

Highlights of 45th GST Council Meet

- **No Interest to be charged on ITC availed but not utilized:**

Retrospective amendment w.e.f. 1st July 2017 has been proposed in Section 50(3) to levy interest at the rate of 18% on 'Ineligible ITC which is availed and utilized', thereby implying no interest shall be levied on ineligible ITC which is availed but remains unutilized.

- **GST payable by E-Commerce operators:**

Services provided through E-commerce operator as enlisted below shall be liable to pay tax w.e.f. 1st January 2022:

- i. transport of passengers, by any type of motor vehicles through it;
- ii. restaurant services provided through it with some exceptions.

- **Amendment in Rule 36(4) proposed to discontinue practice of 5% provisional ITC:**

Rule 36(4) is proposed to be amended wherein the registered person shall be able to avail ITC only to the extent of Invoices/Debit Notes as furnished by the supplier in GSTR-1/IFF and thereby reflecting in GSTR-2B. With the said amendment, a registered person shall be not able to avail 105% of ITC.

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▪ Refund of tax paid under wrong head:

A proviso is proposed to be incorporated in CGST Rules to remove ambiguity with respect to procedure and time limit for filing Refund of tax wrongfully paid in terms of Sec 77(1) of the CGST Act, 2017 and Sec 19(1) of the IGST Act,2017.

▪ Transfer of unutilized CGST and IGST Cash Ledger Balance:

Any unutilized balance in CGST and IGST Cash Ledger may be allowed to be transferred between Distinct persons (entities having same PAN but registered in different states), without going through the refund procedure, subject to certain safeguards

▪ Relaxation in ITC-04:

FORM GST ITC-04 under Rule 45 (3) of the CGST Rules,2017 to be filed as under:

Annual Aggregate Turnover in preceding Financial Year	Frequency to file
More than Rs. 5 crores	Bi-annually
Upto Rs. 5 crores	Annually

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- **Amendment in Rule 59(6):** An amendment is proposed in Rule 59(6), wherein a registered person shall not be allowed to furnish FORM GSTR-1, if he has not furnished the return in FORM GSTR-3B for the preceding month.
- **Late Fee:** Late fee for delayed filing of FORM GSTR-1 to be auto-populated and collected in next open return in FORM GSTR-3B.
- **Aadhaar Authentication:** Mandatory Aadhaar authentication of registration for being eligible to file refund claim and application for revocation of cancellation of registration.
- **GST Refund:** Refund to be disbursed in the bank account, which is linked with same PAN on which registration has been obtained under GST.
- **Petroleum :** GST Council, after due deliberation was of the view that it is not appropriate to bring Petroleum products under the ambit of GST Regime. The matter was taken up by the GST Council on the directions of Hon'ble Kerala High Court.
- **Inverted Duty structure:**
 - GST Council decided to set up a GoM in order to examine the issue of correction of Inverted Duty Structure for major sectors, rationalizing the GST rates and review exemptions from the point of view of revenue augmentation.
 - GST Rate changes in order to correct inverted duty structure for footwear and textiles sector to be implemented w.e.f. 1st Jan 2022.

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- **Export of Services:** A clarification by way of Circular is proposed for Export of Services in terms of condition (v) of the Section 2 (6) of the IGST Act 2017 relating to interpretation of the term '*merely establishment of distinct person*'. It shall be clarified that a person incorporated in India under the Companies Act, 2013 and a person incorporated under the laws of any other country are to be treated as separate legal entities and would not be barred by the condition (v) of the sub-section (6) of the section 2 of the IGST Act 2017 for considering a supply of service as export of services.
- **Export of goods liable to Export Duty u/s 54(3):** Only those goods which are actually subjected to export duty i.e., on which some export duty has to be paid at the time of export, shall be covered under the restriction imposed under section 54(3) of CGST Act, 2017 from availment of refund of accumulated ITC.
- **Intermediary Services:** CBIC to issue a clarification on scope of 'Intermediary Services'.
- **Other clarifications:**
 - i. Date of issuance of Debit Note (and not the date of underlying invoice) shall determine the relevant financial year for the purpose of section 16(4) of CGST Act, 2017 w.e.f 1st Jan 2021;
 - ii. Where an E-invoice has been generated as prescribed under Rule 48(4) of CGST Rule, 2017, there is no need to carry the physical copy of tax invoice.

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Clarification in relation to GST rate on Goods:

- **Edibles:**
 - Carbonated Fruit Beverages of Fruit Drink" and "Carbonated Beverages with Fruit Juice" attract GST rate of 28% and Cess of 12%. This is being prescribed specifically in the GST rate schedule.
 - Distinction between fresh and dried fruits and nuts is being clarified for application of GST rate of “nil” and 5%/12% respectively;
 - Scented sweet supari and flavored and coated illachi falling under heading 2106 attract GST at the rate of 18%.
 - Tamarind seeds fall under heading 1209, and hitherto attracted nil rate irrespective of use. However, henceforth they would attract 5% GST rate (w.e.f. 1.10.2021) for use other than sowing. Seeds for sowing will continue at nil rate
- **UPS/Batteries/Inverters:** External batteries sold along with UPS Systems/ Inverter attract GST rate applicable to batteries [28% for batteries other than lithium-ion battery] while UPS/inverter would attract 18%.
- **Renewable Energy:** GST on specified Renewable Energy Projects can be paid in terms of the 70:30 ratio for goods and services, respectively, during the period from 1st July 2017 to 31st December 2018, in the same manner as has been prescribed for the period on or after 1st January 2019.

