

TAX CONNECT'S ANALYSIS OF IMPACT ON TRADE AND INDUSTRY OF THE RECOMMENDATIONS OF 53rd GST COUNCIL MEETING HELD ON 22ND JUNE 2024

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TAX CONNECT'S ANALYSIS OF IMPACT ON TRADE AND INDUSTRY OF THE RECOMMENDATIONS OF 53rd GST COUNCIL MEETING HELD ON 22ND JUNE 2024

MEASURES FOR FACILITATION OF TRADE

INSERTION OF SECTION 128A IN CGST ACT, TO PROVIDE FOR CONDITIONAL WAIVER OF INTEREST OR PENALTY OR BOTH, RELATING TO DEMANDS RAISED UNDER SECTION 73, FOR FY 2017-18 TO FY 2019-20

Considering the difficulties faced by the taxpayers, during the initial years of implementation of GST, the GST Council recommended, waiving interest and penalties for demand notices issued under Section 73 of the CGST Act for the fiscal years 2017-18, 2018-19 and 2019-20, in cases where the taxpayer pays the full amount of tax demanded in the notice upto 31.03.2025. The waiver does not cover demand of erroneous refunds. To implement this, the GST Council has recommended insertion of Section 128A in CGST Act, 2017.

OUR COMMENTS: Section 128A shall be inserted in the CGST Act to provide waiver of interest and penalties for demand notices issued under Section 73 of the CGST Act (SCN for cases other than fraud or any wilful-misstatement or suppression of facts) for the fiscal years 2017-18, 2018-19 and 2019-20, in cases where the taxpayer pays the full amount of tax demanded in the notice upto 31.03.2025. The waiver does not cover demand of erroneous refunds

REDUCTION OF GOVERNMENT LITIGATION BY FIXING MONETARY LIMITS FOR FILING APPEALS UNDER GST

The Council recommended to prescribe monetary limits, subject to certain exclusions, for filing of appeals in GST by the department before GST Appellate Tribunal, High Court, and Supreme Court, to reduce government litigation. The following monetary limits have been recommended by the Council:

GSTAT: Rs. 20 lakhs

High Court: Rs. 1 crore

Supreme Court: Rs. 2 crores

OUR COMMENTS: Monetary limits have been prescribed for filing appeals under GST by the department before GSTAT, High Court, and Supreme Court, to reduce government litigation (GSTAT: Rs. 20 lakhs, High Court: Rs. 1 crore, Supreme Court: Rs. 2 crores). Such monetary limit is prescribed only for the GST department. A taxpayer can file

the appeal before the GSTAT, High Court or Supreme Court, irrespective of the said limits

AMENDMENT IN SECTION 107 AND SECTION 112 OF CGST ACT FOR REDUCING THE AMOUNT OF PRE-DEPOSIT REQUIRED TO BE PAID FOR FILING OF APPEALS UNDER GST

The GST Council recommended reducing the amount of pre-deposit for filing of appeals under GST to ease cash flow and working capital blockage for the taxpayers. The maximum amount for filing appeal with the appellate authority has been reduced from Rs. 25 crores CGST and Rs. 25 crores SGST to Rs. 20 crores CGST and Rs. 20 crores SGST. Further, the amount of pre-deposit for filing appeal with the Appellate Tribunal has been reduced from 20% with a maximum amount of Rs. 50 crores CGST and Rs. 50 crores SGST to 10 % with a maximum of Rs. 20 crores CGST and Rs. 20 crores SGST.

OUR COMMENTS: To reduce the burden cash flow and working capital blockage of the taxpayer for filing an appeal before GSTAT, Section 107 and Section 112 of the CGST Act shall be amended as under:

- the requirement of pre-deposit reduced from 20% to 10 % of the disputed tax for filing an appeal before GSTAT.
- maximum Amount of pre-deposit reduced from Rs.50 crores (CGST+SGST) to Rs.40 crores (CGST+SGST).

APPLICABILITY OF GOODS AND SERVICES TAX ON EXTRA NEUTRAL ALCOHOL (ENA) TAXATION OF ENA UNDER GST

The GST Council, in its 52nd meeting, had recommended to amend GST Law to explicitly exclude rectified spirit/Extra Neutral Alcohol (ENA) from the scope of GST when supplied for manufacturing alcoholic liquors for human consumption. The GST Council now recommended amendment in sub-section (1) of Section 9 of the CGST Act, 2017 for not levying GST on Extra Neutral Alcohol used for manufacture of alcoholic liquor for human consumption.

OUR COMMENTS: Section 9(1) of the CGST Act shall be amended to exclude levy of GST on ENA (Extra Neutral Alcohol) used for manufacture of alcoholic liquor for human consumption. This will keep the ENA out of ambit of GST. This will crystallize the relief for the manufacturers of alcoholic liquors for human consumption.

TAX CONNECT'S ANALYSIS OF IMPACT ON TRADE AND INDUSTRY OF THE RECOMMENDATIONS OF 53rd GST COUNCIL MEETING HELD ON 22ND JUNE 2024

REDUCTION IN RATE OF TCS TO BE COLLECTED BY THE ECOS FOR SUPPLIES BEING MADE THROUGH THEM

Electronic Commerce Operators (ECOs) are required to collect Tax Collected at Source (TCS) on net taxable supplies under Section 52(1) of the CGST Act. The GST Council has recommended to reduce the TCS rate from present 1% (0.5% CGST + 0.5% SGST/ UTGST, or 1% IGST) to 0.5 % (0.25% CGST + 0.25% SGST/UTGST, or 0.5%IGST), to ease the financial burden on the supplier's making supplies through such ECOs.

