

GST COUNCIL MEETING: HITS AND MISSES

- Bharat Agrawal | AMRG & Associates



On September 17, Finance Minister Nirmala Sitharaman presided over the first GST Council meeting held in person since the beginning of the coronavirus pandemic. Several critical topics were reviewed during the 45th Goods and Services Tax (GST) Council meeting in Lucknow, including putting petrol and diesel under the GST framework. During her press conference at the GST Council meeting in 2021, the Finance Minister stated that “quite a few people-friendly decisions” has been made. The following are the major hits and misses of the meeting:

HITS

Concessional GST Rates due to Covid-19 extended

On the Department of Pharmaceuticals recommendation, drugs recommended by the Ministry of Health for the treatment of muscular atrophy are also exempt from IGST upon personal use importation. Exemptions from GST on corona-related drugs have been extended through December 31, 2021. Tax rate has also been reduced from 12% percent to 5% for seven other drugs, as proposed by the Department of Pharmaceuticals.

Zolgensma and Vilepso are two costly medications. These are two critical medications that cost approximately INR 16 crores. As a result, the Council has decided to exempt these two from GST.

GST Rate changes

Biodiesel supplied to oil marketing companies for blending with Diesel rate reduced from 12% to 5%. This would increase the use of biodiesel and decrease our reliance on foreign oil. Biofuel is derived from renewable resources and is significantly less flammable than fossil diesel. It has significantly superior lubricating properties and also contributes to greenhouse gas reduction.

From April 1, 2022, brick kilns will be subject to a unique composition plan with a threshold of Rs. 20 lakhs. Under the programme, bricks will be subject to a 6% GST without ITC and a 12% GST with ITC. This will benefit brick kiln proprietors, who are variably small operators. The aggregate effect on the cost of bricks will be negligible. Additionally, developers understand that property prices are extremely sensitive at the moment and would not consider increasing them even if the impact was negative. As a result, housing costs will remain unchanged.



E-commerce operators and online companies

E-commerce operators are now required to pay tax on the following services they provide:

- (i) passenger conveyance by any sort of motor vehicle
- (ii) restaurant services provided through it

Previously, E-commerce operators (ECO) were only required to pay tax on passenger transportation via radio taxi, motor cab, maxi cab, or motorcycle. This change will combine ECO's involvement in passenger transportation with other modes of transportation like shuttle and buses.

For ECO in food business, this will be a fresh liability to deposit GST on behalf of restaurants. Swiggy and Zomato, biggest players in food delivery, will now be liable for GST on the supplies of restaurant partners. GST will directly be collected and deposited with the government via food delivery apps.

Currently, restaurants listed on food aggregators pay 5% GST on their food bills, while the aggregator pays 18% GST on commissions charged to eateries for delivery and marketing services. Let us wait and watch how the GST ecosystem would develop around food delivery.

Measures for Trade Facilitation and Streamlining Compliances

Section 50 (3) of the CGST Act would be amended retrospectively, w.e.f. July 01, 2017, to provide that interest is to be paid by a taxpayer on "ineligible ITC availed and utilized" and not on "ineligible ITC availed". It has also been decided that interest in such cases should be charged on ineligible ITC availed and utilized at 18% w.e.f. July 01, 2017.

W.e.f. January 01, 2021, the date of issuance of debit note (and not the date of underlying invoice) shall determine the relevant financial year for the purpose of eligibility of ITC. This change will extend the availability of the period for claiming ITC in the case of debit notes.

There is no need to carry the physical copy of the tax invoice when the supplier has generated E-invoice

These changes will facilitate trade and ensure a hassle-free business for all the taxpayers of the country.

MISSES

Inclusion of Petroleum Products

If petroleum products are brought under the GST regime, the price of petrol and diesel may be controlled to some extent. The subject of whether or not certain petroleum products should be included in the scope of the Goods and Services Tax (GST) was brought before the Council for consideration. Following extensive debate, the Council concluded that it is not suitable to proceed at this time. GST council shall decide on a timeline to include all products under GST, barring alcoholic liquor for human consumption.



Tenure of National Anti-Profitteering Authority

The Goods and Services Tax Council, in its 35th meeting decided to extend the tenure of the anti-profitteering body by two years, until November 30, 2021. As the NAA's tenure is set to expire in November 2021, the Finance Minister made no mention of the NAA during the 45th Goods and Services Tax Council Meeting, implying that no further extension of the NAA's tenure may be provided. With the NAA's duration initially prescribed at two years and the additional extension period provided, the GST law substantially settled. It is hence recommended that pricing be left to market forces and the GST law's anti-profitteering provision be repealed with prospective effect.

Conclusion

GST Council is on a course correction mode as it has accepted numerous demands from trade and industry. Few of the top agenda items include correcting Inverted duty structure, no charge of interest on "ineligible ITC availed", transfer of unutilized cash balance between distinct persons, clarification relating to "Intermediaries", eligibility of input tax credit on debit notes.

It is high time now, GST council needs to fix a date by which petroleum products would also be subsumed in GST, permitting the industry to take a seamless tax credit. Council may consider formulating GoM on this subject so as to control the domestic oil prices, which has led to high inflation even in pandemic times. Also, the Council needs to clarify cases pending at NAA, DGAP, and the future of anti-profitteering provisions. It is a common belief that more than 400 cases are stuck at various levels in the anti-profitteering machinery.



NEW DELHI
18A, 1st Floor,
North Avenue Road,
West Punjabi Bagh,
New Delhi - 110026.

Rajat Mohan
Senior Partner
rajat@amrg.in

Priyanka Sachdeva
Partner - GST
priyanka@amrg.in



INTERNATIONAL BRANCH - AUSTRALIA
Unit 9, 14-15 Junia Avenue,
Toongabbie NSW 2146,
Sydney, Australia

Megha Gandhi
Director - Australia
amrg@amrg.in



MUMBAI
Shop No-14, Adarsh
Nagar Building No.4,
Kolbad, Thane West,
Thane-400601

Madhu Mohan
Founding Partner
amrg@amrg.in

Kiran Awasthi Raghavendra
Partner - Assurance and Compliance
amrg@amrg.in



INTERNATIONAL DESK - USA
Wiener & Garg LLC,
6000 Executive Boulevard,
Suite 520 | Rockville,
MD 20852T: 301.881.4244
D: 240.833.4002

Subhash Garg
Wiener & Garg LLC
amrg@amrg.in



DEHRADUN
Villa No. 12, Upper Crest Avenue,
Jakhan, Rajpur Road, Dehradun,
Uttarakhand, India, 248001

Swati Ghoshal
Partner - Risk Advisory and compliance
swati@amrg.in



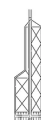
CHANDIGARH, PUNJAB

Navdeep Sarpal
Partner - Assurance and Compliance
amrg@amrg.in



GURUGRAM,
204, 2nd Floor, Time Center, Golf
Course Road, Sector 54, Gurugram,
Haryana 122002

Gaurav Mohan
CEO
gaurav@amrg.in



INTERNATIONAL BRANCH HONG KONG
Hong Kong Address - Flat B,
Floor 1, Tower - 7, Yee Mei Court,
South Horizons, ap lei chau,
Hongkong

Divya Malhotra
Director - Hong Kong
amrg@amrg.in

