

# **SBGCo NewsFlash**

## **47<sup>th</sup> GST Council Meeting**

**S B Gabhawalla & Co**  
**Chartered Accountants**





The 47<sup>th</sup> meeting of GST Council has made a plethora of recommendations for following changes in GST:

- Tax rates for supply of certain goods and services
- Withdrawal of exemptions
- Refund procedures
- GST registration, returns and other procedures

All such change in rates and exemptions are proposed to be made effective from **18<sup>th</sup> July 2022**. The notifications are not yet released but based on the minutes of the meetings and the press release issued thereafter, we herein bring to our readers a quick glance of all the recommended changes.

Since in many cases, the tax rates are proposed to be changed, including scenarios of withdrawal of exemptions, the industry and the trade will have to deal with transition issues of on-going transactions. The decision of the correct applicable tax rate will have to be done carefully in accordance with Section 14 of CGST Act, 2017 which deals with situations of change in rate of tax. Below table summarizes various situations and the tax implications:

<b>Service provision</b>	<b>Date of invoice</b>	<b>Date of receipt of payment</b>	<b>Time of supply</b>	<b>Effective Tax rate</b>
Before change in tax rate	After the change in the tax rate	After the change in the tax rate	Date of receipt of payment or date of issue of the invoice whichever is earlier.	New tax rate
Before change in tax rate	Before change in tax rate	After change in tax rate	Date of invoice.	Old tax rate
Before change in tax rate	After change in tax rate	Before change in tax rate	Date of payment.	Old tax rate
After change in tax rate	Before change in tax rate	After change in tax rate	Date of payment.	New tax rate
After change in tax rate	Before change in tax rate	Before change in tax rate	Date of receipt of payment or date of issue of the invoice whichever is earlier.	Old tax rate
After change in tax rate	After change in tax rate	Before change in tax rate	Date of invoice.	New tax rate

In case of ongoing contracts, there may be a need to invoke the change in law clause as per the contractual terms. Further, in a few situations where the tax rate is reduced, a commensurate benefit will need to be compulsorily passed on to the recipient, considering the provisions of anti-profiteering.

The gist of changes is prepared dividing the topics in the following baskets:

- A. [Health-care Sector](#)
- B. [Transportation and Logistics sector](#)
- C. [Works Contract Services](#)
- D. [Hospitality Sector](#)
- E. [Job-Work Sector](#)
- F. [E-Commerce](#)
- G. [Real Estate Sector](#)
- H. [Changes related to Supply of Goods](#)
- I. [Refunds](#)
- J. [Miscellaneous Changes](#)



## **A. Health-care Sector**

### **I. Room rent charged by Hospitals / clinical establishment to become taxable for certain categories of Rooms**

GST is currently exempt on all the health care services which are provided by a clinical establishment (viz., Hospitals), which majorly included in-patient services (over-night stay) and out-patient services (same day treatment and discharge). Moving forward, the component of Room rent charges recovered for in-patient services shall be taxable at 5% if the room rent charges exceed Rs. 5,000/- per day. The tax will be charged without any claim of ITC by Hospitals. However, Intensive Care Unit (ICU) Charges will not be taxable.

#### **SBGCO Comments:**

This is a major change for the health-care sector which was not covered under the GST net except for a few hand-picked services such as hair transplant or cosmetic or plastic surgery. Moving forward, where the room rent charges exceed Rs. 5,000/- per day, the Hospitals would be required to collect tax on such room rent charges. The tax rate prescribed is 5% without any claim of ITC for Hospitals. This means that the burden of tax will be entirely on the patients.

It must be noted that only room rent charges are excluded from exemption and brought under taxable net. Other services namely, treatment of patient would still be eligible for exemption as it is presently.

Currently, insurance companies disburse hospitalisation claims based on the room rent. Whether the disbursement will be gross of GST or otherwise will be a policy decision to be taken by them and accordingly, the eligibility for Mediclaim cover may get impacted due to this levy.

### **II. Withdrawal of exemptions**

Following exemption are intended to be withdrawn:

- a. Services provided by the cord blood banks by way of preservation of stem cells
- b. Common bio-medical waste treatment facilities for treatment or disposal of biomedical waste

### **III. Change in rate of tax for Goods**

<b>SN</b>	<b>Description</b>	<b>Existing Rate</b>	<b>Revised Rate</b>
1	Ostomy Appliances	12%	5%
2	Orthopaedic appliance - Splints and other fracture appliances; artificial parts of the body; other appliances which are worn or carried, or implanted in the body, to compensate for a defect or disability; intraocular lens	12%	5%



#### **IV. Clarifications issued**

- It is clarified that services in the nature of Assisted Reproductive Technology (ART) and In vitro fertilization (IVF) would be covered by definition of “health-care services” and hence, would be eligible for exemption under GST.

