

Updates of 39th GST Council Meeting held on March 14, 2020

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The [39th GST Council met](#) under the Chairmanship of Union Finance & Corporate Affairs Minister Smt. Nirmala Sitharaman. The meeting was also attended by Union Minister of State for Finance & Corporate Affairs Shri Anurag Thakur besides Finance Ministers of States & UTs and seniors officers of the Ministry of Finance. The various changes approved by the Council are as under:

Section 9 – Levy and collection

1. Council defers the proposal on taxability of economic surplus of brand owners of alcohol for human consumption. (Source: Economic Times)

Section 16 - Input Tax Credit (ITC)

2. To curb fake invoicing and fraudulent passing of ITC, restrictions will be imposed on passing of the input tax credit in case of new GST registrations before physical verification of premises and financial KYC (Know Your Customer) of the registered persons.

Comment: Aadhar based authentication has been introduced vide [Finance Act, 2019](#), made effective from 01.01.2020, which introduced [sub-sections 6A, 6B, 6C and 6D in section 25](#) of [CGST Act, 2017](#). Such measures would ensure that a registered person exists in reality and no bogus registration has been taken under the Act.

Section 17 - Apportionment of credit and blocked credits

3. Amendment to be carried out in procedure for reversal of input tax credit in respect of capital goods, partly used for affecting taxable supplies and partly for exempt supplies under [rule 43 \(1\)\(c\)](#).

Section 18 - Availability of credit in special circumstances

4. Clarification in apportionment of input tax credit in cases of business reorganization under [section 18 \(3\)](#) of [CGST Act](#) read with [rule 41\(1\)](#) of [CGST Rules](#).

Comment: The mechanism to transfer credit in case of sale, merger, amalgamation, lease or transfer of business is sought to be clarified. For instance, if a registered person opts to convert his status from a partnership firm to a company, there is no clear well defined procedure in law to address certain practical difficulties including treatment of inward supplies of goods in transit as on date of conversion. Let us see how the Government would clarify practical business requirements.

Section 25 – Procedure for registration

5. Council to finalize contours for Aadhar-based authentication.
6. Rules to be amended to operationalize Aadhaar authentication for new taxpayers.

Comment: Above measures are aimed to ensure prevention of bogus registrations under the Act and thereby circulation of fake input tax credit.

Section 30- Revocation of cancellation of registration

7. One-time measure is proposed to facilitate those persons who want to conduct business, their application for revocation of cancellation of registration can be filed up to 30.06.2020 (applicable to cancelled registration till 14.03.2020).

Comment: A trade facilitation measure has been approved by the Council.

Section 31 read with Rule 46 and 48 - Tax invoice

8. GST council to consider deferment of e-invoicing & QR code benefits to 01.10.2020, may also exempt certain taxpayers from e-invoicing & QR code.
9. Certain class of registered persons (insurance company, banking company, financial institution, non-banking financial institution, GTA, passenger transportation service etc.) to be exempted from issuing e-invoices or capturing dynamic QR code.


Comment: Though certain industries were required to be exempted from this requirement but in author's view, instead of excluding banking, insurance, NBFC sector from the requirement to have e-invoice and QR Code on every transaction, a special procedure could have been approved. Excluding certain sectors from this system and also introducing this requirement for certain class of registered persons would make the law complex.

Section 37, 38 - Furnishing details of Outward Supply and inward supply

10. For FY 2019-20, requirement of filing of GSTR 1 to be waived off for the persons who could not opt for availing the option of special composition scheme under notification No. 2/2019-CT (Rate) dated 07.03.2019 in Form GST CMP-02. [To give composition scheme for supplier of services with a tax rate of 6% having annual turnover in preceding year upto ₹ 50 lakhs.]
11. A new facility called '**Know Your Supplier**' is to be introduced so as to enable every registered person to have some basic information about the suppliers with whom they conduct or propose to conduct business.

Comment: Now a registered person can see rating of his vendor.

Section 39, 43A - Return

12. GST Council to continue with GSTR 1 & GSTR 3B till September, 2020 & deferred the new return system, which was supposed to be implemented from 1st April, 2020.
13. Extension of due dates for FORM GSTR-3B for the month of July, 2019 to January, 2020 till 24th March, 2020 for registered persons having principal place of business in the Union territory of Ladakh. Similar extension is also recommended for GSTR 1 & FORM GSTR-7. 

Comment: The State of Jammu & Kashmir was re-organized into Union Territory of Jammu & Kashmir and Union Territory of Ladakh from 31st day of October, 2019. Accordingly, a transitional scheme was notified vide NN 62/2019- CT dated 26.11.2019 and The Jammu & Kashmir Goods and Services Tax Act, 2017 was made applicable to the Union Territory of Jammu & Kashmir as well as Union Territory of

Ladakh. Also, due date for filing **GSTR-3B** for the period July 2019 to October 2019 was extended to 20.12.2019 for registered persons located in the State of Jammu & Kashmir. Now, proposed extension is allowed for the Union Territory of Ladakh.

Section 44- Annual Return

14. Due date for filing of **GSTR-9** (Annual Return) & **GSTR-9C** (Reconciliation Statement) for FY 2018-19 has been extended till June 30, 2020 and the turnover limit has been increased from ₹ 2 crore to ₹ 5 crore for the filing of mandatory **Form GSTR-9C**.

Section 47 - Levy of late fee

15. Late fees to be waived for delayed filing of **GSTR-9** and **GSTR-9C** for FY 2017-18 and 2018-19 for taxpayers with aggregate turnover less than ₹ 2 crores.

