may be extended by the Commissioner or an officer authorised by him in this behalf for a further period not exceeding 180 days.

The Council has also recommended that an amnesty may be provided in the past cases, where registration has been cancelled on account of non-filing of the returns, but application for revocation of cancellation of registration could not be filed within the time specified in Section 30 of CGST Act, by allowing such persons to file such application for revocation by a specified date, subject to certain conditions.

2. Amendment to Section 62 of CGST Act, 2017 to extend timelines under sub-section (2) thereof and one-time amnesty for past cases: As per sub-section (2) of Section 62 of CGST Act, 2017, the best judgment assessment order issued under sub-section (1) of the said section is deemed to be withdrawn, if the relevant return is filed within 30 days of service of the said assessment order. The Council recommended to amend Section 62 so as to increase the time period for filing of return for enabling deemed

withdrawal of such best judgment assessment order, from the present 30 days to 60 days, extendable by another 60 days, subject to certain conditions.

The Council has also recommended to provide an amnesty scheme for conditional deemed withdrawal of assessment orders in past cases where the concerned return could not be filed within 30 days of the assessment order but has been filed along with due interest and late fee upto a specified date, irrespective of whether appeal has been filed or not against the assessment order, or whether the said appeal has been decided or not.

3. Rationalization of Late fee for Annual Return: Presently, late fee of Rs. 200 per day (Rs. 100 CGST + Rs 100 SGST), subject to a maximum of 0.5% of the turnover in the State or UT (0.25% CGST + 0.25% SGST), is payable in case of delayed filing of annual return in FORM GSTR-9. The Council recommended to rationalize this late fee for delayed filing of annual return in FORM GSTR-9 for FY 2022-23 onwards, for registered persons having aggregate turnover in a financial year upto Rs.20 crore, as below:
 - Registered persons having an aggregate turnover of up to Rs. 5 crores in the said financial year: Rs50 per day (Rs. 25 CGST + Rs. 25 SGST), subject to a maximum of an amount calculated at 0.04 per cent. of his turnover in the State or Union territory (0.02% CGST + 0.02% SGST).
 - Registered persons having an aggregate turnover of more than Rs. 5 crores and up to Rs. 20 crores in the said financial year: Rs. 100 per day (Rs. 50 CGST + Rs. 50 SGST), subject to a maximum of an amount calculated at 0.04 per cent. of his turnover in the State or Union territory (0.02% CGST + 0.02% SGST).
4. Amnesty in respect of pending returns in FORM GSTR-4, FORM GSTR-9 and FORM GSTR-10: To provide relief to a large number of taxpayers, the Council recommended amnesty schemes in respect of pending returns in FORM GSTR-4, FORM GSTR-9 and FORM GSTR-10 by way of conditional waiver/ reduction of late fee.
5. Rationalization of provision of place of supply of services of transportation of goods: The Council recommended to rationalize the provision of place of supply for services of transportation of goods by deletion of Section 13(9) of IGST Act, 2017 so as to provide that the place of supply of services of transportation of goods, in cases where location of supplier of services or location of recipient of services is outside India, shall be the location of the recipient of services.

GST Amendments in Union Budget 2023-24

The Union Budget 2023-24, presented on 1st February 2023, brought about several amendments to the GST regime. All these changes, aimed at simplifying the tax system and boosting the economy. Here analyzing the major CGST and IGST amendments and its impact for businesses and taxpayers:

1. Section 10- Composition Levy - Suppliers of goods through E-commerce operators will now be eligible to opt for the composition scheme - Now Unregistered suppliers and composition taxpayers can now opt for the composition scheme to make intra - state supply of goods through e-commerce operators, subject to certain conditions.
2. Section 16- Eligibility and conditions for taking input tax credit - Earlier, In case recipient fails to pay to the supplier of goods or services the amount towards value of supply along with tax payable thereon within period of 180 days from the date of issue of invoice by supplier, an amount equal to ITC availed shall be added to his output tax liability along with interest thereon. Proposed Amendment - In case recipient fails to pay to the supplier of goods or services or both, other than the supplies on which tax is payable on reverse charge basis, the amount towards the value of supply along with tax payable thereon within a period of one hundred and eighty days from the date of issue of invoice by the supplier, an amount equal to the input tax credit availed by the recipient shall be paid by him along with interest payable under section 50, in such manner as may be prescribed: Also recipient would be entitled to re-avail the ITC on payment made by him to supplier towards value of supply along with tax thereon.
3. Section 17 - Apportionment of credit and blocked credit Proposed Amendment- Restrict availment of ITC in respect of certain transactions specified in Para 8(a) of Schedule III - Supply of custom bonded warehouse goods before clearance for home consumption. Above stated supply will be included in exempt supply. But whether this amendment will be prospective or retrospective still not clear.
4. Section 17 (5) -Blocked ITC - ITC on CSR expenses (Corporate social responsibility) referred to in Section 135 of the companies act 2013 now blocked.
5. Section 23/22/24- Persons who are required to take compulsory registration u/s 24 of CGST ACT 2017 need not to register themselves if they are not liable for registration/

