



# Weekly GST Communique

## 39th GST Council Meeting



### Important Judgements of the week

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- HC: Quashed detention order and subsequent SCN issued on ground of misclassification
- HC: Quashes Cancellation Order of Registration as Mandatory Condition for Continuous Non-Filing of Return for 6th Month was Absent

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## Important Judgements of the week

### HC: Dismiss 100% Budgetary support for area-based exemption in post GST regime

<b>Facts</b>	<p>M/s Hero Motocorp Ltd. (“<b>the Petitioner</b>”) is engaged in the business of manufacturing of two wheelers in the State of Uttarakhand.</p> <p>In the year 2002, special packages of incentives were announced to promote industrial development in the State of Uttarakhand. In pursuance thereto, Office Memorandum Order dated January 7, 2003, was issued, detailing the package of incentives. The fiscal incentive provided under the memorandum included 100% <i>ab inito</i> Central Excise Duty Exemption to new industrial units for a period of 10 years from the date of commencement of commercial production.</p> <p>Thereafter, Notification No. 50/2003- C.E. dated June 10, 2003 (“<b>Exemption Notification</b>”) was issued providing exemption to industrial units for a period not exceeding 10 years from the date of publication of notification in the Official Gazette or from the date of commencement of commercial production, whichever is later.</p> <p>Since the Petitioner’s unit qualified for exemption under the Exemption Notification, it established a new industrial unit for manufacture of motor vehicles at Haridwar, Uttarakhand and commenced commercial production in its industrial unit from April 7, 2008 and continued to avail the benefits of the exemption notification till July 1, 2017.</p> <p>With the implementation of GST, vide Notification No. 21/2017-C.E. (NT) dated June 30, 2017 various area-based exemption notifications, including the Exemption Notification were rescind w.e.f. July 1, 2017. Due to the rescission of the Exemption Notification, the beneficial incentives granted to the Petitioner, ceased to continue w.e.f. July 1, 2017.</p> <p>Since the withdrawal of the Exemption Notifications caused financial hardships, the GST Council decided that it would provide budgetary support to the eligible units for the residual exemption period by way of part reimbursement of GST, paid by the unit, limited to the Central Government’s share of CGST and/or IGST retained after devolution of a part of these taxes to the States. Accordingly, the Central Government notified the Budgetary Support Scheme providing reimbursements of Central Government’s share of the cash component of CGST and IGST i.e. 58% of CGST and 29% of IGST, in lieu of exemption provided under the Exemption Notification.</p>
<b>Issue</b>	The Petitioner filed writ petition to seek a direction to Union of India (“ <b>Respondent</b> ”) to grant “complete exemption by way of reimbursement of the amount of CGST and IGST for the residual period of Exemption Notification”.
<b>Held</b>	<p>The Hon’ble HC, Delhi in <b><i>W.P.(C) 505/2020 &amp; CM APPL. 1328/2020 dated March 2, 2020</i></b> held as under:</p> <ul style="list-style-type: none"> <li>The Court observed that the Petitioners have not acquired vested right in terms of the policy. The fiscal benefits promised in return for making investments in the State of Uttarakhand were privileges which were granted under law that no longer holds the field. The rights and the obligations that were flowing under the tax regime originated</li> </ul>

from the tax structure that existed when the policy was framed. Such obligations cannot stay alive, if the legislation itself has undergone a complete overhaul by advent of introduction of GST legislations. Therefore, the Budgetary Support Scheme cannot be said to be in contravention of the fiscal incentive policies or promise made by Respondent at the time of introducing area-based exemptions. In the previous tax regime, taxes were being levied on different incidents, such as 'manufacturing' in the case of the levy of excise duty. GST is a destination-based tax, the area-based exemptions, under the GST regime have entirely different dimensions and therefore, for this reason, there are no area-based exemptions envisaged under the GST regime. The Government has, instead, provided the necessary support to the industry for its economic development and has grandfathered the incentive Scheme.

