

Highlights of 48th GST council meeting

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The 48th GST Council meeting was held on 17th December 2022, virtually from New Delhi.

Smt Nirmala Sitharaman, the Union Finance Minister, chaired the meeting, along with the Finance Ministers of the States and UTs. Since it was scheduled after a gap of more than five months, it had around 15 items on its agenda. But only eight points, including data-sharing matters, were discussed. The rest of the agenda items like revenue augmentation matters, setting up of GST appellate tribunal, GST on Gutkha and pan masala etc. could not be taken up in this meeting. The key highlights of the 48th GST Council meeting are as follows:

Rationalisation of rates & clarifications

GST on pulse husks for cattle feed (including chilka and concentrates) was reduced to nil from 5%. Further, the concessional 5% GST on ethyl alcohol was extended to refineries for blending with petrol, which was earlier charged at 18%.

The Council has also issued some clarifications on tax rates for supply of goods and services are as follows-

- (i) Rab, also called rab-salawat is categorised under HSN code 1702, and GST rate of 18% gets charged.
- (ii) GST at 18% is charged on fryums made using extrusion, particularly covered under HSN code 19059030.
- (iii) Cess on SUV at 22% clarified- Applicable if meets 4 criteria-
- (iv) Popularly known as SUV, The engine capacity of more than 1500 cc, Length more than 4000 mm and Ground clearance equal to or more than 170 mm.

- (v) 5% GST is charged on imported equipment or goods classified in the concessional 5% GST rate category for petroleum operations and 12% GST applies if the general rate is higher than 12%.
- (vi) No GST is chargeable if the residential dwelling is rented to a GST-registered person in their personal capacity for their own use/account as a residence and not for business.
- (vii) No GST on incentives paid to banks by the Central Government as a subsidy under the promotion of RuPay Debit Cards and low-value BHIM-UPI transaction schemes

Amendments for improving trade facilitation

1. Decriminalise three offences under the GST law

- (i) The tax threshold for launching prosecution under GST or taking criminal action is increased from Rs.1 crore to Rs.2 crore, except for fake invoices. In other words, offences pertaining to the issuance of invoices without the sale of goods or services or both or dealing with fake invoices continue to be prosecuted if the tax amount is more than Rs.1 crore.
- (ii) Reduction in the compounding amount from the current tax range of 50%-150% to the range of 25%-100%
- (iii) Certain offences under Section 132(1) clauses (g), (j) and (k) of the CGST Act, such as obstruction or restricting any officer from discharging their duties, intentional tempering of material evidence and failure to provide the information.

2. Unregistered persons to get new GST refund rules

Earlier, there was no defined process for refund claims for the buyers not registered under GST upon cancellation of the contract/ agreement for the sale of services such as flat/house construction and long-term insurance policy and upon the expiry of the time limit to issue credit note by the supplier. The 48th GST Council decided to amend the CGST Rules and directed CBIC to issue a Circular for the procedure to file a refund application by such unregistered buyers.

3. Facilitate e-commerce for micro-enterprises

From 1st October 2023, GST-unregistered suppliers, dealers and composition taxable persons can sell goods through e-commerce operators within the state, subject to some conditions.

CBIC and GSTN will make the necessary amendments to the Rules via notifications, an amendment to the Act and get the GST portal ready for the new functionality within the defined timeline.

4. Clarifying the date of applicability for new entries in Schedule III

New entries were added in Schedule III (Items not covered under GST) from 1st February 2019, such as para 7 (sale from one non-taxable territory to another, such as high sea sales), para 8(a) (sale of warehoused goods before clearance for home consumption) and para 8(b) (Sale of goods by the consignee to any other person where goods are dispatched from the foreign port but before clearance for home consumption).

Confusion arose about their taxability from 1st July 2017 up to 31st January 2019, so the 48th GST Council recommended giving effect to these additions from the inception of GST. However, no refund of tax already paid shall be granted.

5. Reversal of ITC for non-payment of invoice within 180 days

CGST Rule 37(1) will be amended retrospectively from 1st October 2022 for ITC reversal to provide for reversal of input tax credit as per the second proviso to Section 16 of CGST Act, only to the extent of the invoice amount unpaid to the supplier versus the value of the supply, along with tax payable.

6. New CGST Rule 37A for ITC reversal

The GST Council decided to insert Rule 37A in CGST Rules that will define steps to reverse ITC claimed on taxes undeposited by the supplier within a specified date. Further, the process of re-availing such ITC where the supplier pays it subsequently will be provided. It allows easy compliance with the condition for claiming an input tax credit as per Section 16(2)(c) of the CGST Act.

7. Amendments for timely and easier appeal processing

Changes in CGST Rules 108(3) and 109: More clarity for submission of a certified copy of the order against which the appeal is filed and the final acknowledgement issued by the appellate authority.

Change in CGST Rule 109C and insertion of new form GST APL-01/03 W: Gives facility for withdrawing an appeal application up to a certain defined stage, avoiding litigations at the level of appellate authorities.