exempted u/s 23(1) of CGST ACT 2017. Very important amendment- a person engaged in exempted supply of goods or services need not required to take compulsory registration even if required to do so as per section 24 of CGST ACT 2017.

6. Filing of belated GSTR-1, GSTR-3B, GSTR-9/9A & GSTR-8 not beyond three years of the due date- Now three years time limit have been allowed from due date of filing GSTR-1/GSTR-3B /GSTR-9/GSTR-9A/ GSTR-8 for furnishing these returns.
7. Section 54- Refund of tax- Provisional refund of 90% of total amount claimed in case of zero rated supplies is being amended to remove the reference to provisionally accepted input tax credit to align with present scheme of availment of self assed input tax credit as per sec 41 (1) of the CGST ACT.
8. Section 56 -Interest on delayed refunds- In case refund is delayed beyond the period of 60 days then Interest will be calculated from the date of receipt of application till the date of refund.
9. New Section 122(IB) -Penalty on E-commerce operators- Penal provisions applicable to e-commerce operators in case of contravention of provisions relating to supplies of goods made through them by unregistered persons or composition taxpayers. So they need to build a system so that composition taxpayers need not make inter state supplies.
10. Section 132 - Decriminalization of certain offenses- Following offenses were decriminalized-

Clause (g) obstruct or prevents any officer in the discharge of his duties.

Clause (j) tampers with or destroys any material evidence or documents

Clause (k) fails to supply any information.

Further, Monetary threshold for launching prosecution for offenses under the Act increased from 1 crore to 2 crores except in case of fake invoices.

11. Section 138 -Compounding of offenses- Following persons were excluded from compounding of offenses -

Issue of invoice without the supply of goods or services or both (Fake Invoices)
Further, amount of compounding of offenses reduced except offense of fake invoices.

Existing compounding amount- Rs 20000 or 50 % to 150% of tax amount involved.

Proposed compounding amount - Rs 20000 or 25 % to 100 % of tax amount involved.

12. Retrospective amendment of changes in Schedule III Certain activities such as- Supply of goods from place outside the taxable territory to another place outside taxable territory

High Sea Sales, Supply of warehouse goods before their home consumption, Treated as neither supply of goods nor supply of services w.e.f 01.07.2017. It is also clarified that in case tax has been paid on above stated supplies, no refund of such tax shall be available.

13. Section 2(17) of IGST ACT 2017 - Amendment in definition of OIDAR services - Widened the scope of services by excluding the condition of "essentially automated and involving minimal human intervention" from the said definition.

14. Section 12(8) of IGST ACT- Proviso to sub-section (8) of section 12 of the IGST Act is being omitted so as to specify the place of supply, irrespective of destination of the goods, in cases where the supplier of services and recipient of services are located in India.

Notification

- ◆ Notification No 01/2023-Central Tax dated 04.01.2023 on assign powers of Superintendent of central tax to Additional Assistant Directors in DGGI, DGGST and DG Audit. The Central Government has made amendments in Notification No. 14/2017 - Central Tax dated 01.07.2017 for assigning jurisdiction and power of superintendent to officers of the rank of Additional Assistant Directors in Directorate General of Goods and Services Tax Intelligence (DGGSTI), Directorate General of Goods and Services Tax (DGGST) and Directorate General of Audit (DGA), The relevant extract is as follows:

Table - 2 Changes in GST rates of goods

Sl.No	Description	From	To
1	'Rab'	18%	5% - if sold prepackaged & labelled Nil - if sold otherwise
2	Pencil Sharpener	18%	12%

