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Major Takeaways from 55th Gst Council Meeting At Jaisalmer

The recent GST council meeting has made certain important recommendations which are expected to be implemented in the new year. The recommendations are a further step forward for clarifying few contentious issues and to bring certainty in certain interpretational matters.

Though unwillingly, the recommendations have also created new avenues for doubts and absurd interpretations in some areas. Read on.

Sponsorship Services

Sponsorship services are covered under reverse charge mechanism (RCM) and the recipient is liable to pay tax even if the service provider is registered. This proposition of law has been introduced in erstwhile Service tax law and continued till now in GST regime.

For a business entity providing sponsorship services, this reverse charge mechanism brings cascading effect as input tax credit (ITC) on various inputs / input services used for providing sponsorship services (such as cost of events etc.) is not allowed. There is a growing trend in trade to avoid the nomenclature of sponsorship services and rather term the service as advertisement services so as to keep it in forward charge mechanism to avoid reversals of ITC. Taking cognizance of the said practice and futility of RCM, the council has recommended to bring supply of the sponsorship services provided by the body corporates under Forward Charge Mechanism.

Compensation Cess for Merchant Exporters

Through notifications issued as early as in year 2017 itself, the GST rate on all goods supplied by any supplier to merchant exporters has been reduced to 0.1% only. This has been done to ensure that working capital of merchant exporters is not blocked in GST charged by indigenous suppliers. However, similar notification was not issued in Compensation Cess Act thereby resulting in levy of compensation cess at normal rates.

To bring parity, the council has recommended to reduce the rate of Compensation Cess to 0.1% on supplies to merchant exporters at par with GST rate on such supplies.

Restaurants in Hotels

Rate of GST for restaurants has been reduced to 5% earlier without benefit of ITC. 18% GST rate was continued only for restaurants located within the high-end hotels where room tariffs of more than Rs. 7,500/- per day is charged.

This reduction was appreciated by trade as well as by public at large. However, this has created ITC reversal issues for Hoteliers (having rooms below Rs. 7,500/-) which have restaurants also within their hotel premises.

Now, the council has recommended alteration in the rates as tabulated below:

Restaurants in a hotel with room rate of more than Rs. 7,500/- per day for any room charged in last financial year	18% GST mandatory with full ITC benefit
Restaurants in other hotels	Option is given to charge 18% GST with full ITC benefit; or To charge 5% GST without ITC benefit
All other stand-alone restaurants	Mandatory 5% GST without ITC benefit



Tax on Old & Used Vehicle Sale

Perhaps the second most talked-about recommendation (first being the popcorn story) of this council meeting, relates to rate of tax on sale of old & used vehicle. The margin scheme has been prescribed for sale of second-hand vehicles so as to avoid GST applicability on full sale value of old & used vehicle. This margin scheme implies that GST is to be paid only on margin earned by the seller i.e. on excess of sale price over the purchase price. If the sale price is lower than the purchase price, then there will be no GST.

However, if depreciation has been claimed on the vehicle under the Income Tax Act by the seller, then margin is calculated as excess of sale price over the WDV i.e. depreciated value of the vehicle.

On the margins earned, rate of GST is 18% for all vehicles except for few specified vehicles where rate of tax is 12%. This council meeting has recommended enhancement of this 12% rate to 18% for specified vehicles.

Inadvertently, the speech of Finance Minister has created the confusion that margin scheme itself has been amended which is not the case.

The margin scheme continues and council has only recommended enhancement of rate of tax from 12% to 18%.

Tax on Penal Charges by Banks / NBFCs

A long-awaited recommendation has been made by the Council by clarifying that no GST is payable on the 'penal charges' levied and collected by banks and NBFCs from borrowers for non-compliance with loan terms.

Hitherto, the banks / NBFCs were burdened with GST levy of 18% on charges / levies debited to defaulting borrowers accounts. This GST was payable even if the recovery from borrower account is not expected or the borrower accounts has been turned in to NPA. Now, this exemption is given to ensure that penal charges are not further increased by 18% levy.

Tax on Vouchers

Vouchers are widely used now-a-days across the businesses to solicit customers, to enhance sales and to promote goods / services. With time, various intermediaries have also started trading in these vouchers which can be redeemed by the Customers while transacting with the issuer of vouchers. GST laws, as of now, provides that vouchers are treated as goods or services based on their underlying substance i.e. voucher for goods is treated as goods and voucher for services is treated as service. Accordingly, GST rate on vouchers is identical to that on underlying goods or services. It is also prescribed in the law that GST is payable on the vouchers at the time of issuance itself if ultimate supply of goods or services is identifiable.

In a significant move to address long-standing concerns regarding the taxability of vouchers under GST, the GST Council made the following recommendations:

- (a) Transactions in vouchers shall be treated neither as a supply of goods nor as a supply of services.
- (b) Thus, no GST is payable on the vouchers at the time of their issuance.
- (c) In case, a voucher is issued and same remains unredeemed, then also no GST is payable on unredeemed vouchers (breakage) when income is booked in the accounts in respect of breakage.

These recommendations will certainly assist in further growth of ever-expanding vouchers trade.

Tax on FSI

Another important area of deliberation of this council meeting was related to taxability of floor space index (FSI) charges collected by local authorities / municipality. As of now, GST is not applicable on these charges as these charges are considered as part of constitutional functions entrusted to municipalities.

Various state governments are intending to tax these charges as significant amounts are involved in these transactions. However, this matter was deferred for further examination on the behest of the Central Government on the ground that this amount relates to Municipalities or local authority. The final outcome on this issue is awaited.

The Popcorn Story

Arguably, the most popular of all the recommendations ever made by the council, the council has clarified the multi-rate regime for popcorns, as tabulated below –

Ready to eat popcorn which is mixed with salt and spices	5% GST if not pre-packed & labelled
Ready to eat popcorn which is mixed with salt and spices	12% GST if pre-packaged and labelled
Popcorn mixed with sugar (say caramel popcorn)	18% GST

POPCORN TAX



The clarity is given due to diverse practices followed and to bring clarity. But, this recommendation has faced criticism for making things complicated by having 3 rates for a product like popcorn.

Disclaimer

This update is not a comprehensive coverage of all recommendations made by the Council but only touch upon few important recommendations which are useful for trade, in general.

The recommendations are effective only when a Notification or Circular is issued by the Competent authority and the interpretation of the said Notification or Circular becomes important. Therefore, one need to refer to the Notification or circular issued based on the Council recommendations.

You can certainly reach out to us for any query or assistance in this regard.