- There is no irrationality or arbitrariness with respect to partial tax budgetary support. Firstly, the Budgetary Support is not an exemption. The rationale of providing support to the extent of Central Government's share of CGST and the IGST is also based on the reasoning which cannot be questioned by the Petitioner. Article 279A of the Constitution provides that the GST Council shall make recommendations to the Union and States, inter alia, on issues relating to special provision with respect to the States of Arunachal Pradesh, Assam, Jammu & Kashmir, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, Himachal Pradesh and Uttarakhand. The GST Council in its meeting held on September 30, 2016, left it to the discretion of the Central Government and State Government to notify schemes of Budgetary Support to units where the erstwhile schemes were in operation on July 1, 2017. Accordingly, the Central Government provided the Budgetary Support to eligible units for the residual period by way of part re-imburement of GST paid by the unit, limited to Central Government's share of CGST and IGST retained after devolution of part of these taxes to the States.
- The plea of promissory estoppel cannot be enforced against an act done in accordance with the statutory provisions of law. Under Section 174(2)(c) of the Central Goods and Services Tax Act, 2017 ("**CGST Act**"), express provision has been made by the Parliament to provide that any tax exemption granted as an incentive against investment through a notification under, inter alia, the erstwhile Central Excise Act, 1994 shall not continue as a privilege if the said notification is rescinded, and in the present case, the exemption notification was rescinded. Thus, in the absence of any challenge by the Petitioner to the rescission of the exemption notification which granted exemption or to the vires of the proviso to Section 174(2)(c) of the CGST Act, no plea of promissory estoppel is maintainable. The language used in the proviso to Section 174(2)(c) of the CGST Act is clear and unequivocal and leaves no room for a different interpretation.
- Dismissed the petition.

**HC: Quashed detention order and subsequent SCN issued on ground of misclassification**

<b>Facts</b>	<p>Daily Fresh Fruits India Private Limited (“<b>the Petitioner</b>”) is engaged in manufacture and supply of fruit-based beverages/drinks.</p> <p>According to the Petitioner, the carbonated fruit drinks manufactured by them was classified under HSN 2202 9920 under GST and discharging GST @ 12% on all intra State and inter-State supplies. On earlier occasions, the Petitioner had also brought the aforementioned drinks within the jurisdiction of Kerala and the vehicles carrying the aforementioned goods were intercepted on the premise that the aforementioned goods were wrongly classified, in fact they would be falling under the head 2202 10, for which the GST rate is 28%.</p> <p>Though against the aforementioned detention, the Petitioner after paying the tax and penalties, obtained the release of the vehicles, this time again on January 31, 2020, the goods of similar nature being brought within the jurisdiction of the Kerala State were intercepted and detained on the same premise and subsequently issue MOV-07.</p>
<b>Issue</b>	Whether the Officers of Kerala (“ <b>Respondents</b> ”) have a jurisdiction to detain and seize the goods.
<b>Held</b>	<p>The Hon’ble HC, Kerala in <b>WP(C). No.3431 of 2020(D) dated March 4, 2020</b> held as under:</p> <ul style="list-style-type: none"> <li>• Section 129 of the CGST Act opens with a non obstante clause empowering the Officers to detain and seize the goods, if it found to be in contravention of any of the any of the provisions of the CGST Act and release of the vehicles, as per the conditions, enumerated, therein.</li> <li>• In case of a bonafide dispute with regard to the classification between a transitor of the goods and the squad officer, the squad officer may intercept the goods and detain them for the purpose of preparing the relevant papers for effective transmission to the judicial assessing officers and nothing beyond. In the present case, it is a case of bonafide miscalculation as to whether the goods would be exigible to 12% or 28%. Similar question was considered in the case of <b>Synergy Fertichem [ 2019 (12) TMI 1213 - Gujarat High Court]</b>.</li> <li>• The detention order and Form GST MOV-07 are not sustainable and hereby quashed. The goods are directed to be released to the Petitioner with a further direction that the inspecting authority of Kerala would prepare a report and submit the same to the assessing authority, Tamil Nadu for taking action, if deem it appropriate, in accordance with law.</li> </ul>

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### HC: Quashes Cancellation Order of Registration as Mandatory Condition for Continuous Non-Filing of Return for 6th Month was Absent