8. Insurance – No Claim Bonus (NCB) offered by insurance companies, especially in motor vehicle insurance, is allowed as a deduction from the taxable premium amount for valuation purposes.

9. Fresh GST Circulars will be issued on the following issues:

- (i) Treatment of pending GST dues from bankrupt businesses where proceedings are filed under the Insolvency and Bankruptcy Code, 2016 (IBC). Rule 161 of CGST Rules and form DRC-25 will be amended accordingly.
- (ii) Place of supply of mail/courier services for transportation of goods to places outside India under the proviso to Section 12(8) of the IGST Act and ITC availability to the recipient. The removal of that proviso from the law is further recommended by the Council.
- (iii) Procedure for verification of ITC differences between GSTR-3B and GSTR-2A for FY 2017-18 and 2018-19. It would reduce the need for litigations and give much-needed clarity to taxpayers and officers.
- (iv) Manner of demand re-determination as per Section 75(2) of the CGST Act. Suppose the tax officer claims there is a misstatement, suppression of returns, or fraud involving tax evasion but has not proved it. The taxes shall be recomputed under Section 73 and not as per Section 74.
- (v) Applicability of e-invoicing for a business entity. For instance, suppose the turnover during FY 2022-23 exceeds the threshold limit of Rs.10 crore, whether e-invoicing applies from the next financial year, i.e., 1st April 2023 or from the current year.

10. Grant of GST registration to TDS and TCS

CGST Rule 12(3) will be amended to introduce a facility to the GST-registered TDS deductor and TCS collectors for applying for the cancellation of GST registration.

Streamlining GST Compliance

1. Biometric-based Aadhaar authentication, as well as risk-based physical verification of GST registration applicants, is proposed in Gujarat on a pilot basis with amendments in CGST Rules 8 and rule 9 for curbing fake and fraudulent registrations.
2. Form REG-01 will capture PAN-linked mobile numbers and e-mail IDs (from the CBDT database) with OTP verification to restrict misuse of the PAN of a person and to curb identity thefts/frauds.
3. Amendment that will not allow the filing of all GST returns and statements, such as GSTR-1, GSTR-3B, GSTR-4, GSTR-9, GSTR-9C, etc., after a maximum of three years from the due date.
4. Amendment to GSTR-1 for allowing e-commerce operators and sellers to report sales through e-commerce operators, covered under Sections 52 and 9(5) of the CGST Act.
5. Insertion of CGST Rule 88C and form DRC-01B for intimation to the taxpayer, by the GST portal, for any tax liability differences between GSTR-1 and GSTR-3B for a tax period over a defined amount and/ or percentage, to either pay or explain the difference.
6. Further, a new clause (d) will be inserted in CGST Rule 59(6) to restrict the filing of GSTR-1 for future tax periods if the taxpayer has not deposited the tax laid down in the intimation. Further, that restriction may apply if he has also not replied to such intimation giving reasons for the pending unpaid tax without the intervention of the tax officers.
7. Amendment in the 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 reduce issues in interpretation and litigation on taxation of OIDAR Services.

Note: With related to the decisions of 48th GST Council, the CBIC has issued two notifications and six circulars on 26th and 27th December 2022. These changes will come into effect from 1st January 2023.

Source: PIB Press release, dated 17.12.2022

GST Revenue Performance

GST collections grow 15% to Rs 1.49 lakh crore in December 2022

This is the tenth month in a row, that the monthly GST revenues have been more than the Rs 1.4 lakh crore mark. The collections had touched a record high of nearly Rs 1.68 lakh crore in April. The second-highest collection was Rs 1.51 lakh crore in October. In November 2022, it was Rs. 1.45 crore.

The gross GST revenue collected during December 2022 is Rs 1,49,507 crore, of which CGST is Rs 26,711 crore, SGST is Rs 33,357 crore, IGST is Rs 78,434 crore (including Rs 40,263 crore collected on import of goods) and Cess is Rs 11,005 crore (including Rs 850 crore collected on import of goods). The Government has settled Rs 36,669 crore to CGST and Rs 31,094 crore to SGST from IGST as regular settlement. The total revenue of Centre and the States after regular settlements in the month of December 2022 is Rs 63,380 crore for CGST and Rs 64,451 crore for the SGST.

The revenues for the month of December 2022 are 15% 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 18% higher than the revenues from these sources during the same month last year. During the month of November, 2022, 7.9 crore e-way bills were generated, which was significantly higher than 7.6 crore e-way bills generated in October, 2022.

Kerala has collected Rs. 2185 crore in December, which is 15% higher than the GST revenues in the same month last year. This month Maharashtra posted the highest GST collection in absolute terms at Rs.23,598 crore. States like Karnataka, Gujarat, Tamil Nadu, Haryana and Uttar Pradesh have also shown impressive numbers.

Source: PIB Press release, dated 01.01.2023