

SUMMARY OF 45TH GST COUNCIL MEETING DECISIONS

A. COVID-19 Relief Measures

1. Concessional GST rates on specific COVID-19 treatment drugs extended till December 31, 2021 (from September 30, 2021)

Amphotericin B – Nil; Remdesivir – 5%; Tocilizumab – NIL; Anti-coagulants like Heparin – 5

2. Reduction in GST rate to 5% on COVID-19 treatment drugs up to 31st December, 2021

Itolizumab; Posaconazole; Infliximab; Favipiravir; Casirivimab & Imdevimab; 2-Deoxy-D-Glucose; Bamlanivimab & Etesevimab

B. Measures for Trade facilitation:

1. Relaxation in the requirement of filing FORM GST ITC-04:
 - Taxpayers whose Annual Turnover in preceding FY < 5 Crores, shall furnish ITC-04 once in six months, instead of quarterly.
 - Taxpayers whose Annual Turnover in preceding FY is upto 5 Crores, shall furnish ITC-04 annually, instead of quarterly.
2. Section 50(3) of the CGST Act to be amended retrospectively, w.e.f. 01.07.2017, to provide that interest is to be paid by a taxpayer on “ineligible ITC availed and utilized” and not on “ineligible ITC availed.
3. Unutilized balance in CGST and IGST cash ledger may be allowed to be transferred between distinct persons under same PAN.
4. Issuance of Circular on various issues to remove ambiguity and legal disputes
 - Clarification on scope of “intermediary services”; (Refer Circular below as Annex A)
 - Clarification relating to interpretation of the term “merely establishment of distinct person” in condition (v) of the Section 2 (6) of the IGST Act 2017 for export of services. (Refer Circular below as Annex B)
 - Clarification in respect of certain GST related issues:
 - i. W.e.f. 01.01.2021, the 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

- ii. No need to carry the physical copy of tax invoice in case of E-Invoice
 - iii. 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, will be covered under the restriction imposed under section 54(3) of CGST Act, 2017 from availment of refund of accumulated ITC.
5. Provision to be incorporated in CGST Rules, 2017 for removing ambiguity regarding procedure and time limit for filing refund of tax wrongfully paid as specified in section 77(1) of the CGST/SGST Act and section 19(1) of the IGST Act.

C. Measures for streamlining compliances in GST

1. Aadhaar authentication mandatory for filing refund claim and application for revocation of cancellation of registration.
2. Late fee for FORM GSTR-1 to be auto-populated and collected in next open return in FORM GSTR-3B.
3. Refund to be disbursed in the bank account, which is linked with same PAN
4. Rule 59(6) to be amended w.e.f. 01.01.2022 to provide that 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.
5. Rule 36(4) of to be amended, once the proposed clause (aa) of section 16(2) is notified to restrict availment of ITC, to the extent, invoices/debit notes are furnished by the supplier in FORM GSTR-1/IFF and are communicated to the registered person in FORM GSTR-2B.

D. GST rate changes and scope of exemption on Services effective October 1, 2021

<u>S.No.</u>	<u>Description</u>	<u>Existing</u>	<u>Proposed</u>
1	GST exemption on transport of goods by vessel and air from India to outside India extended upto September 30, 2022	-	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 Govt funds 100%].	18%	Nil

4	Services related to AFC Women's Asia Cup 2022.	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 licencing services]	12%	18%
6	Printing and reproduction services of recorded media where content is supplied by the publisher (to bring it on parity with Colour printing of images from film or digital media)	12%	18%
7	Exemption on leasing of rolling stock by IRFC to Indian Railways withdrawn		
8	E-commerce Operators will be made liable to pay tax on following services provided through them effective January 1, 2022: <ul style="list-style-type: none"> • transport of passengers by any type of motor vehicles • restaurant services with some exceptions 		
9	Certain relaxations have been made in conditions relating to IGST exemption relating to import of goods on lease, where GST is paid on the lease amount, so as to allow this exemption even if: <ul style="list-style-type: none"> • such goods are transferred to a new lessee in India upon expiry or termination of lease; and • the lessor located in SEZ pays GST under forward charge 		

E. Clarification in relation to GST rate on Services:

Sl. No.	Description	Proposed
1	Coaching services to students provided by coaching institutions and NGOs under the central sector scheme of 'Scholarships for students with Disabilities'	Exempt
2	Services by cloud kitchens / central kitchens covered under 'restaurant service'	5% (without ITC)
3	Ice cream parlours selling manufactured ice-cream	18%
4	Overloading charges at toll plaza	Exempt
5	Renting of vehicle by State Transport Undertakings and Local Authorities covered by expression 'giving on hire'	Exempt
6	Services by way of grant of mineral exploration and mining rights effective July 1, 2017	18%
7	Admission to amusement parks having rides etc: <ul style="list-style-type: none"> • Excluding Casinos • Including Casinos 	18% 28%
8	Alcoholic liquor for human consumption is not 'food and food products' for the purpose of prescribing 5% GST rate on job work services in relation to 'food and food products'	

F. Changes/ Clarification in relation to GST rate on Goods:

1. Carbonated fruit beverages of fruit drink and carbonated beverages with fruit juice to attract GST at 28% plus cess of 12%
2. Increasing GST rate from 5% to 18% on iron, manganese, copper, nickel, cobalt, aluminium, lead, zinc, tin, chromium ores & concentrates
3. Levying 18% GST on papers sacks.
4. Reduces GST on oncology medicines from 12% to 5%
5. GST rate on waste parings and scrap of polyurethane and other plastics may be reduced to 18% to 5%
6. Single rate of 18% on all sorts of pens
7. Reduces GST on biodiesel supplied to OMCs for blending with diesel, from 12% to 5%
8. Supply of Mentha Oil – Has to be brought under RCM and export allow only on LUT and consequential refund of ITC.
9. Brick Kilns -Brick kilns would be brought under special composition scheme with threshold limit of Rs. 20 lakhs, with effect from 1.4.2022. Bricks would attract GST at the rate of 6% without ITC under the scheme. GST rate of 12% with ITC would otherwise apply to bricks.
10. GST rate changes in order to correct inverted duty structure, in footwear and textiles sector, as it was discussed in earlier GST Council Meeting will now be implemented with effect from 1st Jan, 2022.

ANNEXURE A

Circular No. 159/15/2021-GST dt. 20-09-2021

Clarification has been issued to reduce the litigation in relation to meaning of intermediary for export of services which are treated as intermediary services by department earlier.

Intermediary service will be consider if:

1. There should be minimum three parties.
2. Two distinct supply should be there i.e. Main Supply and Ancillary supply.
3. Role of intermediary is supportive.
4. Intermediary does not supply the goods or services or both or securities on his own account.
5. Sub-contracting for a service is not intermediary service.

Circular No. 159/15/2021(161/17/2021)-GST Dt. 20.09.2021

Foreign Parent/ Subsidiary Co. be treated as separate legal entities

It is clarified that a company incorporated in India and a foreign company under Companies Act, are separate persons under CGST Act, and thus are separate legal entities.

Accordingly, these two separate persons would not be considered as “merely establishments of a distinct person in accordance with Explanation 1 in section 8”.

The supply from a company incorporated in India to its related establishments outside India, which are incorporated under the laws outside India, would not be treated as supply to merely establishments of distinct person under Explanation 1 of section 8 of IGST Act 2017.

Such supplies, therefore, would qualify as ‘export of services’, subject to fulfilment of other conditions.