<p><b>Facts</b></p>	<p>M/s Phoenix Rubbers (“<b>Petitioner</b>”) has filed a Civil Writ Petition in the Hon’ble Kerala High Court (“<b>Kerala HC</b>”). The Petitioner is an assessee of GST in the roll of The Superintendent Palakkad South Range (“<b>Respondent No. 4</b>”) and has defaulted in filing of returns from May 2019 onwards on account of financial crises. Thereupon, the Respondent No. 4 had issued a notice dated January 13, 2019 proposing to cancel the registration u/s 29(2)(c) of the CGST Act”) due to alleged non filing of returns for a continuous six month period. Thereafter, the Respondent No. 4 has passed an order for the cancellation of the registration of the Petitioner’s firm. The Petitioner urged that even though the Respondent No. 4 found that as on the date of the notice dated November 13<sup>th</sup>, 2019 there were six months of continued default but there indeed was only 5 months of continued default and not the mandatory six months.</p> <p>Therefore, the order is illegal as well as ultra vires and liable to be quashed. Further the order directing cancellation of the registration of the Petitioner was rendered on December 10<sup>th</sup>, 2019 and that on December 10<sup>th</sup>, 2019, the Petitioner had filed returns for the month of May 2019 as can be seen on the document attached by the Petitioner.</p>
<p><b>Issue</b></p>	<p>Whether the order for cancellation of registration is liable to quashed in cases where the continuous default is for a period less than 6 months?</p>
<p><b>Held</b></p>	<p>The Hon’ble Kerala HC passed the following ruling in the matter of <b>W.P.(C). No. 35159/19 dated February 3<sup>rd</sup>, 2020</b>:</p> <ul style="list-style-type: none"> <li>• A combined reading of the provisions would clearly indicate that an assessee is bound to file return for the month concerned on or before the 20<sup>th</sup> of the succeeding month concerned. Further Section 29(2)(c) of the CGST Act discloses that it is mandated by the Legislature that if there is a continuous six months default on the part of the assessee in filing returns, then the competent authority can invoke power u/s 29(2)(c) of the CGST Act to cancel the registration.</li> <li>• The Respondents were directed to ascertain the correctness of the details as to whether the Petitioner had indeed filed the returns for the month of May 2019 on December 10<sup>th</sup>, 2019 to which the Respondents do not have any serious dispute that as on the date of issuance of the notice on November 13<sup>th</sup>, 2019, there was indeed six months continuous default on the part of the Petitioner in filing the returns. Therefore, the basic jurisdictional fact for issuing a show-cause notice has been correctly and properly done by Respondent No. 4.</li> <li>• It appears that the Petitioner has filed the return for the month of May 2019 on December 10<sup>th</sup>, 2019 @ 11:30 am as can be seen from the series of documents submitted by the Petitioner when the Respondent No. 4 has passed the order on the same date i.e. December 10<sup>th</sup>, 2019. Since filing of return has been done online hence the Respondent No. 4 cannot be blamed for not knowing that the Petitioner has filed the return on the same date on which the order has been passed. Moreover, the Petitioner has not informed the Respondent No. 4 either on December 10<sup>th</sup>, 2019 or immediately thereafter about the crucial fact that the Petitioner has indeed filed the returns for the month of May 2019 on December 10<sup>th</sup>, 2019.</li> </ul>

- But the fact of the matter is that since the Petitioner had indeed filed the return for the month of May 2019 on December 10<sup>th</sup>, 2019 hence the Petitioner had only 5 months continuous default on the date of the order and not the mandatory 6 months default which is the essential jurisdictional fact required for invoking of power of cancellation of registration u/s 29(2)(c) of the CGST Act.
- This Court would certainly say that the Respondent No. 4 cannot be faulted for having passed the order on December 10<sup>th</sup>, 2019 because he was totally unaware that the Petitioner would indeed file the return for the month of May 2019 on December 10<sup>th</sup>, 2019.

The Hon'ble Kerala HC conclusively ruled that the requirement as to six months continuous default of non-filing of returns must be present at both the stages viz. issuance of notice & passing of final order. Since the requirement is unfulfilled at the stage when the order has been passed hence the order is liable to be quashed and set aside.