Section 50 - Interest on delayed payment of tax

16. Interest for delay in payment will now be charged on net tax cash liability (retrospective amendment from 01.07.2017).

Comment: This proposal is industry friendly and in line with the legal views expressed by professional forums.

Section 54 - Refund of tax

17. Bunching of refund claims allowed across financial years to facilitate exporters.

Comment: At present, a registered person is allowed to merge refund applications for a period greater than one tax period and the same cannot be spread over two financial years [[Circular Number 37/11/2018-GST dated 15.03.2018](#)]. All this has resulted in accumulation of input tax credit where assessee's were not able to apply for refund in respect of balance lying unutilized as at end of financial year. This proposition was retained by CBIC in its master [Circular Number 125/44/2019-GST dated 18.11.2019](#), para 8 refers. It is to be noted that Hon'ble Delhi High Court in [M/S PITAMBRA BOOKS PVT. LTD. VERSUS UNION OF INDIA & OTHERS \[2020 \(2\) TMI 169 - DELHI HIGH COURT\]](#) WP(C) 627/2020 has stayed para 8 of Circular Number 125 (supra) and directed petitioner to file manual application for refund. Now, GST Council has decided to allow refund of unutilized balance at end of financial year. It may be noted that aggrieved assessee's shall file refund application after amendment is made in law.

18. Clarification on refund related issues to be issued.
19. Rules to be amended for ceiling to be fixed for the value of the export supply for the purpose of calculation of refund on zero rated supplies.
20. Rules to be amended to allow for refund to be sanctioned in both cash and credit in case of excess payment of tax.

Comment: It means that refund would be allowed in form in which excess payment was made. If excess payment is made from credit ledger, then refund would be made in electronic credit ledger. On the contrary, if the same is made in cash, then refund would be made in cash.

21. Rules to be amended to provide for recovery of refund on export of goods where export proceeds are not realized within the time prescribed under FEMA.

Section 112 – Appeals to Appellate Tribunal

22. Clarification on appeals during non-constitution of the Appellate Tribunal to be issued.

Section 150- Obligation to furnish information return

23. Seeking information about returns from banks.

Rates of GST

24. Changes in rates:

S.No.	Recommendations	HSN	Old rate of GST	New rate of GST	Effective Date
1	Mobile phones and specified parts	8517	12%	18%	01.04.2020
2	Handmade matches	3605 00 10	5%	12%	01.04.2020
3	Other matches	3605 00 90	18%	12%	01.04.2020
4	Rate for Maintenance, Repair and Overhaul (MRO) services for aircraft to change place of supply for B2B MRO services to the location of recipient.	998714	18%	5% with full ITC	01.04.2020

Note: Domestic MRO will also get protection due to 5% tax paid under [section 3\(7\)](#) of the [Customs Tariff Act, 1975](#) on most imported goods (sent abroad for repairs) as this tax is not available as credit.

25. GST council deferred proposal of hike in rates on fertilizers & footwear due to current economic slowdown and impact of coronavirus.
26. Council decides to defer the proposal of rate rationalization on textiles.

Section 146. Common portal

27. GST Council takes a detailed review of IT glitches; Sushil Modi gives a detailed presentation on current IT challenges faced by taxpayers.
28. Infosys Nilekani gave GST Network presentation to Council. Council ask Infosys to improve GST Network by July. Shri Nandan Nilekani would attend next 3 meetings of GST Council & update the council of the status of implementation of the decisions taken by council.

Section 148. Special procedure for certain processed

29. A special procedure for registered persons in Dadra and Nagar Haveli & Daman and Diu during transition period, consequent to merger of the UTs w.e.f. 26.01.2020; transition to be completed by 31.05.2020.
30. A special procedure is being prescribed for registered persons who are corporate debtors under the provisions of the [Insolvency and Bankruptcy Code, 2016](#) and are undergoing the corporate insolvency resolution process, so as to enable them to comply with the provisions of GST Laws during the CIRP period.
31. Clarification on special procedure for registered persons who are corporate debtors under the provisions of the [Insolvency and Bankruptcy Code, 2016](#), undergoing the corporate insolvency resolution process to be issued.

Miscellaneous

32. Certain amendments are also to be carried out in the GST laws.

33. Deferment of e-wallet Scheme:

- Extension of the time to finalize e-wallet scheme up to 31.03.2021;
- Extension of the present exemptions from IGST and Cess on the imports made under the AA/EPCG/EOU schemes up to 31.03.2021.

Comment: Government has allowed exemptions from payment of integrated tax and compensation cess to the holders of Advance Authorization, EPCG license and imports by 100% Export Oriented Units. Said exemptions have decided to be continued for period upto 31.03.2021. These exemptions were originally allowed on 13.10.2017 for the period upto 31.03.2018 [[NN 78/2017-Customs dated 13.10.2017](#) and [NN 79/2017-Customs dated 13.10.2017](#) refers]. Thereafter, these were subsequently extended for period upto 01.10.2018 [[NN 35/2018-Customs dated 28.03.2018](#) and [NN 33/2018-Customs dated 23.03.2018](#) refers] and then for the period upto 31.03.2019 [[NN 65/2018-Customs dated 24.09.2018](#) and [NN 66/2018-Customs dated 26.09.2018](#) refers] and subsequently for the period upto 31.03.2020 [[NN 08/2019-Customs dated 25.03.2019](#) and [NN 09/2019-Customs dated 25.03.2019](#) refers]

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