

Major recommendations of the 54th Meeting of the GST Council:

[Part A]

Recommendations relating to the provisions in the GST Acts and the rules and clarifications

Sl No.	Recommendations	Recommended Amendments
Amnesty		
01	<p>I. Insertion of a new rule for waiver of interest and penalty in terms of newly inserted section 128A <i>[inserted vide section 146 of The Finance(No. 2) Act, 2024]</i>;</p> <p><u>Salient features:-</u></p> <p>(i) The scheme would be an application based procedure; application has to be filed within three months from the date to be notified under sub-section (1) of section 128A <i>(The Council has recommended to notify 31.03.2025 as the last date for payment to avail of the scheme under section 128A (1). Hence application to avail of the scheme can be filed within three months from the said date).</i></p> <p>(ii) Tax payable as per the scheme would be the tax demanded n terms of the notice or statement or order u/s 73 less relief available in terms of newly inserted section 16(5)/(6) [i.e. relief available on account of the relaxation of time limit to avail of ITC u/s 16(4) for FY 2017-18 to 2020-21]</p> <p>(iii) The time line for issuance of show-cause notice in respect of the application is three months from the date of application; there would be a time line of one month for replying to the show-cause notice.</p> <p>(iv) In case a show cause notice is issued, the time line for passing an order accepting or rejecting the application is three months from the date of reply (where reply has been filed) and four months from the date of issuance of show-cause notice (where reply has not been filed).</p> <p>(v) In case a show cause notice is not issued, the time line for passing an order accepting the application is three months from the date of application.</p>	<p>Insertion of a new rule 164;</p> <p>Insertion of the following forms: <i>FORM GST SPL -01, FORM GST SPL -02, FORM GST SPL -03, FORM GST SPL -04, FORM GST SPL -05, FORM GST SPL -05A, FORM GST SPL -06, FORM GST SPL -07;</i></p> <p>Notification to be issued under sub-section (1) of Section 128A to notify the date, on or before which full amount of tax as per the notice or order has to be paid to avail of the scheme</p> <p>Circular to be issued</p>

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	<p>(vi) The application would be deemed to be approved if the above time line is not adhered to;</p> <p>(vi) In case of multiple period demands (<i>covering periods covered u/s 128A and also periods not covered u/s 128A</i>) or demands which include demands on account of erroneous refund also in a single notice or order. The scheme would be available only if payment of full amount of tax as per the said notice or order is paid.</p> <p>[The Council has recommended to notify newly inserted Section 128A w.e.f. 01.11.2024]</p> <p>II. The Council has recommended to issue a <u>Circular</u> to clarify various issues related to the scheme:-</p> <p><u>Salient features:-</u></p> <p>(i) All amount paid towards the demand up to the date notified under sub-section (1) of section 128A shall be considered as paid towards the amount payable in terms of sub-section (1) of Section 128A;</p> <p>Amount recovered shall also be considered as tax paid towards the amount payable in terms of sub-section (1) of Section 128A, provided the same has been recovered on or before the date notified under sub-section (1) of section 128A.</p> <p>(ii) Amnesty not to cover interest for delayed filing of return and delayed reporting of invoice. Amnesty would cover stand alone demand of interest and penalty in cases where the tax has already been paid;</p> <p>(iii) Where the taxpayer is deducting the amount of ITC which was denied on account of contravention of section 16(4), but which is now available, as per retrospectively inserted provisions of section 16(5)/(6), he is not required to file application for rectification as per special procedure to be notified in respect of the said section 16(5)/(6)</p>	
02	<p>Sub-sections (5) and (6) of Section 16 of the CGST Act, 2017 w.e.f. 01.07.2017 has been inserted [<i>inserted vide section 118 of The Finance(No. 2) Act, 2024; yet to be notified</i>] –</p>	Notification on the special procedure for rectification of orders to be issued;

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	<p>(a) to provide that the time limit to avail input tax credit under Section 16(4) of CGST Act, through any FORM GSTR 3B filed till 30/11/2021 for the financial years 2017-18, 2018-19, 2019-20 and 2020-21, be deemed to be 30.11.2021 and,</p> <p>(b) to allow for relaxation of conditions under Section 16(4) of the Act, in cases where the returns for the period from the date of cancellation of registration/effective date of cancellation of registration till the date of revocation of cancellation of registration are filed after revocation of cancellation of registration.</p> <p>(c) to provide that no refund of tax already paid, or input tax credit reversed would be allowed on account of these retrospective amendments <i>[inserted vide section 150 of The Finance(No. 2) Act, 2024; yet to be notified]</i>.</p> <p>The Council has recommended to issue <u>Circular</u> to clarify issues regarding implementation of provisions of sub-section (5) and sub-section (6) in section 16:-</p> <p><u>Salient features:-</u></p> <p>(i) A special procedure under section 148 would be rolled out for rectification of orders (issued under section 73 or section 74 or section 107 or section 108) confirming demand for wrong availment of input tax credit on account of contravention of provisions of sub-section (4) of section 16 of the CGST Act but,- where such input tax credit is now available as per the provisions of sub-section (5) or sub-section (6) of section 16 of the CGST Act, and <u>where appeal against the said order has not been filed</u> till the date of issuance of the said notification under section 148 of the CGST Act.</p> <p>(ii) In case order is yet to be passed either at the adjudicating stage or at the appellate stage or at the revisional stage, the appropriate authority shall take cognizance of the newly inserted sub-section (5) or (6) of section 16 and pass appropriate order.</p>	