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## Important Advance Ruling

### AAAR: Breakwater is not 'plant and machinery' but a 'civil structure', not eligible for ITC

<p><b>Facts</b></p>	<p>M/s Konkan LNG Private Limited (“<b>the Appellant</b>” or “<b>KLPL</b>”) is engaged in the regasification of LNG. The LNG reaches to the plant through the jetty where it is unloaded from various cargoes. That in order to prevent jetty from high tide and forceful sea waves, there is existing partly constructed breakwater which was constructed by Dabhol Power Company (“<b>DPC</b>”). This breakwater was a part of original approved design, meaning thereby, the jetty was not workable at its potential without breakwater.</p> <p>Although, having the breakwater was absolute necessity, the existing breakwater was not complete and required immediate reconstruction. Also, due to incomplete breakwater facility, the NSPC, the authority for the clearance of jetty, provides only provisional clearances for the berthing and unloading of the LNG cargo and therefore does not allow berthing of the cargo unless the height of the wave is less than 0.5 meters. Thus, the performance of jetty is much below its potential and has suffered the risk of damage due to high tides and waves.</p> <p>The Appellant invited tender where scope of work included basic design, detail engineering, surveys, supply of material, construction, drawings, job specifics etc.</p> <p><b>AAR-</b> Held that the Appellant is not allowed to take credit of Input Tax Credit (“<b>ITC</b>”) of the amount of the GST paid to the contractors/ supplier of the goods or services as:</p> <ul style="list-style-type: none"> <li>• Construction of breakwater is only facilitating receipt of raw material i.e., LNG and is not going to be used for rendering outward supply.</li> <li>• The breakwater being an immovable structure, cannot be considered as Plant &amp; Machinery.</li> <li>• KLPL is already functioning without the complete breakwater and hence could not establish that it is impossible for them to function without breakwater.</li> </ul>
<p><b>Issue</b></p>	<p>Whether the Appellant is eligible for taking ITC on construction of breakwater, which is an important and integral part of the existing jetty?</p>
<p><b>Appellant’s contentions</b></p>	<ul style="list-style-type: none"> <li>• ITC will be eligible because it is going to be used for rendering outward supply of goods or service or both.</li> <li>• The AAR failed to consider that though breakwater is an immovable property it can be considered as plant and machinery as all immovable structures are not disqualified from being covered in term ‘plant and machinery’</li> <li>• The AAR has stated that to qualify for inclusion in the term ‘plant and machinery’ it must be established that it is impossible for regasification plant to function without the breakwater. However, there is no such test provided for the explanation to Section 17 of the CGST Act.</li> </ul>
<p><b>Held</b></p>	<p>The Hon’ble AAAR, Maharashtra <i>in Order No. MAH/AAAR/SS-RJ/14/2019-20 dated November 6, 2019</i> held as under:</p>

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|  | <ul style="list-style-type: none"><li>• Observed that as per Section 17(5)(d) of the CGST Act, plant and machinery though immovable are eligible for ITC. In order to come under the meaning of 'plant and machinery', the inputs must be used for making:<ul style="list-style-type: none"><li>○ Plant and machinery which should be apparatus, equipment and machinery;</li><li>○ It should be used for outward supply of goods or services;</li><li>○ It should be neither of the following:<ul style="list-style-type: none"><li>▪ Land, building or any other civil structure;</li><li>▪ Telecommunication tower;</li><li>▪ Pipeline laid outside the factory premises.</li></ul></li></ul></li><li>• The term plant and machinery mean a place where certain commercial activities are carried out with the help of inputs and covers apparatus, equipment and machinery as per the explanation to Section 17(5)(d) of the CGST Act. The breakwater wall constructed on the sea to protect the ship from high waves can hardly be called machine or apparatus or equipment.</li><li>• The breakwater involves extensive civil work and foundation laying to build breakwater wall and the Accropods is only a part of it. It is therefore immovable structure though not plant and machinery. Therefore, break wall will be excluded by virtue of it being a civil structure.</li><li>• The extensive earthwork, as well as civil work which has gone into the making of the break wall, makes it clear that it is nothing but a civil structure.</li><li>• Distinguished the Hon'ble HC, Bombay judgment in case of <b>Mazagaon Dock (191 ITR 490)</b> rendered in the context of definition of term 'plant' under Income-tax Act, 1961.</li><li>• Upheld AAR's order.</li></ul> |
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## Important Press Releases

### Key outcomes of the 3rd National GST Conference held on March 6, 2020



The 3<sup>rd</sup> National GST Conference of Commissioners of State Tax and Zonal Chief Commissioners of Central Tax was held on March 6, 2020 at Vigyan Bhavan, New Delhi under the chairmanship of Dr. Ajay Bhushan Pandey, Union Finance Secretary. Smt. Nirmala Sitharaman, Hon'ble Union Finance Minister also joined the Conference and intensively discussed the status of GST Portal to address grievances of taxpayers.

The Conference deliberated various measures for streamlining the GST return filing process, enhancing revenue and focused compliance management as well as to create synergy among Central and State tax administrations.