### **B. Transportation and Logistics Sector**

#### **I. Goods Transport Agency (GTA)**

1. Currently the GTA has two options namely:
  - a. paying GST at 12% under Forward Charge with ITC or
  - b. GST at 5% under Reverse Charge Mechanism (RCM) where recipient would pay the tax and GTA is not eligible for claim of ITC.

Now the GTA has been given a third option to pay GST at 5% under Forward charge. Further it is also clarified that such option would be required to be opted at the beginning of financial year only and it will be applicable for the whole of such financial year.

#### **II. Withdrawal of Certain Exemption**

Following exemption are intended to be withdrawn

- a. Transportation by rail or a vessel of railway equipment and material
- b. Storage or warehousing of commodities which attract tax (nuts, spices, copra, jaggery, cotton etc.)
- c. Fumigation services in a warehouse of agricultural produced.
- d. Transportation of passengers by air to and from North-Easter states & Bagdogra, for other than economy class.

#### **III. Change in Tax Rate:**

SN	Description	Existing Rate	Revised Rate
1	Transport of goods and passengers by ropeways.	18%	5% (with ITC of services)
2	Renting of truck/goods carriage where cost of fuel is included	18%	12%

#### **IV. Clarification in relation to GST Rates / taxability:**

1. Services associated with transit cargo both to and from Nepal and Bhutan are covered by exemption under entry 9B of notification No. 12/2017-CT(R) dated 28.06.2017.
2. Renting of vehicle with operator for transportation of goods on time basis is classifiable under Heading 9966 (rental services of transport vehicles with operators) and attracts GST at 18%. GST on such renting where cost of fuel is included in the consideration charged would be 12%.
3. Additional fee collected in the form of higher toll charges from vehicles not having “Fastag” will be essentially treated as payment of toll and hence such higher toll shall be given the same tax treatment as given to normal toll charges collected via “Fastag”.



4. Renting of motor vehicles for transport of passengers to a body corporate for a period (time) is taxable in the hands of body corporate under RCM.
5. Exemption entry at SI No. 17(d) of notification No. 12/2017-CT(R), exempts transport of passengers by public transport other than predominantly for tourism purpose, in a vessel between places located in India. It is hereby clarified that “public transport” in this exemption entry would mean that such public transport should be open to public for point-to-point transport [e.g., such transport in Andaman and Nicobar Islands].

## **C. Works Contract Services**

### **I. Change in Tax rates:**

<b>SN</b>	<b>Description</b>	<b>Existing Rate</b>	<b>Revised Rate</b>
1.	Works contract for roads, bridges, railways, metro, effluent treatment plant, crematorium etc.	12%	18%
2.	Works contract supplied to central and state governments, local authorities for historical monuments, canals, dams, pipelines, plants for water supply, educational institutions, hospitals etc. & sub-contractor thereof	12%	18%
3.	Works contract supplied to central and state governments, union territories & local authorities involving predominantly earthwork and sub-contracts thereof	5%	12%

## **D. Hospitality Sector**

### **I. Tax Rate Changes**

<b>SN</b>	<b>Description</b>	<b>Existing Rate</b>	<b>Revised Rate</b>
1.	Hotel Accommodation priced upto Rs. 1000 per day	Exempt	12%

#### **SBGCO Comments:**

The GST Council has proposed to remove the exemption granted to hotel accommodation services where the value of supply is upto Rs. 1000 per day by imposing GST @ 12% on value of supply moving forward.

### **II. Clarification in relation to GST Rates**

#### **1. Supply of ice cream by ice cream parlours**

Supply of ice creams by ice cream parlours will be charged @ 5% without ITC for the period 01.07.2017 to 05.10.2021. Further, the supply made after 05.10.2021 shall continue to be taxed @ 18% as clarified earlier by GST Council in 45<sup>th</sup> GST Council Meeting.

#### **2. Services Provided by Tour Operator to foreign resident**





Service provided by Indian Tour operator to a foreign resident for a tour partially in India and partially outside India shall be taxed on proportionate basis to the extent of tour conducted in India, subject to the condition that the concession given shall not exceed half of the tour duration.