OUR COMMENTS: Section 52(1) of the CGST Act shall be amended to reduce the rate of TCS to be collected by E-commerce operators from present 1% to 0.5 % on net taxable supplies.

TIME FOR FILING APPEALS IN GST APPELLATE TRIBUNAL

The GST Council recommended amending Section 112 of the CGST Act, 2017 to allow the three-month period for filing appeals before the Appellate Tribunal to start from a date to be notified by the Government in respect of appeal/revision orders passed before the date of said notification. This will give sufficient time to the taxpayers to file appeal before the Appellate Tribunal In the pending cases

OUR COMMENTS: Section 112 of the CGST Act shall be amended to allow the 3 months' time for filing appeals before the GSTAT to start from a date to be notified. This is to not only ensure that the taxpayers have sufficient time to prepare and file the appeals, but also to prepare the government machinery for the GSTAT.

RELAXATION IN CONDITION OF SECTION 16(4) OF THE CGST ACT

a) In respect of initial years of implementation of GST, i.e., financial years 2017-18, 2018-19, 2019-20 and 2020-21: The GST Council recommended that the time limit to avail input tax credit in respect of any invoice or debit note under Section 16(4) of CGST Act, through any return in FORM GSTR 3B filed upto 30.11.2021 for the financial years 2017-18, 2018-19, 2019-20 and 2020-21, may be deemed to be 30.11.2021. For the same, requisite amendment in section 16(4) of CGST Act, retrospectively, w.e.f. 01.07.2017, has been recommended by the Council.

b) with respect to cases where returns have been filed after revocation:

The GST Council recommended retrospective amendment in Section 16(4) of CGST Act, to be made effective from July 1 , 2017, to conditionally relax the provisions of section 16(4) of CGST Act in cases where returns for the period from the date of cancellation of registration/ effective date of cancellation of registration till the date of revocation of cancellation of the registration, are filed by the registered person within thirty days of the order of revocation.

OUR COMMENTS: The new time limit for availing ITC as per Section 16(4) of the CGST Act shall be 30/11/2021 to avail ITC pertaining to financial years 2017-18, 2018-19, 2019-20 and 2020-21. The same shall be applicable retrospectively, w.e.f. 01.07.2017.

Further, restriction for claiming ITC u/s 16(4) shall be relaxed retrospectively, w.e.f. 01.07.2017 with respect to cases where returns have been filed after revocation of cancellation, in case of cancellation of registration and subsequent revocation thereof, if the returns from the effective date of cancellation to the date of revocation are filed within 30 days from the date of revocation.

CHANGE IN DUE DATE FOR FILING OF RETURN IN FORM GSTR-4 FOR COMPOSITION TAXPAYERS FROM 30 APRIL TO 30 JUNE

The GST Council recommended an amendment in clause (ii) of sub-rule (1) of Rule 62 of CGST Rules, 2017 and FORM GSTR-4 to extend the due date for filing of return in FORM GSTR-4 for composition taxpayers from 30 April to 30 June following the end of the financial year. This will apply for returns for the financial year 2024-25 onwards. The same would give more time to the taxpayers who opt to pay tax under composition levy to furnish the said return.

OUR COMMENTS: Time Limit for filing FORM GSTR-4 for composition taxpayers shall be extended from 30th April to 30th June following the end of the financial year. This will apply for returns for the financial year 2024-25 onwards.

AMENDMENT OF RULE 88B OF CGST RULES, 2017 IN RESPECT OF INTEREST UNDER SECTION 50 OF CGST ACT ON DELAYED FILING OF RETURNS, IN CASES WHERE THE CREDIT IS AVAILABLE IN ELECTRONIC CASH LEDGER (ECL) ON THE DUE DATE OF FILING THE SAID RETURN

TAX CONNECT'S ANALYSIS OF IMPACT ON TRADE AND INDUSTRY OF THE RECOMMENDATIONS OF 53rd GST COUNCIL MEETING HELD ON 22ND JUNE 2024

The GST Council recommended amendment in rule 88B of CGST Rules to provide that an amount, which is available in the Electronic Cash Ledger on the due date of filing of return in FORM GSTR-3B, and is debited while filing the said return, shall not be included while calculating interest under section 50 of the CGST Act in respect of delayed filing of the said return.

OUR COMMENTS: Rule 88B of CGST Rules shall be amended to provide that an amount available in the Electronic Cash Ledger on the due date of filing of return in FORM GSTR-3B, and debited while filing the said return, shall not be included while calculating interest under section 50 of the CGST Act in respect of delayed filing of the said return. The same in line with Hon'ble Madras HC decision in case of M/s. Eicher Motors Limited.

INSERTION OF SECTION 11A IN CGST ACT FOR GRANTING POWER NOT TO RECOVER DUTIES NOT LEVIED OR SHORT-LEVIED AS A RESULT OF GENERAL PRACTICE UNDER GST ACTS

The GST Council recommended inserting a new Section 11A in CGST Act to give powers to the Government, on the recommendations of the Council, to allow regularization of non-levy or short levy of GST, where tax was being short paid or not paid due to common trade practices.