Infosys presented the status on business statistics, trend of filing return, preparedness of the system vis-à-vis the facilities required to be launched and measures taken to address GST Portal's capacity and to resolve difficulties being faced by taxpayers. It was stressed that the grievances of taxpayers are utmost priority and onus of its resolving lies on the Infosys. CEO, GSTN also presented system issues and initiatives by GSTN for further strengthening and streamlining GST.

As an outcome of in-depth deliberation, following measures were proposed for further examination:

1. Immediate steps to curb passing on ITC by new taxpayers
2. Measures to check export valuation including capping of value for calculating export benefits/incentives
3. Standard Operating Procedure ("**SoP**") for physical spot verification of risky taxpayers

## 4. SoP for blocking and unblocking of ITC

Complete Press Release can be accessed: <http://www.gstcouncil.gov.in/sites/default/files/Press%20Release%203rd%20National%20GST%20Conference.pdf>

### Cabinet approves scheme for “Remission of Duties and Taxes on Exported Products (RoDTEP)” to boost Exports Scheme

## RoDTEP Scheme – Remission of Duties or Taxes on Export Product (RoDTEP)



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The Cabinet Committee on Economic Affairs, chaired by Prime Minister Shri Narendra Modi, has given its approval for introducing the Scheme for Remission of Duties and Taxes on Exported Products (“**RoDTEP**”) under **which a mechanism would be created for reimbursement of taxes/ duties/ levies, at the central, state and local level, which are currently not being refunded under any other mechanism, but which are incurred in the process of manufacture and distribution of exported products.** This scheme is going to give a boost to the domestic industry and Indian exports providing a level playing field for Indian producers in the International market so that domestic taxes/duties are not exported.

Under the Scheme, an inter-ministerial Committee will determine the rates and items for which the reimbursement of taxes and duties would be provided. In line with “*Digital India*”, refund under the Scheme, in the form of transferable duty credit/electronic scrip will be issued to the exporters, which will be maintained in an electronic ledger. The Scheme will be implemented with end to end digitization.

The refunds under the RoDTEP scheme would be a step towards “**zero-rating**” of exports, along with refunds such as Drawback and IGST. **This would lead to the cost competitiveness of exported products in international markets and better employment opportunities in export-oriented manufacturing industries.** In line with the vision of Prime Minister, various export-oriented industries are being reformed

and introduced to better mechanisms so as to increase their productivity, boost exports and contribute to the overall economy.

**Salient features:**

At present, GST taxes and import/customs duties for inputs required to manufacture exported products are either exempted or refunded. However, certain taxes/duties/levies are outside GST and are not refunded for exports, such as, VAT on fuel used in transportation, Mandi tax, Duty on electricity used during manufacturing etc. **These would be covered for reimbursement under the RoDTEP Scheme.**

The sequence of introduction of the Scheme across sectors, prioritization of the sectors to be covered, degree of benefit to be given on various items within the rates set by the Committee will be decided and notified by the Department of Commerce (“DoC”). **The rebate would be claimed as a percentage of the Freight On Board (“FOB”) value of exports.**

A monitoring and audit mechanism, with an Information Technology based Risk Management System (RMS), would be put in to physically verify the records of the exporters. As and when the rates under the RoDTEP Scheme are announced for a tariff line/ item, the Merchandise Exports from India Scheme (MEIS) benefits on such tariff line/item will be discontinued.

Complete Press Release can be accessed: <https://pib.gov.in/PressReleaseDetail.aspx?PRID=1606281>

**Cabinet approves release of an additional instalment of Dearness Allowance and Dearness Relief due w.e.f. Jan 1, 2020**



**Cabinet approves release of an additional instalment of Dearness Allowance and Dearness Relief due from 1.1.2020**

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The Union Cabinet, chaired by the Prime Minister, Shri Narendra Modi has approved to release an additional installment of Dearness Allowance (“DA”) to Central Government employees and Dearness

**Relief (“DR”) to pensioners w.e.f. January 01, 2020.** There will be an increase of 4 percent over the existing rate of 17 percent of the Basic Pay/Pension, to compensate for price rise.

The combined impact on the exchequer on account of both Dearness Allowance and Dearness Relief would be Rs. 12,510.04 crore per annum and Rs. 14,595.04 crore in Financial Year 2020-21 (for a period of 14 months from January 2020 to February 2021). It will benefit about 48.34 lakh Central Government employees and 65.26 lakh, pensioners.