## **E. Job Work Services**

### **I. Change in Tax rates:**

<b>SN</b>	<b>Description</b>	<b>Existing Rate</b>	<b>Revised Rate</b>
1.	Job work in relation to processing of hides, skins and leather	5%	12%
2.	Job work in relation to manufacture of leather goods and footwear	5%	12%
3.	Job work in relation to manufacture of clay bricks	5%	12%

## **F. E-Commerce**

### **I. Conditional waiver of compulsory registration for suppliers making supply through E-Commerce Operators (ECO)**

The person supplying goods through ECOs will not be required to obtain mandatory registration as provided under section 24(ix) of CGST Act, 2017 if:

- a. His aggregate turnover does not exceed the basic threshold limit u/s 22(1) of CGST Act, 2017 i.e. Rs. 40 lakhs in case of Other States and Rs. 20 lakhs in case of Special Category States.
- b. He is not engaged in making inter-state taxable supply

#### **SBGCO Comments:**

This will release suppliers from GST compliance who are making intra-state supply of goods through ECOs. However, if the said supplier is making an inter-state supply this conditional waiver for compulsory registration will not be applicable.

### **II. Composition Scheme for supplies through ECOs**

The GST Council has extended the benefit of composition scheme to suppliers making intra-state supply through ECOs subject to certain conditions.

#### **SBGCO Comments:**

This will be a big boost for suppliers making intra state supply and having a turnover of up to Rs. 1.5 crores to opt for composition scheme, which offers lower rate of tax and simpler compliance. This will now enable smaller suppliers to expand online mode of business.



## **G. Real Estate Sector**

### **I. Clarification in relation to GST Rates / Taxability**

#### **1. Preferential Location Charges**

GST Council has proposed that the location charges or preferential location charges (PLC) charged for long term lease of land shall be treated as a part of total consideration for long term lease of land and get the same GST treatment.

(Preferential Location Charges is the additional cost that a lessor / buyer of the property has to pay to enjoy the additional advantage over others such as preferential floor, private terrace etc.)

#### **2. Developed Plot of Land**

It is now clarified that the land sale after services such as land levelling, laying down of drainage, etc. will be treated same as sale of land and GST will not be applicable.

#### **SBGCO Comment:**

The confusion had arisen on account various AAR ruling that had given contradictory rulings whereby it was held to sale of land not liable to GST in some case and liable to GST in other cases treating it as Works Contract Services.

## **H. Changes related to Supply of Goods:**

### **I. Change in Tax rates:**

<b>SN</b>	<b>Description</b>	<b>Existing Rate</b>	<b>Revised Rate</b>
<b>Increase in rate of goods</b>			
1.	Printing, writing or drawing ink	12%	18%
2.	Knives with cutting blades, Paper knives, Pencil sharpeners and blades therefor, Spoons, forks, ladles, skimmers, cake-servers etc	12%	18%
3.	Power driven pumps primarily designed for handling water such as centrifugal pumps, deep tube-well turbine pumps, submersible pumps; Bicycle pumps	12%	18%
4.	Machines for cleaning, sorting or grading, seed, grain pulses; Machinery used in milling industry or for the working of cereals etc; Pawan Chakki that is Air Based Atta Chakki; Wet grinder;	5%	18%
5.	Machines for cleaning, sorting or grading eggs, fruit or other agricultural produce and its parts, Milking machines and dairy machinery	12%	18%
6.	LED Lamps, lights and fixture, their metal printed circuits board;	12%	18%



SN	Description	Existing Rate	Revised Rate
7.	Drawing and marking out instruments	12%	18%
8.	Solar Water Heater and system;	5%	12%
9.	Prepared/finished leather/chamois leather / composition leathers;	5%	12%
10.	Tetra Pak (Aseptic Packaging Paper)	12%	18%
11.	Tar (whether from coal, coal gasification plants, producer Gas plants and Coke Oven Plants.	5%/18%	18%
12.	Cut and Polished diamonds	0.25%	1.5%
13.	Petroleum/ Coal bed methane	5%	12%
14.	Scientific and technical instruments supplied to public funded research institutes	5%	Applicable rate
15.	E-waste	5%	18%
<b>Decrease in rate of goods</b>			
16.	IGST on specified defence items imported by private entities/vendors, when end-user is the Defence forces.	Applicable rate	Nil
17.	IGST on import of Diethylcarbamazine (DEC) tablets supplied free of cost for National Filariasis Elimination Programme	5%	Nil

## II. Withdrawal of Exemption:

The following table illustrates the nature of Goods which will be taxable hence forth:

SN	Description	Existing Rate	Revised Rate
1.	Cheques, lose or in book form	NIL	18%
2.	Maps and hydrographic or similar charts of all kinds, including atlases, wall maps, topographical plans and globes, printed	NIL	12%
3.	Parts of goods of heading 8801 (HSN 8801 includes Balloons and Dirigibles; Gliders, Hang Gliders and other Non-Powered Aircraft)	NIL	18%
4.	Pre-Packed, Pre-Labelled food items, grains, curd, lassi and butter milk bearing MRP but not branded / forgone right on brand	NIL	Applicable rate

