

55th GST COUNCIL RECOMMENDATION



BANSI S. MEHTA & CO.

Chartered Accountants

PREFACE

This e-booklet highlights the key recommendations in put forth by GST Council in the 55th GST Council Meeting. The e-booklet is compiled for private circulation amongst clients and professional colleagues only. It is not meant for general circulation and is under no circumstances an offer, invitation or solicitation of any kind. This e-booklet is intended to be a succinct overview of the proposals put forth and is neither to be construed as comprehensive nor as to render taxation, legal, economic or financial advice. This e-booklet should not be relied upon for taking any actions/ decisions on the contents of the e-booklet and proper professional/ legal advice should be sought.

The material used in the preparation of this e-booklet has been sourced from various sources including the speech of the Finance Minister, websites of the Government and other publicly available information. While all reasonable care has been taken in preparation of this e-booklet, we accept no responsibility for any errors it may contain or for any omissions or otherwise or for any loss, howsoever caused or sustained, by the person who relies on it.

CONTENT

Goods and Service Tax

Goods

Reduce the rate of Compensation Cess to 0.1% on supplies to merchant exporters at par with GST rate on such supplies. 5

Increase in rate of GST on sale of old and used car to 18%. 5

Services

Sponsorship service shifted to forward charge mechanism 5

Option of 18% with ITC for restaurant services in hotels 6

No GST on penal charges 6

Voucher

GST implications on vouchers 7

E-commerce

E-commerce operator 7

ITC

Amendment in Section 17(5)(d) of the CGST Act. 7

Miscellaneous



Commonly used Abbreviations

CGST	Central Goods and Service Tax
GST	Goods and Services Tax
IGST	Integrated Goods and Services Tax
ITC	Input Tax Credit
RCM	Reverse Charge Mechanism
SGST	State Goods and Services Tax
u/s.	Under section
UTGST	Union Territory Goods and Services Tax

Goods and Services Tax

Goods

To reduce the rate of Compensation Cess to 0.1% on supplies to merchant exporters at par with GST rate on such supplies.

Proposed Recommendations

It has been proposed to reduce the rate of compensation cess to 0.1% on supplies made to merchant exporters at par with GST rate on such supplies.

Our Comments

The supplies by merchant exporters were leviable to GST@0.1%. However, no concession was provided in the rates for compensation cess which continued to be levied at the respective rates. This was an aberration which has now been rectified.

Increase in rate of GST on sale of old and used car to 18%.

Proposed Recommendations

It has been recommended to increase the rate of GST on sale of old and used car (including EVs) from 12% to 18% on the margin of the supplier i.e., difference between purchase price/depreciated value and selling price..

Our Comments

Certain old and used cars with larger engine capacity and longer lengths were already being levied to GST@18% on the margin. This is a rate rationalisation measure after which rate of GST on smaller vehicles will also be 18% on margin. This change will not impact unregistered individuals. This change will have an impact on organised used car dealers like Cars24, Spinny etc.

Services

Sponsorship service shifted to forward charge mechanism

Proposed Recommendations

It has been recommended to shift supply of sponsorship services provided by the body corporates under Forward Charge Mechanism from Reverse Charge Mechanism

Our Comments

This is a welcome change and will bring consistency in GST treatment between sponsorship service and advertising service/sale of space for advertisement.

Earlier, sponsorship service was under reverse charge mechanism whereas advertising service and purchase or sale of advertising space or time was under forward charge mechanism. Sponsorship service was not specifically defined under GST. Further, the scope of sponsorship services was overlapping with advertising services and sale of space for advertising leading to divergent practices adopted by the industry and litigation.

The aforesaid issues were further compounded by the fact that supplier was liable to reverse input credit on inward supplies received for providing sponsorship services (as ITC of services taxable under RCM is not available in the hands of the supplier) whereas ITC with respect to advertising services was available leading to loss of huge credits in the hands of sporting league teams etc.

Option of 18% with ITC for restaurant services in hotels

Proposed Recommendations

Optional rate of GST of 18% with ITC/5% without ITC on supply of restaurant services located within hotels w.e.f. 1.4.2025. Option has to be chosen at the beginning of financial year

Our Comments

This is a positive change for the hotel industry who will now be allowed to retain ITC on restaurants services (if 18% rate is opted). Thus, most hoteliers will now be allowed input tax credit on all services supplied streamlining compliances and aiding to ease of doing business.