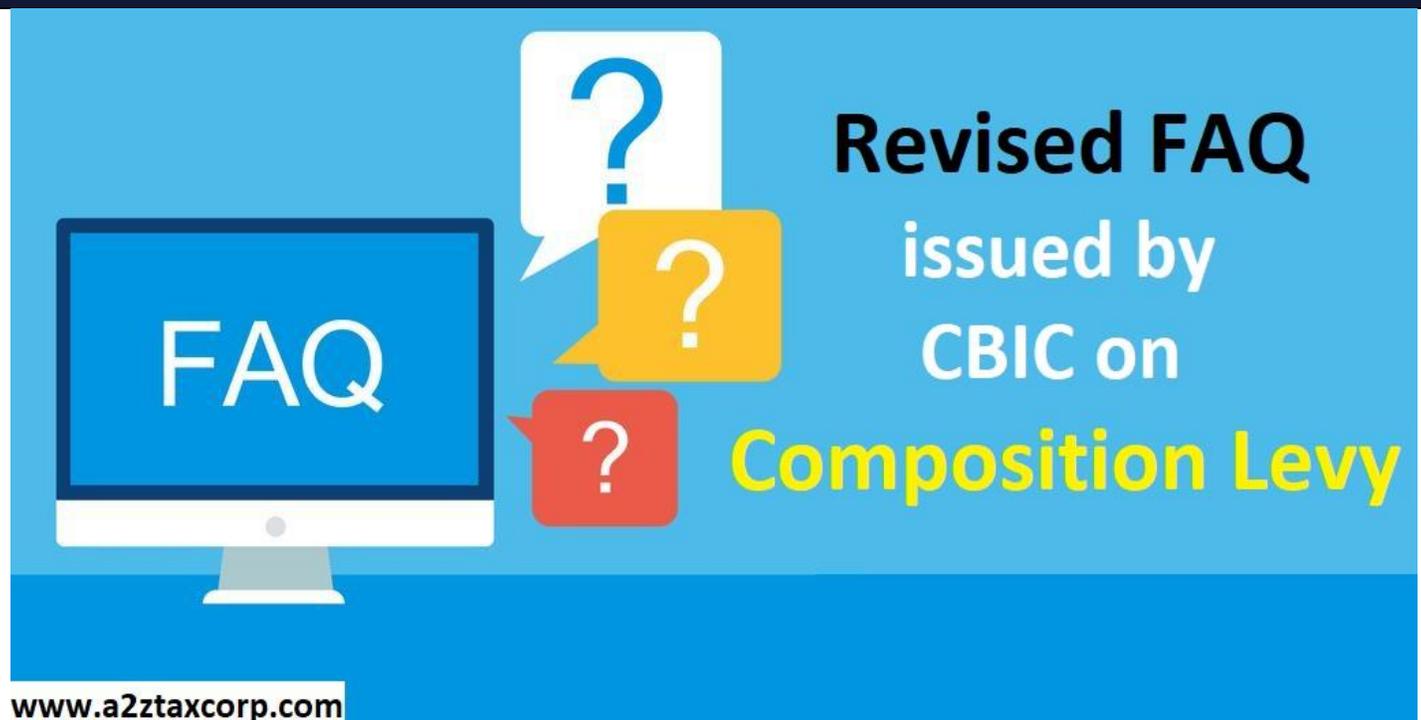
The increase is in accordance with the accepted formula, which is based on the recommendations of the 7<sup>th</sup> Central Pay Commission.

Complete Press Release can be accessed: <https://pib.gov.in/PressReleaseDetail.aspx?PRID=1606285>

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## Important Update

CBIC has issued a Revised FAQs on Composition Levy under GST



The CBIC has issued revised Frequently Asked Questions ("FAQs") on Composition Levy to provide clarification regarding the meaning of composition levy, specified rate, eligibility criteria, payment of tax, etc. Some important FAQ on which clarification was made by the department are as hereunder:-

**Q.** What is composition levy under GST?

**Ans:** The composition levy is an alternative method of levy of tax designed for small taxpayers whose turnover is up to Rs. 75 lakhs ( Rs. 50 lakhs in case of few States). The objective of the composition scheme is to bring simplicity and to reduce the compliance cost for the small taxpayers. Moreover, it is optional and the eligible person opting to pay tax under this scheme can pay tax at a prescribed percentage of his turnover every quarter, instead of paying tax at a normal rate.