## III. Clarification in relation to GST Rates / Taxability:

1. Electric vehicles whether or not fitted with a battery pack, to be taxed at concessional GST rate of 5%





2. All fly ash bricks attract same concessional rate irrespective of fly ash content. The condition of 90% fly ash content with respect to fly ash bricks applies only to fly ash aggregate, and not fly ash bricks. As a simplification measure, the condition of 90% content is being omitted.
3. Stones covered in S. No.123 of Schedule-I (such as Napa stones), even if they are ready to use and polished in minor ways [not mirror polished], attract concessional GST rate of 5%.
4. The GST rate on all forms of mango under CTH 0804, including mango pulp (other than mangoes sliced, dried) attract GST at the 12%. Entry is also being amended to make this amply clear. Raw or fresh mangoes continue to be exempt.
5. Sewage treated water is exempted from GST and is not the same as purified water provided in S. No. 99 of notification 2/2017-CT(Rate). The word 'purified' is being omitted to make this amply clear.
6. Nicotine Polarilex Gum attracts a GST rate of 18%

## **I. Refunds**

### **I. Inverted Duty Structure - change in formula**

Formula for calculation of refund under Rule 89(5) shall be changed to take into account utilization of ITC on account of inputs and input services for payment of output tax on inverted rated supplies in the same ratio in which ITC has been availed on inputs and input services during the said tax period. This would help those taxpayers who are availing ITC on input services also.

#### **SBGCO Comments:**

There were a lot of challenges in claim of refund of inputs involved in cases where inverted duty structure was prevalent, specially for taxpayers who were supplying services as well. The maximum amount of refund was derived after reducing the entire value of tax payable [inputs & input services] even though Net ITC formula included "Inputs" only. As result of this amendment, maximum amount of refund eligible would increase thereby correcting the anomaly in formula.

### **II. Applicability of extension of limitation period in accordance with Supreme Court Order:**

The current time limit for claiming refund under Section 54 is 2 years from the relevant date. It is hereby now clarified that time period of 01.03.2020 to 28.02.2022 would be excluded from calculation of the limitation period for filing refund claim by an applicant.

#### **SBGCO Comments:**

Many taxpayers who filed their refund application belatedly on account of Covid-19 related difficulties were issued deficiency memos / rejection orders on the ground that their refund application is time barred. The current clarification is in accordance with the decision of the Supreme Court in Suo Moto Writ (Civil) Petition (Miscellaneous Application No. 21 of 2022) dated 10.01.2022. This position was also upheld by Bombay High Court in the case of Saiher Supply Chain Consulting Pvt Ltd vs. UoI [2022-TIOL-48-HC-MUM-GST].

To ensure that taxpayers do not suffer from undue hardships on account of refund rejection on account of Covid-19 Pandemic, such clarification is a welcome move by the Government.



### **III. Procedural changes for granting of Refunds:**

#### **1. Handling of pending IGST Refunds for “Risky” exporters / “defaulting” exporters:**

Rule 96 of the CGST Rules would be amended to provide for transmission of pending IGST refund claims withheld for ““Risky” exporters / “defaulting” exporters to the jurisdictional GST authorities for processing so that such IGST refund claims, after due verification by GST officers can be disposed more quickly.

#### **2. Recredit in E. Cr. L. for erroneous refunds paid back**

A new form GST PMT-03A would be introduced to enable the taxpayers to get re-credit in their electronic credit ledger of the amount of erroneous refund paid back by them. Interest and penalty paid back for erroneous refund shall not re-credited.

#### **3. Meaning of “Specified Officer” in respect of refunds pertaining to supplies to SEZ Developer/Unit**

Explanation would be inserted to clarify that “specified officer” under the Rule 89(1) of the CGST Rules shall mean the “specified officer” or “authorized officer”, as defined under SEZ Rules, 2006.

Hence, authorization on invoices could be received from “specified officer” or “authorized officer” for filing of refund claim.

#### **4. Unutilized Input Tax Credit on account of Export of Electricity**

CGST Rules shall be amended so as to facilitate the exporters of electricity in claiming refund of utilized ITC on zero rated supplies.

#### **5. Supplies from Duty Free Shops (DFS)**

Supplies from (DFS) at international terminal to outgoing international passengers to be treated as “exports” by DFS and consequential refund benefit to be available to them on such supplies. Rule 95A of the CGST Rules, Circular No. 106/25/2019-GST dated 29.06.2019 and related notifications to be rescinded accordingly.