No GST on penal charges

Proposed Recommendations

To clarify that GST is not applicable on 'penal charges' imposed and collected by banks and NBFCs from borrowers for non-compliance with loan terms.

Our Comments

This recommendation comes after RBI's fresh guidelines regarding levy of penal charges in place of penal interest. In wake of such clarification, there was confusion amongst trade and industry whether penal charges are also in the nature of penal

interest and hence exempt from GST.

Vouchers

GST implications on vouchers

Proposed Recommendations

It has been recommended to specify that transactions in vouchers will neither be treated as supply of goods nor supply of services.

The provisions with respect to time of supply in case of vouchers will also be deleted.

However, any additional services related to vouchers will be leviable to GST on the amount paid for the services.

Our Comments

The taxability of vouchers has consistently been a bone of contention under GST with different players adopting different practices. The matter has also travelled up to High Courts where it has been held that voucher is merely in the nature of a prepaid instrument and neither qualifies as good nor services. The clarification is in line with the same.

However, considering GST is payable at the time of receipt of advance for services, it remains to be seen how vouchers for identified services will be taxed under GST.

E-Commerce

E-commerce operator

Proposed Recommendations

It has been recommended that electronic commerce operators are not required to proportionately reverse ITC for supplies on which they are obligated to pay tax under Section 9(5) of the CGST Act

ITC

ITC on ex-works supply

Proposed Recommendations

It has been recommended to clarify that in an ex-works contract, where goods are handed over by the supplier to the recipient or transporter at the supplier's business premises, and ownership of the goods transfers to the recipient at that point, the goods

are deemed to be "received" by the recipient under Section 16(2)(b) of the CGST Act and thus ITC available.

Amendment in Section 17(5)(d) of the CGST Act.

Proposed Recommendations

It has been recommended to amend Section 17(5)(d) of the CGST Act to replace the phrase "plant or machinery" with "plant and machinery" retrospectively w.e.f. 1.7.2017

Our Comments

The said recommendation although adverse for the assesseees is on expected lines.

The said amendment has been proposed to overcome the judgements in the case of Safari Retreats 2024 (10) TMI 286- Supreme Court which held that the definition of "plant and machinery" provided under Section 17 cannot be made applicable to the phrase "plant or machinery" which had enabled assesseees to take credit on certain buildings which was otherwise excluded under the definition of "plant and machinery".

However, it is to be noted that the judgement had also made certain observations with respect to the phrase "on own account". There have been no recommendation to overcome the said observations.

Miscellaneous

Proposed Recommendations

- ∞ Input Service Distributor (ISD) to include inter-state RCM transactions under the ISD w.e.f. 1.4.202
 - ∞ To insert new provisions for enabling the Government to enforce 'track and trace' mechanism for tax evasion prone commodities.
 - ∞ To make amendments in the Act to reduce the pre-deposit to 10% for filing appeals before the Appellate Authority in cases involving only demand of penalty from the earlier amount of 25%. A proviso will also be inserted specifying for a pre-deposit at 10% for filing appeals before Appellate Tribunal.
 - ∞ To make amendments in the Act/Rules to provide legal sanctity in respect of the newly introduced Invoice Management System (IMS)
-



Mumbai

11/13, Botawala Building, 2nd floor, Room No. 9,
Horniman Circle, Fort, Mumbai — 400 001
+91 22 2266 1255, +91 22 2266 5275
bsmco.bbo@bansimehta.com

Mumbai

Merchant Chamber, 3rd Floor, 41, New Marine
Lines, Mumbai — 400 020
+91 22 2200 4002, +91 22 2201 4922
bsmco.mco@bansimehta.com

Chennai

No. 28, Anugraha, Ground Floor, Murray's Gate
Road, Alwarpet, Chennai-600 018
Tel: +91 044 2499 1671
Email: bsmco.chn@bansimehta.com

Website

www.bansimehta.com

Delhi

417, World Trade Centre, 4th Floor, Babar Road,
Connaught Place, New Delhi — 110 001
+91 11 4152 2771
bsmdelhi@bansimehta.com

Surat

Tower A - 604, Swastik Universal, Opp.
Central Mall, Near Vesu, New Magdalla, Surat
— 395007
+91 261 4614460, +91 99875 23838
bsmco.srt@bansimehta.com

Hyderabad:

Flat No. 104, Door 6-2-948, Pavani Plaza,
Khairatabad, Hyderabad
Telengana-500 004
Tel: +91 70133 40599
Email: bsmco.hyd@bansimehta.com