- ◆ Notification No. 01/2023- Central Tax (Rate) dated 28.02.2023 amending Notification No. 12/2017- Central Tax (Rate). The Central Government has inserted an Explanation in Notification No. 12/2017- Central Tax (Rate) by which any authority, board or body set up by the Central Government or State Government including National Testing Agency for conduct of entrance examination for admission to educational institutions shall be treated as educational institution for the limited purpose of providing services by way of conduct of entrance examination for admission to educational institutions. This Notification came into force with effect from 01.03.2023.
- ◆ Notification No. 02/2023- Central Tax (Rate) dated 28.02.2023 amending Notification No. 13/2017- Central Tax (Rate). The Central Government has provided that services provided by Courts and Tribunals which are commercial in nature like renting of space to telecom towers and renting of lawyers' chambers etc. shall be covered under RCM and that provisions of RCM notification shall apply to Courts and Tribunals as applicable to the Central Government and State Governments. This Notification came into force with st effect from 01.03.2023.
- ◆ Notification No. 03/2023-Central Tax (Rate) 28.02.2023 amending Notification no. 1/2017-Central Tax (Rate), dated 28.06.2017. The Central Government has reduced the rate of GST from 18% to 12 % in case of pencil sharpeners. This Notification came into force with effect from 01.03.2023.
- ◆ Notification No. 04/2023-Central Tax (Rate) dated 28.02.2023 seeking to amend Notification no. 2/2017- Central Tax (Rate), dated 28.06.2017. The Government has reduced the rate of GST from 18% to 5% in case of 'Rab' when it is sold in prepackaged and labelled form and in all other cases the rate of tax will be 'Nil'. This Notification came into force with effect from 01.03.2023.
- ◆ Notification No. 01/2023 - Integrated Tax (Rate) dated 28.02.2023 seeking to amend Notification no. 9/2017 - Integrated Tax (Rate), dated the 28.06.2017 so as to notify change in GST with regards to services as recommended by GST Council in its 49th meeting. CBIC extends IGST exemption available to educational institutions and Central and State educational boards for conduct of entrance examination to any authority, board or a body set up by the Central Government or State Government including National Testing Agency for conduct of entrance examination for admission to educational institutions.

- ◆ Notification No. 02/2023- Integrated Tax (Rate) dated 28.02.2023 seeks to amend Notification No.10/2017-Integrated Tax (Rate), dated the 28.06.2017 so as to notify change in GST with regards to services as recommended by GST Council in its 49th meeting. CBIC extend dispensation available to Central Government, State Governments, Parliament and State Legislatures with regard to payment of IGST under reverse charge mechanism (RCM) to the Courts and Tribunals also in respect of taxable services supplied by them such as renting of premises to telecommunication companies for installation of towers, renting of chamber to lawyers etc.
- ◆ Notification No. 01/2023-Compensation Cess (Rate) dated 28.02.2023 seeking to amend Notification No. 1/2017- Compensation Cess (Rate). The Central Government has amended the entry at Sl. No. 41 A of Notification No. 1/2017- Compensation Cess (Rate) so that exemption benefit covers both coal rejects supplied to and by a coal washery, arising out of coal on which compensation cess has been paid and no input tax credit thereof has been availed by any person. This Notification came into force with effect from 01.03.2023.

GST collections rose 13% in March, 22% in FY 2022-23

The gross GST revenue collected in the month of March 2023 is Rs.1,60,122 crore of which CGST is Rs.29,546 crore, SGST is Rs.37,314 crore, IGST is Rs.82,907 crore (including Rs.42,503 crore collected on import of goods) and cess is Rs.10,355 crore (including Rs.960 crore collected on import of goods). It is for the fourth time, in the current financial year that the gross GST collection has crossed Rs.1.5 lakh crore mark registering second highest collection since implementation of GST. This month witnessed the highest IGST collection ever. The government has settled Rs.33,408 crore to CGST and Rs.28,187 crore to SGST from IGST as regular settlement. The total revenue of Centre and the States in the month of March 2023 after IGST settlement is Rs.62,954 crore for CGST and Rs.65,501 crore for the SGST.

The revenues for the month of March 2023 are 13% higher than the GST revenues in the same month last year. During the month, revenues from import of goods was 8% higher and the revenues from domestic transaction (including import of services) are 14% higher than the revenues from these sources during the same month last year.

The return filing during March 2023 has been highest ever. 93.2% of statement of invoices (in GSTR-1) and 91.4% of returns (in GSTR-3B) of February were filed till March 2023 as compared to 83.1% and 84.7%, respectively same month last year.

The total gross collection for FY 2022-23 stands at Rs.18.10 lakh crore and the average gross monthly collection for the full year is Rs.1.51 lakh crore. The gross revenues in 2022-23 were 22% higher than that last year. The average monthly gross GST collection for the last quarter of the FY 2022-23 has been Rs.1.55 lakh crore against the average monthly collection of Rs.1.51 lakh crore, Rs.1.46 lakh crore and Rs.1.49 lakh crore in the first, second and third quarters respectively.

The chart below shows trends in monthly gross GST revenues during the current year as compared to previous financial year.