OUR COMMENTS: A new Section 11A in CGST Act shall be inserted for granting power not to recover duties in case of non-levy or short levy of GST, where tax was being short paid or not paid due to common trade practices.

REFUND OF ADDITIONAL INTEGRATED TAX (IGST) PAID ON ACCOUNT OF UPWARD REVISION IN PRICE OF THE GOODS SUBSEQUENT TO EXPORT

The GST Council recommended to prescribe a mechanism for claiming refund of additional IGST paid on account of upward revision in price of the goods subsequent to their export. This will facilitate a large number of taxpayers, who are required to pay additional IGST on account of upward revision in price of the goods subsequent to export, in claiming refund of such additional IGST.

OUR COMMENTS: In case of Exports, taxpayers were required to pay additional IGST paid on account of upward revision in price of the goods subsequent to their export. However, no

mechanism was in place to claim such refund. Such mechanism is now proposed to be prescribed

CLARIFICATION REGARDING VALUATION OF SUPPLY OF IMPORT OF SERVICES BY A RELATED PERSON WHERE RECIPIENT IS ELIGIBLE TO FULL INPUT TAX CREDIT

The Council recommended to clarify that in cases where the foreign affiliate is providing certain services to the related domestic entity, for which full input tax credit is available to the said related domestic entity, the value of such supply of services declared in the invoice by the said related domestic entity may be deemed as open market value in terms of second proviso to rule 28(1) of CGST Rules. Further, in cases where full input tax credit is available to the recipient, if the invoice is not issued by the related domestic entity with respect to any service provided by the foreign affiliate to it, the value of such services may be deemed to be declared as Nil, and may be deemed as open market value in terms of second proviso to rule 28(1) of CGST Rules

OUR COMMENTS: Clarification shall be issued as under regarding valuation of supply of import of services by a related person where the foreign affiliate is providing certain services to the related domestic entity, and for which full input tax credit is available to the related domestic entity, with respect to any service provided by the foreign affiliate to it:

- If the Invoice has been issued by the related domestic entity the value of such supply of services declared in the invoice by the said related domestic entity may be deemed as open market value in terms of second proviso to rule 28(1) of CGST Rules.

- If the invoice is not issued by the related domestic entity -, the value of such services may be deemed to be Zero.

The same shall be quite similar to Circular No. 199/11/2023-GST wherein similar clarification was provided for services between Head office & branch office. This change shall also put rest to the issues consequent to the decisions of Hon'ble Apex Court's judgement in case of Northern Operating Systems Private Limited.

CLARIFICATION REGARDING AVAILABILITY OF INPUT TAX CREDIT (ITC) ON DUCTS AND MANHOLES USED IN THE NETWORK OF OPTICAL FIBER CABLES (OFCs)

TAX CONNECT'S ANALYSIS OF IMPACT ON TRADE AND INDUSTRY OF THE RECOMMENDATIONS OF 53rd GST COUNCIL MEETING HELD ON 22ND JUNE 2024

The Council recommended to clarify that input tax credit is not restricted in respect of ducts and manhole used in network of optical fiber cables (OFCs), under clause (c) or under clause (d) of sub-section (5) of section 17 of CGST Act.

OUR COMMENTS: The CBIC may issue a circular to clarify that ducts and manhole used in network of optical fiber cables (OFCs) shall not be blocked under Sec. 17(5)(c) or 17(5)(d) of the CGST Act.

CLARIFICATION ON THE PLACE OF SUPPLY APPLICABLE FOR CUSTODIAL SERVICES PROVIDED BY BANKS

The Council recommended to clarify that place of supply of Custodial services supplied by Indian Banks to Foreign Portfolio Investors is determinable as per Section 13(2) of the IGST Act, 2017

OUR COMMENTS: The CBIC may issue a circular to clarify that place of supply of Custodial services supplied by Indian Banks to Foreign Portfolio Investors is determinable as per Section 13(2) of the IGST Act, 2017, which shall be the location of the recipient of services.

CLARIFICATION ON VALUATION OF CORPORATE GUARANTEE PROVIDED BETWEEN RELATED PERSONS AFTER INSERTION OF RULE 28(2) OF CGST RULES, 2017

GST Council recommended amendment of rule 28(2) of CGST Rules retrospectively with effect from 26.10.2023 and issuance of a circular to clarify various issues regarding valuation of services of providing corporate guarantees between related parties. It is inter alia being clarified that valuation under rule 28(2) of CGST Rules would not be applicable in case of export of such services and also where the recipient is eligible for full input tax credit.

OUR COMMENTS: Retrospective amendment with effect from 26.10.2023 shall be made to provide that- In case of corporate guarantees between related parties, in case of export of such services or in case where the recipient is eligible for full input tax credit, the valuation of Corporate guarantees shall not be made as per Rule 28(2).

As per Rule 28(2), the value of supply of services by a supplier to a recipient who is a related person, by way of providing corporate guarantee to any banking company or financial institution on behalf of the said recipient, shall be deemed to

be one per cent of the amount of such guarantee offered, or the actual consideration, whichever is higher.

CLARIFICATION REGARDING APPLICABILITY OF PROVISIONS OF SECTION 16 (4) OF CGST ACT, 2017, IN RESPECT OF INVOICES ISSUED BY THE RECIPIENT UNDER REVERSE CHARGE MECHANISM (RCM)

The Council recommended to clarify that in cases of supplies received from unregistered suppliers, where tax has to be paid by the recipient under reverse charge mechanism (RCM) and invoice is to be issued by the recipient only, the relevant financial year for calculation of time limit for availment of input tax credit under the provisions of section 16(4) of CGST Act is the financial year in which the invoice has been issued by the recipient.