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Refund		
03	<p>(i) Clarification regarding regularization of refund of IGST availed in contravention of rule 96(10) of CGST Rules, 2017, in cases where the exporters had imported certain inputs without payment of integrated taxes and compensation cess:-</p> <p>Where the inputs were initially imported without payment of integrated tax and compensation cess by availing benefits under Notification No. 78/2017-Customs dated 13.10.2017 or Notification No. 79/2017-Customs dated 13.10.2017, but subsequently, IGST and compensation cess on such imported inputs are paid at a later date, along with interest, and the Bill of Entry in respect of the import of the said inputs is got reassessed through the jurisdictional Customs authorities to this effect, then the IGST, paid on exports of goods, refunded to the said exporter shall not be considered to be in contravention of provisions of sub-rule (10) of rule 96 of CGST Rules.</p> <p>(ii) Rule 96 (10), rule 89 (4A) and rule 89 (4B) of CGST Rules to be omitted with prospective effect.</p>	<p>Rule 96 (10) & rule 89 (4A) and rule 89 (4B) of CGST rules to be omitted prospectively;</p> <p style="text-align: center;">Circular issued[i.r.o.(i)] [233/27/2024-GST dated 11.09.2024]</p>
Other Clarifications		
04	<p>Clarification on place of supply of data hosting services provided by service providers located in India to cloud computing service providers located outside India:-</p> <p>(i) The services provided by data hosting service provider to its overseas cloud computing service providers cannot be considered as intermediary services and hence, the place of supply of the same cannot be determined as per section 13(8)(b) of IGST Act.;</p> <p>(ii) Data hosting services provided by data hosting service provider to the cloud computing service providers located outside India cannot be considered in relation to the goods “made available” by the said cloud computing service providers to the data hosting service provider in India and hence, the place of supply of the same cannot be determined under section 13(3)(a) of</p>	<p style="text-align: center;">Circular issued [232/26/2024-GST dated 11.09.2024]</p>

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	<p>the IGST Act.</p> <p>(iii) Data hosting services cannot be considered as services provided directly in relation to immovable property and the place of supply of such services cannot be determined under section 13(4) of IGST Act.</p> <p>(iv) Supply of data hosting services being provided by data hosting service provider located in India to an overseas cloud computing entity can be considered as export of services, subject to the fulfilment of the other conditions mentioned in section 2(6) of IGST Act.</p>	
05	<p>Clarification regarding the availability of Input Tax Credit on demo vehicles by the dealers of the vehicle manufacturers:-</p> <p>(i) Demo vehicles promote sale of similar type of motor vehicles, they are used by the dealer for making ‘further supply of such motor vehicles’. Accordingly, input tax credit in respect of Demo vehicles is not blocked under clause (a) of section 17(5) of CGST Act, as it is excluded from such blockage in terms of sub-clause (A) of the said clause.</p> <p>(ii) Availability of input tax credit on Demo vehicles is not affected by way of capitalization of such vehicles in the books of account of the authorized dealers, subject to other provisions of the Act.</p>	<p>Circular issued [231/25/2024-GST dated 11.09.2024]</p>
06	<p>Clarification on the place of supply of advertising services provided to foreign entities:-</p> <p>(i) The advertising company cannot be considered as “intermediary” (<i>since the advertising company is involved in the main supply of advertising services, including resale of media space to the foreign client, on principal-to-principal basis as detailed above and does not appear to fulfil the criteria of “intermediary”</i>) and accordingly, the place of supply in the instant matter cannot be determined as per section 13(8)(b) of the IGST Act, 2017;</p> <p>(ii) The recipient of the advertising services provided by the advertising company even if a representative of the said foreign</p>	<p>Circular issued [230/24/2024-GST dated 11.09.2024]</p>

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	<p>client based in India is interacting with the advertising company on behalf of the said foreign client, is the foreign client and not the Indian representative of the foreign client or the target audience of the advertisements as per section 2(93) of the CGST Act, 2017;</p> <p>(iii) The advertising services provided by the advertising companies to foreign clients cannot be considered as performance-based services as per section 13(3) of the IGST Act, 2017;</p> <p>(iv) The place of supply of the said advertising service being supplied by the advertising company to the foreign clients can only be determined as per the default provision, i.e. sub-section (2) of section 13 of IGST Act, i.e. the place of location of the recipient of the services;</p> <p>(v) Supply of advertising services being provided by an Indian company to their foreign client can be considered as export of services subject to the fulfillment of the other conditions mentioned in section 2(6) of IGST Act, 2017;</p> <p>(vi) However, the Indian advertising company would be considered as “<u>intermediary</u>” if,</p> <p>(a) The <u>Indian advertising company merely acts as an agent of the foreign client</u> in engaging with the media owner for providing media space to the foreign client; and</p> <p>(b) The <u>media owner directly invoices the foreign client</u> for providing the media space and broadcast of the advertisement; and</p> <p>(c) The <u>foreign client remits the payment</u> for the said services directly to the media owner.</p>	
Others		
07	Pilot for B2C e-invoicing would be rolled out	
08	Taxpayers to be given one more opportunity to declare their opening balance in the ITC Reclaim ledger and RCM Ledger till 31.10.24;	

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09	<p>Invoice management System (IMS) - A new functionality called Invoice Management System has been developed enabling taxpayers to avail the correct ITC by allowing them to accept, reject or keep the invoices pending in the system. IMS will also provide a communication platform between supplier and recipient, so that invoice level correction could be carried out if pointed out by the recipient by way of rejection.</p>	

Note: This document is prepared on the basis of Agenda Notes of the 54th GST Council Meeting and not to be construed as a legal explanation or interpretation of the Acts and the Rules. Please refer to the original Notifications when issued