For more information, you may contact us at: idtgst@rnm.in

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Clarification in relation to GST rate on Goods:

- **Pharma & Laboratory:**
 - All laboratory reagents and other goods falling under heading 3822 attract GST at the rate of 12%.
 - It is being clarified that all pharmaceutical goods falling under heading 3006 attract GST at the rate of 12% [not 18%].
- **Others:**
 - Pure henna powder and paste, having no additives, attract 5% GST rate under Chapter 14.
 - Brewers' Spent Grain (BSG), Dried Distillers' Grains with Soluble [DDGS] and other such residues, under HS code 2303 attract GST at the rate of 5%.
 - Due to ambiguity in the applicable rate of GST on Fibre Drums, the supplies made at 12% GST in the past have been regularised. Henceforth, a uniform GST rate of 18% would apply to all paper and paper board containers, whether corrugated or non-corrugated.
 - Essentiality certificate issued by Directorate General of Hydrocarbons on imports would suffice; no need for taking a certificate every time on inter-state stock transfer.

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Highlights of 45th GST Council Meet

Major GST rate related changes for Goods:

S. No.	Description	From	To
1.	Retro fitment kits for vehicles used by the disabled	Appl. Rate	5%
2.	Fortified Rice Kernels for schemes like ICDS etc.	18%	5%
3.	Medicine Keytruda for treatment of cancer	12%	5%
4.	Biodiesel supplied to OMCs for blending with Diesel	12%	5%
5.	Ores and concentrates of metals such as iron, copper, aluminum, zinc and few others	5%	18%
6.	Specified Renewable Energy Devices and parts	5%	12%
7.	Cartons, boxes, bags, packing containers of paper etc.	12%/18%	18%
8.	Waste and scrap of polyurethanes and other plastics	5%	18%
9.	All kinds of pens	12%/18%	18%
10.	Railway parts, locomotives & other goods in Chapter 86	12%	18%
11.	Miscellaneous goods of paper like cards, catalogue, printed material (Chapter 49 of tariff)	12%	18%

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Major GST rate related changes for Goods:

S. No.	Description	From	To
12.	IGST on import of medicines for personal use, namely i. Zolgensma for Spinal Muscular Atrophy ii. Viltepso for Duchenne Muscular Dystrophy iii. Other medicines used in treatment of muscular atrophy recommended by Ministry of Health and Family Welfare and Department of Pharmaceuticals.	12%	Nil
13.	IGST exemption on goods supplied at Indo-Bangladesh Border haats	Appl. Rate	Nil
14.	Unintended waste generated during the production of fish meal except for Fish Oil	Nil (for the period 1.7.2017 to 30.9.2019)	

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Major GST rate related changes for Covid-19 related drugs:

- Extension upto 31st December 2021 of GST concessional rates (currently valid till 30th September, 2021) on following Covid-19 treatment drugs:
 - i. Nil : Amphotericin B , Tocilizumab
 - ii. 5 % : Remdesivir and Anti-coagulants like Heparin
- Reduction in GST rates to 5% upto 31st December 2021 on following Covid-19 treatment drugs:
 - i. Itolizumab
 - ii. Posaconazole
 - iii. Infliximab
 - iv. Favipiravir
 - v. Casirivimab & Imdevimab
 - vi. 2-Deoxy-D-Glucose
 - vii. Bamlanivimab & Etesevimab

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Clarification in relation to GST rate on Services:

- Coaching services to students provided by coaching institutions and NGOs under the central sector scheme of ‘Scholarships for students with Disabilities’ is exempt from IGST
- Services by cloud kitchens/central kitchens are covered under ‘restaurant service’, and attract 5% GST [without ITC].
- Ice cream parlor sells already manufactured ice- cream. Such supply of ice cream by parlors would attract GST at the rate of 18%.
- Overloading charges at toll plaza are exempt from GST being akin to toll.
- The renting of vehicle by State Transport Undertakings and Local Authorities is covered by expression ‘giving on hire’ for the purposes of GST exemption
- The services by way of grant of mineral exploration and mining rights attracted GST rate of 18% w.e.f. 01.07.2017.
- Admission to amusement parks having rides etc. attracts GST at 18%.; GST rate of 28% shall apply only to admission to such facilities that have casinos etc.
- Alcoholic liquor for human consumption is not food and food products for the purpose of the entry prescribing 5% GST rate on job work services in relation to food and food products.

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Major GST rate related changes in Services:

S. No.	Description	From	To
1.	Validity of GST exemption on transport of goods by vessel and air from India to outside India is extended upto 30.9.2022.	Nil	Nil
2.	Services by way of grant of National Permit to goods carriages on payment of fee	18%	Nil
3.	Skill Training for which Government bears 75% or more of the expenditure [presently exemption applies only if Government funds 100%]	18%	Nil
4.	Skill Training for which Government bears 75% or more of the expenditure [presently exemption applies only if Government funds 100%]	18%	Nil
5.	Licensing services/ the right to broadcast and show original films, sound recordings, Radio and Television programmes [to bring parity between distribution and licensing services]	12%	18%
6.	Printing and reproduction services of recorded media where content is supplied by the publisher (to bring it on parity with color printing of images from film or digital media)	12%	18%
7.	Exemption on leasing of rolling stock by IRFC to Indian Railways withdraw		

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