OUR COMMENTS: The CBIC may clarify vide circular that, in respect of supplies liable to RCM received from unregistered suppliers, the relevant financial year for calculation of time limit for availment of ITC u/s 16(4) of CGST Act shall be the financial year in which the self-invoice under Section 31(3)(f) of the CGST Act has been issued by the recipient.

CLARIFICATION ON FOLLOWING ISSUES TO PROVIDE CLARITY TO TRADE AND TAX OFFICERS AND TO REDUCE LITIGATION

i. Clarification on taxability of re-imbursement of securities/shares as ESOP/ESPP/RSU provided by a company to its employees

ii. Clarification on requirement of reversal of input tax credit in respect of amount of premium in Life Insurance services, which is not included in the taxable value as per Rule 32(4) of CGST Rules.

iii. Clarification on taxability of wreck and salvage values in motor insurance claims

iv. Clarification in respect of Warranty/ Extended Warranty provided by Manufacturers to the end customers

v. Clarification regarding availability of input tax credit on repair expenses incurred by the insurance companies in case of reimbursement mode of settlement of motor vehicle insurance claims.

vi. Clarification on taxability of loans granted between related person or between group companies.

TAX CONNECT'S ANALYSIS OF IMPACT ON TRADE AND INDUSTRY OF THE RECOMMENDATIONS OF 53rd GST COUNCIL MEETING HELD ON 22ND JUNE 2024

vii. Clarification on time of supply on Annuity Payments under HAM Projects.

viii. Clarification regarding time of supply in respect of allotment of Spectrum to Telecom companies in cases where payment of licence fee and Spectrum usage charges is to be made in instalments.

ix. Clarification relating to place of supply of goods supplied to unregistered persons, where delivery address is different from the billing address.

x. Clarification on mechanism for providing evidence by the suppliers for compliance of the conditions of Section 15(3)(b)(ii) of CGST Act, 2017 in respect of post-sale discounts, to the effect that input tax credit has been reversed by the recipient on the said amount.

xi. Clarifications on various issues pertaining to special procedure for the manufacturers of the specified commodities, like pan masala, tobacco etc.

OUR COMMENTS: The CBIC may issue various circulars to ease the ongoing litigations on various burning issues. This should provide clarity to the field formations, and ease out the interpretational issues faced by the taxpayer currently.

RETROSPECTIVE AMENDMENT IN SECTION 140(7) OF CGST ACT W.E.F 01.07.2017

The Council recommended amendment in section 140(7) of CGST Act retrospectively w.e.f. 01.07.2017 to provide for transitional credit in respect of invoices pertaining to services provided before appointed date, and where invoices were received by Input Service Distributor (ISD) before the appointed date.

OUR COMMENTS: Section 140(7) of the CGST Act provides that, the input tax credit on account of any services received prior to the appointed day by an Input Service Distributor (ISD) shall be eligible for distribution as credit under the Act, even if the invoices relating to such services are received on or after the appointed day.

Retrospective amendment in the above section shall be made to provide for transitional credit where invoices were received by Input Service Distributor (ISD) before the appointed date.

NEW OPTIONAL FACILITY IN FORM GSTR-1A TO AMEND DETAILS IN GSTR-1 BEFORE FILING GSTR-3B

The Council recommended providing a new optional facility by way of FORM GSTR-1A to facilitate the taxpayers to amend the details in FORM GSTR-1 for a tax period and/ or to declare additional details, if any, before filing of return in FORM GSTR-3B for the said tax period. This will facilitate taxpayer to add any particulars of supply of the current tax period missed out in reporting in FORM GSTR-1 of the said tax period or to amend any particulars already declared in FORM GSTR-1 of the current tax period (including those declared in IFF, for the first and second months of a quarter, if any, for quarterly taxpayers), to ensure that correct liability is auto-populated in FORM GSTR-3B.

OUR COMMENTS: A new functionality by way of FORM GSTR-1A shall be introduced, to facilitate taxpayer to add any particulars of supply of the current tax period missed out in reporting in FORM GSTR-1 of the said tax period or to amend any particulars already declared in FORM GSTR-1 filed for current tax period, before filing of return in FORM GSTR-3B, to ensure that correct liability is auto-populated in FORM GSTR-3B

EXEMPTION FOR FILING GSTR-9/9A FOR TAXPAYERS HAVING AGGREGATE ANNUAL TURNOVER UPTO TWO CRORE RUPEES

The Council recommended that filing of annual return in FORM GSTR-9/9A for the FY 2023-24 may be exempted for taxpayers having aggregate annual turnover upto two crore rupees

OUR COMMENTS: Small taxpayers having aggregate annual turnover upto two crore rupees were exempted from filing annual return in FORM GSTR-9/9A for FY 2022-23. Such exemption is being extended for F.Y. 2023-24 also

RECOMMENDATION FOR AMENDMENT TO BE MADE IN SECTION 122(1B) OF CGST ACT RETROSPECTIVELY W.E.F. 01.10.2023

Amendment was recommended to be made in section 122(1B) of CGST Act retrospectively w.e.f. 01.10.2023, so as to clarify that the said penal provision is applicable only for those e-commerce operators, who are required to collect tax under section 52 of CGST Act, and not for other e-commerce operators.