### **IV. Clarifications to be issued for the following points:**

- Clarification on issue of claiming refund under inverted duty structure where the supplier is supplying goods under some concessional notification
- Clarification on the issues pertaining to refund claimed by the recipients of supplies regarded as deemed export

### **J. Miscellaneous changes:**

#### **I. Input Tax Credit**

##### **1. ITC reversal for Duty Credit Scrips not required**

The CGST Rules relating to reversal of common ITC as provided under Rule 42 and 43 shall be amended suitably to provide that there would be no requirement of reversal of ITC for exempted supply of Duty Credit Scrips by the exporters. This change will be made by amending the Explanation 1 to Rules 42 and 43.



## II. Withdrawal of certain exemptions for services:

The following table illustrates the nature of Goods / services which will be taxable hence forth:

SN	Description
1	Services by RBI, IRDA, SEBI, FSSAI
2	Services by GSTN
3	Renting of residential dwelling to business entities (Registered Persons)
4	Services by way of training or coaching in recreational activities relating to- (a) arts or culture, or (b) sports by Charitable Institutions registered u/s 12AA of Income Tax Act.

## III. GST Returns and related changes

1. Waiver of late fee under Section 47 for delay in filing FORM GSTR-4 for FY 2021-22 extended from 30.06.2022 to 28.07.2022.
2. The due date of filing of FORM GST CMP-08 (applicable for composition dealer) for the 1st Quarter of FY 2022-23 shall be extended from existing due date of 18.07.2022 to 31.07.2022.
3. Exemption from filing Annual Return in FORM GSTR-9 / 9A for FY 2021-22 shall continue for taxpayers having Aggregate Annual Turnover upto Rs. 2 crores.
4. Clarification on mandatory furnishing of correct and proper information of inter-State supplies and amount of ineligible/blocked Input Tax Credit and reversal thereof in return in FORM GSTR-3B.

## IV. GST Portal related

1. UPI & IMPS to be provided as an additional mode for payment of Goods and Services Tax to taxpayers under Rule 87(3) of CGST Rules
2. Provision for transfer of balance in CGST and IGST lying in E. C. L. of a registered person to CGST and IGST of E. C. L. of another branch (i.e., Distinct person - same PAN, different GSTIN) shall be provided on the Portal
3. Once all the pending returns are filed on the portal by the taxpayer, Provision for automatic revocation of suspension of registration shall be provided

## V. Other Changes and Measures:

1. Retrospective amendment in Section 50(3) of CGST Act, 2017 with effect from 01.07.2017, to provide that interest will be payable on the wrongly availed ITC only when the same is utilized.
2. Present exemption of IGST on import of goods under AA/EPCG/EOU scheme to be continued.
3. All taxable service of Department of Posts would be subject to forward charge. Until now some taxable services of Department of Post were taxed under RCM in the hands of recipient.



**VI. Clarification in relation to GST Rates / Taxability**

1. Application fee charged for entrance or for issuance of eligibility certificate for admission or issuance of migration certificate by universities is exempt from GST.
2. Services by way of storage or warehousing of ginned or baled fibre shall be taxable services.
3. Activity of selling of space for advertisement in souvenirs published in the form of books is eligible for concessional GST at 5%.
4. Services provided by the guest anchors to TV channels in lieu of honorarium attract GST.
5. Change in rate of tax for supply of services by foreman to chit fund from 12% to 18%.



## **Disclaimer**

This newsletter is for general public information and knowledge sharing. In case any clarifications required, you may connect with us at:

Sunil Gabhawalla @ [sunil@sbgco.in](mailto:sunil@sbgco.in)

Yash Parmar @ [yash@sbgco.in](mailto:yash@sbgco.in)

Parth Shah @ [parth@sbgco.in](mailto:parth@sbgco.in)

Darshan Ranavat @ [darshan@sbgco.in](mailto:darshan@sbgco.in)

Prakash Dave @ [prakash@sbgco.in](mailto:prakash@sbgco.in)

Aman Haria @ [aman@sbgco.in](mailto:aman@sbgco.in)

Our office address:

S B Gabhawalla & Co.,

802-803 Sunteck Grandeur

Off S V Road, Opp Subway

Andheri West Mumbai 400058

Landline - 022 - 66515100

Web: [www.sbgco.co.in](http://www.sbgco.co.in)

Want to stay connected, join our Whatsapp group by clicking on the link -  
<https://chat.whatsapp.com/KJRD8SHyjSK5FUkFj8Of4t>