TAX CONNECT'S ANALYSIS OF IMPACT ON TRADE AND INDUSTRY OF THE RECOMMENDATIONS OF 53rd GST COUNCIL MEETING HELD ON 22ND JUNE 2024

OUR COMMENTS: Section 122(1B) provides for penal provisions of Rs. 10,000/-, or an amount equivalent to the amount of tax involved in case where the ECO :

- allows a supply of goods or services or both through it by an unregistered person other than a person exempted from registration by a notification issued under this Act to make such supply
- allows an inter-State supply of goods or services or both through it by a person who is not eligible to make such inter-State supply; or
- fails to furnish the correct details in the statement to be furnished under sub-section (4) of section 52 of any outward supply of goods effected through it by a person exempted from obtaining registration under this Act,

Amendment is to be made in section 122(1B) of CGST Act retrospectively w.e.f. 01.10.2023, so as to clarify that the said penal provision is applicable only for those e-commerce operators, who are required to collect TCS under section 52 of the CGST Act.

RECOMMENDATION FOR ADJUSTMENT OF AMOUNT PAID IN RESPECT DEMAND PAID THROUGH FORM GST DRC-03 AGAINST THE AMOUNT TO BE PAID AS PRE-DEPOSIT FOR FILING APPEAL

The Council recommended amendment in rule 142 of CGST Rules and issuance of a circular to prescribe a mechanism for adjustment of an amount paid in respect of a demand through FORM GST DRC-03 against the amount to be paid as pre-deposit for filing appeal.

OUR COMMENTS: The CBIC may issue a circular and corresponding amendment shall be made in Rule 142 of the CGST Rules to provide a clear mechanism for adjusting payments made through DRC 03 as pre-deposit for filing appeal.

It has been observed that many taxpayers initially paid the pre deposit for filing appeal through DRC 03 and later on filed the appeal with 0% pre deposit, consequently resulting in issues in the acceptance of the Appeal by the Appellate Authority. This amendment will enhance the efficiency of dispute

resolution, benefiting both taxpayers and the tax administration.

ROLLING OUT OF BIO-METRIC BASED AADHAAR AUTHENTICATION ON ALL-INDIA BASIS

The GST Council recommended to roll-out the biometric-based Aadhaar authentication of registration applicants on pan-India basis in a phased manner. This will strengthen the registration process in GST and will help in combating fraudulent input tax credit (ITC) claims made through fake invoices.

OUR COMMENTS: After successful Pilot project in Gujarat & Puducherry, the nationwide in phased manner implementation of biometric-based Aadhaar authentication shall be implemented to grant GST registration. This will significantly enhance the integrity of the GST registration process. By preventing fraudulent ITC claims through fake invoices, this measure strengthens the overall GST framework, leading to increased compliance and reduced revenue leakage.

AMENDMENTS IN SECTION 73 AND SECTION 74 OF CGST ACT, 2017 AND INSERTION OF A NEW SECTION 74A IN CGST ACT, TO PROVIDE FOR COMMONTIME LIMIT FOR ISSUANCE OF DEMAND NOTICES AND ORDERS IRRESPECTIVE OF WHETHER CASE INVOLVES FRAUD, SUPPRESSION, WILLFUL MISSTATEMENT ETC., OR NOT

Presently, there is a different time limit for issuing demand notices and demand orders, in cases where charges of fraud, suppression, willful misstatement etc., are not involved, and in cases where those charges are involved. In order to simplify the implementation of those provisions, the GST Council recommended to provide for a common time limit for issuance of demand notices and orders in respect of demands for FY 2024-25 onwards, in cases involving charges of fraud or willful misstatement and not involving the charges of fraud or willful misstatement etc. Also, the time limit for the taxpayers to avail the benefit of reduced penalty, by paying the tax demanded along with interest, has been recommended to be increased from 30 days to 60 days.

OUR COMMENTS: A new Section 74A may be inserted, and amendment shall be made in section Sec 73 and section 74 of the CGST Act. This will provide for common time limit for issuance of demand notices and orders irrespective of

TAX CONNECT'S ANALYSIS OF IMPACT ON TRADE AND INDUSTRY OF THE RECOMMENDATIONS OF 53rd GST COUNCIL MEETING HELD ON 22ND JUNE 2024

whether case involves fraud, suppression, wilful misstatement etc. or not in respect of demands for FY 2024-25 onwards.

Further, the time limit for the assesses to avail the benefit of reduced penalty, by paying the tax demanded along with interest, has been increased to 60 days from 30 days may be introduced.

RECOMMENDATION TO PROVIDE A SUNSET CLAUSE FOR ANTI-PROFITEERING UNDER GST

The Council recommended amendment in section 171 and section 109 of CGST Act, 2017 to provide a sunset clause for anti-profiteering under GST and to provide for handling of anti-profiteering cases by Principal bench of GST Appellate Tribunal (GSTAT). Council has also recommended the sun-set date of 01.04.2025 for receipt of any new application regarding anti-profiteering.

OUR COMMENTS: Section 171 and section 109 of CGST Act, 2017 shall be amended to provide for a sunset clause for anti-profiteering under GST and to provide for handling of anti-profiteering cases by Principal bench of GST Appellate Tribunal (GSTAT). For receipt of any new application regarding anti-profiteering, the sun set date is due of 01.04.2025.

AMENDMENT IN SECTION 16 OF IGST ACT AND SECTION 54 OF CGST ACT TO CURTAIL REFUND OF IGST IN CASES WHERE EXPORT DUTY IS PAYABLE

The Council recommended amendments in section 16 of IGST Act and section 54 of CGST Act to provide that the refund in respect of goods, which are subjected to export duty, is restricted, irrespective of whether the said goods are exported without payment of taxes or with payment of taxes, and such restrictions should also be applicable, if such goods are supplied to a SEZ developer or a SEZ unit for authorized operations

OUR COMMENTS: Section 16 and Section 54 of the CGST Act shall be amended to restrict refund of goods, which are subjected to export duty. The restriction is irrespective of whether the said goods are exported without payment of taxes or with payment of taxes. Such restrictions will also be applicable, if such goods are supplied to a SEZ developer or a SEZ unit for authorized operations.

REDUCTION OF THRESHOLD LIMIT FOR REPORTING OF B2C INTER-STATE SUPPLIES INVOICE-WISE IN TABLE 5 OF FORM GSTR-1

The threshold for reporting of B2C inter-State supplies invoice-wise in Table 5 of FORM GSTR-1 was recommended to be reduced from Rs2.5 Lakh to Rs 1 Lakh

OUR COMMENTS: In case of Interstate B2C transactions, invoice wise details were required to be reported in table 5 of Form GSTR-1 in case the invoice value was greater than 2.5 Lakhs. The said threshold limit has recommended to be reduced to Rs. 1 Lakh. This change aids in better monitoring and compliance enforcement, although it may increase the reporting burden on small businesses.

RECOMMENDATION FOR CHANGES IN FILING RETURN IN FORM GSTR-7

The Council recommended that return in FORM GSTR-7, to be filed by the registered persons who are required to deduct tax at source under section 51 of CGST Act, is to be filed every month irrespective of whether any tax has been deducted during the said month or not. It has also been recommended that no late fee may be payable for delayed filing of Nil FORM GSTR-7 return. Further, it has been recommended that invoice-wise details may be required to be furnished in the said FORM GSTR-7 return.

OUR COMMENTS: The person registered as TDS deductor under GST is required to file return in FORM GSTR-7 every month irrespective of whether any tax has been deducted during the said month or not. As a relief measure, in case of Nil Return, no late fees will be payable for delayed filing of the said NIL return. Further, Invoice-wise details may be required to be furnished in the said GSTR -7.

TAX CONNECT'S ANALYSIS OF IMPACT ON TRADE AND INDUSTRY OF THE RECOMMENDATIONS OF 53rd GST COUNCIL MEETING HELD ON 22ND JUNE 2024

CHANGES IN GST TAX RATES

I. Recommendations relating to GST rates on Goods

CHANGES IN GST RATES OF GOODS

1. A uniform rate of 5% IGST will apply to imports of 'Parts, components, testing equipment, tools and tool-kits of aircrafts, irrespective of their HS classification to provide a fillip to MRO activities subject to specified conditions.

OUR COMMENTS: This uniform 5% IGST rate aims to stimulate the Maintenance, Repair, and Overhaul (MRO) sector by reducing the cost burden on importing essential aircraft components. The move is expected to make India a more competitive hub for aviation maintenance services, potentially attracting global players and increasing domestic capabilities in the aerospace sector.

2. All milk cans (of steel, iron and aluminium) irrespective of their use will attract 12% GST.

OUR COMMENTS: Imposing a 12% GST on all types of milk cans standardizes the tax treatment of these goods. While this might lead to a slight increase in costs for dairy farmers and processors, it simplifies the tax structure and reduces classification disputes. Over time, the dairy industry may adjust by passing on some costs to consumers or improving efficiency.

3. GST rate on 'carton, boxes and cases of both corrugated and non-corrugated paper or paper-board' (HS 4819 10; 4819 20) to be reduced from 18% to 12%.

OUR COMMENTS: Reducing the GST rate on cartons and boxes to 12% lowers packaging costs for businesses, particularly in sectors like e-commerce, food, and consumer goods. This reduction can enhance affordability and encourage sustainable packaging solutions, potentially leading to price benefits for end consumers.

4. All solar cookers whether single or dual energy source, will attract 12% GST.

OUR COMMENTS: The uniform 12% GST on all solar cookers promotes renewable energy use and makes these eco-friendly appliances more accessible. This move supports the government's sustainability goals and could spur innovation and adoption in the clean energy sector.

5. To amend existing entry covering Poultry keeping Machinery attracting 12% GST to specifically incorporate "parts of Poultry keeping Machinery" and to regularise past practice on 'as is where is' basis in view of genuine interpretational issues.

OUR COMMENTS: Including parts of poultry-keeping machinery under the 12% GST rate resolves past ambiguities and provides clarity for the poultry industry. This amendment supports operational efficiency and cost predictability, benefiting poultry farmers and machinery manufacturers.

6. To clarify that all types of sprinklers including fire water sprinklers will attract 12% GST and to regularise the past practice on 'as is where is' basis in view of genuine interpretational issues.

OUR COMMENTS: Clarifying the 12% GST rate for all sprinklers, including fire water sprinklers, resolves interpretational issues and ensures consistent tax treatment. This can enhance fire safety measures across industries by making essential safety equipment more affordable.

7. To extend IGST exemption on imports of specified items for defence forces for a further period of five years till 30th June, 2029.

OUR COMMENTS: Extending the IGST exemption for defence imports supports national security by reducing procurement costs for the defence sector. This long-term exemption helps in strategic planning and resource allocation for defence projects, ensuring better fiscal management.

8. To extend IGST exemption on imports of research equipment/buoys imported under the Research Moored Array for African-Asian-Australian Monsoon Analysis and Prediction (RAMA) programme subject to specified conditions.

TAX CONNECT'S ANALYSIS OF IMPACT ON TRADE AND INDUSTRY OF THE RECOMMENDATIONS OF 53rd GST COUNCIL MEETING HELD ON 22ND JUNE 2024

OUR COMMENTS: Extending IGST exemption for imports under the RAMA program promotes scientific research and international collaboration in climate studies. This exemption supports India's commitment to advancing monsoon prediction capabilities and contributes to global climate research efforts.

9. To exempt Compensation Cess on the imports in SEZ-by-SEZ Unit/developers for authorised operations w.e.f. 01.07.2017.

OUR COMMENTS: The exemption from Compensation Cess for SEZ imports retroactively from July 1, 2017, boosts the attractiveness of Special Economic Zones. This measure reduces operational costs for SEZ units and developers, encouraging investment and enhancing export potential.

OTHER MISCELLANEOUS CHANGES

10. To exempt Compensation cess on supply of aerated beverages and energy drinks to authorised customers by Unit Run Canteens under Ministry of Defence.

OUR COMMENTS: Exempting Compensation Cess on aerated beverages and energy drinks supplied to defence canteens reduces costs for service members and their families. This exemption supports welfare measures for the armed forces, providing them with more affordable access to these products.

11. To provide Adhoc IGST exemption on imports of technical documentation for AK-203 rifle kits imported for Indian Defence forces.

OUR COMMENTS: The ad hoc IGST exemption on imports of technical documentation for AK-203 rifle kits aids the indigenization of defence production. This exemption reduces costs and facilitates technology transfer, supporting India's self-reliance in defence manufacturing

II. Recommendations relating to GST rates on services

CHANGES IN GST RATES OF SERVICES

1. To exempt the services provided by Indian Railways to general public, namely, sale of platform tickets, facility of retiring rooms/waiting rooms, cloak room services and battery-operated car services and to also exempt the Intra-Railway transactions. The issue for the past period will be regularized from 20.10.2023 to the date of issue of exemption notification in this regard.

OUR COMMENTS: Exempting these services provided by Indian Railways from GST enhances affordability and convenience for travellers and common men. This measure supports public welfare by reducing travel-related costs and simplifying service charges, potentially increasing the use of railway facilities

2. To exempt GST on the services provided by Special Purpose Vehicles (SPV) to Indian Railway by way of allowing Indian Railway to use infrastructure built & owned by SPV during the concession period and maintenance services supplied by Indian Railways to SPV. The issue for the past will be regularized on 'as is where is' basis for the period from 01.07.2017 till the date of issue of exemption notification in this regard.

OUR COMMENTS: The exemption of GST on SPV services to Indian Railways fosters infrastructure development by reducing costs associated with public-private partnerships. This move supports long-term infrastructure projects, improving railway services and efficiency.

3. To create a separate entry in notification No. 12/2017-CTR 28.06.2017 under heading 9963 to exempt accommodation services having value of supply of accommodation up to Rs. 20,000/- per month per person subject to the condition that the accommodation service is supplied for a minimum continuous period of 90 days. To extend similar benefit for past cases.

OUR COMMENTS: Exempting accommodation services up to Rs. 20,000 per month for long-term stays reduces the tax

TAX CONNECT'S ANALYSIS OF IMPACT ON TRADE AND INDUSTRY OF THE RECOMMENDATIONS OF 53rd GST COUNCIL MEETING HELD ON 22ND JUNE 2024

burden on students, working professionals, and others requiring extended accommodations. This move can make housing more affordable and stimulate the hospitality industry by encouraging long-term rentals. The Hon'ble Finance Minister also stated that, this move, will be helpful for the community running hostels, where a community provide hostel services to their community students as they don't have to worry about the GST.

4. Co-insurance premium apportioned by lead insurer to the co-insurer for the supply of insurance service by lead and co-insurer to the insured in co-insurance agreements, may be declared as no supply under Schedule III of the CGST Act, 2017 and past cases may be regularized on 'as is where is' basis.

OUR COMMENTS: Declaring co-insurance and re-insurance transactions as 'no supply' under the CGST Act clarifies the tax status of these transactions, reducing compliance complexities and disputes. This move supports the insurance sector by providing clear guidelines, ensuring smoother operational processes

5.Transaction of ceding commission/re-insurance commission between insurer and re-insurer may be declared as no supply under Schedule III of CGST Act, 2017 and past cases may be regularized on 'as is where is' basis.

OUR COMMENTS: Regularizing GST liability for reinsurance services on specified insurance schemes resolves historical ambiguities and ensures compliance clarity. This measure supports the insurance industry's stability and provides certainty regarding tax obligations.

6. GST liability on reinsurance services of specified insurance schemes covered by Sr. Nos. 35 & 36 of notification No. 12/2017-CT (Rate) dated 28.06.2017 may be regularized on 'as is where is' basis for the period from 01.07.2017 to 24.01.2018.

OUR COMMENTS: Addressing GST liability for government-paid insurance schemes ensures proper tax treatment and compliance. This regularization supports public insurance programs and maintains the integrity of government-supported insurance initiatives.

7. GST liability on reinsurance services of the insurance schemes for which total premium is paid by the Government that are covered under Sr. No.40 of notification No. 12/2017-CTR dated 28.06.2017 may be regularized on 'as is where is' basis for the period from 01.07.2017 to 26.07.2018.

OUR COMMENTS: Clarifying that retrocession qualifies as reinsurance and is thus exempt from GST eliminates confusion and aligns tax treatment with industry practices. This clarification supports the reinsurance sector by providing clear guidelines, enhancing operational efficiency.

8. To issue clarification that retrocession is 're-insurance of re-insurance' and therefore, eligible for the exemption under Sl. No. 36A of the notification No. 12/2017-CTR dated 28.06.2017.

OUR COMMENTS: Exempting statutory collections by RERA from GST aligns with regulatory norms and reduces financial burdens on the real estate sector. This clarification supports regulatory compliance and ensures that RERA operations remain financially efficient.

9. To issue clarification that statutory collections made by Real Estate Regulatory Authority (RERA) are exempt from GST as they fall within the scope of entry 4 of No.12/2017-CTR dated 28.06.2017.

OUR COMMENTS: The CBIC may clarify by issuing circular that the statutory collections made by Real Estate Regulatory Authority (RERA) are exempt from GST.

10. To issue clarification that further sharing of the incentive by acquiring bank with other stakeholders, where the sharing of such incentive is clearly defined under Incentive scheme for promotion of RuPay Debit Cards and low value BHIM-UPI transactions and is decided in the proportion and manner by NPCI in consultation with the participating banks is not taxable.

OUR COMMENTS: Clarifying that the sharing of incentives among banks under the RuPay and BHIM-UPI promotion schemes is not taxable supports the digital payments ecosystem. This move encourages the adoption of digital payment methods, promoting financial inclusion and digital transactions.

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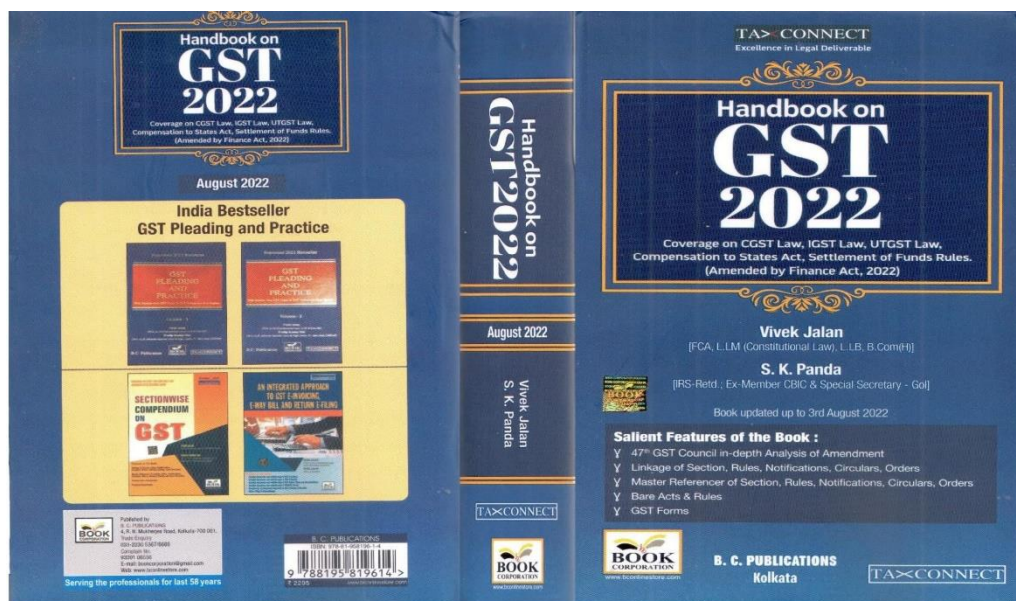
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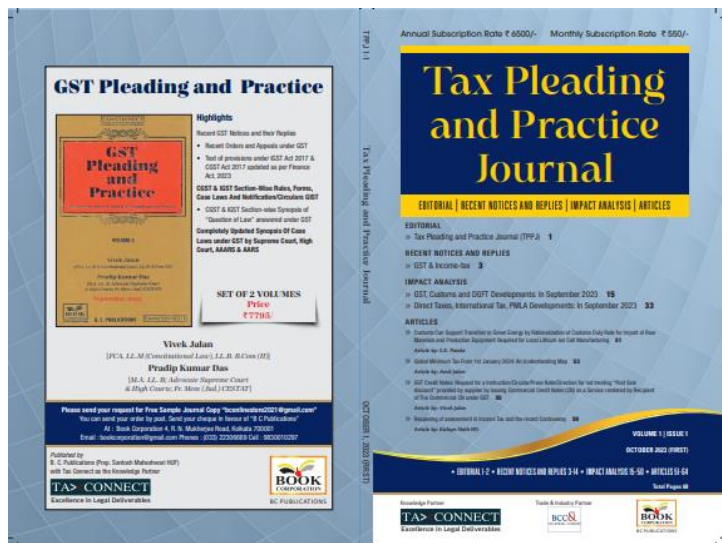
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