**Q.** How will the aggregate turnover be computed for the purpose of composition?

**Ans:** Aggregate turnover will be computed on the basis of turnover on an all India basis and will include the value of all taxable supplies, exempt supplies, and exports made by all persons with the same PAN, but would exclude inward supplies under reverse charge as well as central, State/Union Territory and Integrated taxes and cess.

**Q.** Are monthly returns required to be filed by the person opting to pay tax under the composition scheme?

**Ans:** No. Such persons need to electronically file quarterly returns in Form GSTR-4 on the GSTN common portal by the 18th of the month succeeding in the quarter. For example return in respect of supplies made from July 2017 to September 2017 is required to be filed by 18th October 2017.

The Complete set of FAQs can be accessed at: <http://www.a2ztaxcorp.com/wp-content/uploads/2020/03/FAQs-on-Composition-Scheme.pdf>

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## 39th GST Council Meeting

### Key Outcome of 39th GST Council Meeting w.r.t. Law & Procedure related Changes



# 39th GST Council Meeting

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The 39<sup>th</sup> GST Council met under the Chairmanship of Union Finance & Corporate Affairs Minister Smt. Nirmala Sitharaman here today. 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 GST Council has made the following recommendations on Law & Procedures changes.

#### Measures for Trade facilitation:

1. Interest for delay in payment of GST to be charged on the net cash tax liability w.e.f. 01.07.2017 (Law to be amended retrospectively).
2. Where registrations have been cancelled till 14.03.2020, the application for revocation of cancellation of registration can be filled up to 30.06.2020 (extension of the period of application as a one-time measure to facilitate those who want to conduct business).
3. **Annual Return:**
  - (a) **Relaxation to MSMEs from the furnishing of Reconciliation Statement in FORM GSTR-9C**, for the financial year 2018-19, for taxpayers having aggregate turnover below Rs. 5 crores;
  - (b) **The due date for filing the Annual return and the Reconciliation Statement for the Financial Year 2018-19 to be extended to June 30, 2020;** and
  - (c) Late fees not to be levied for delayed filing of the Annual Return and the Reconciliation Statement

for the financial year 2017-18 and 2018-19 for taxpayers with aggregate turnover less than Rs. 2 crores.

4. A new facility called "Know Your Supplier" 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.
5. The requirement of furnishing **FORM GSTR-1** for 2019-20 to be waived for taxpayers who could not opt for availing the option of special composition scheme under notification No. 2/2019-Central Tax (Rate) dated 07.03.2019 by filing **FORM CMP-02**.
6. 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.
7. Extension of due dates for **FORM GSTR-3B** for the month of July 2019 to January 2020 till 24<sup>th</sup> March 2020 for registered persons having principal place of business in the Union territory of Ladakh. A similar extension is also recommended for **FORM GSTR-1 & FORM GSTR-7**.
8. **Bunching of refund claims allowed across financial years to facilitate exporters.**

#### **Deferment of E-invoice and QR Code:**

1. A 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; and
2. **The dates for implementation of e-invoicing and QR Code to be extended to 01.10.2020.**

#### **Deferment of e-wallet Scheme:**

1. Extension of the time to finalize **e-Wallet scheme up to 31.03.2021; and**
2. Extension of the **present exemptions from IGST and Cess on the imports made under the AA/EPCG/EOU schemes up to 31.03.2021.**
3. Continuation of the existing system of furnishing **FORM GSTR-1 & FORM GSTR-3B** till September 2020;

#### **Other new initiatives:**

1. Seeking information return from Banks;
2. To curb fake invoicing and fraudulent passing of ITC, restrictions to be imposed on the passing of the ITC in case of new GST registrations, before physical verification of premises and Financial KYC of the registered person.

#### **Issuance of circulars in respect of:**

1. Clarification in the apportionment of ITC in cases of business reorganization under section 18 (3) of CGST Act read with rule 41(1) of CGST Rules;
2. Appeals during non-constitution of the Appellate Tribunal;

3. Clarification on refund related issues; and
4. Clarification on the 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.

**Amendments to the CGST Rules: Key amendments are as below:**

1. Procedure for reversal of ITC in respect of capital goods partly used for effecting taxable supplies and partly for exempt supplies under Rule 43 (1) (c) of the CGST Act;
2. ceiling to be fixed for the value of the export supply for the purpose of calculation of refund on zero-rated supplies;
3. To allow for the refund to be sanctioned in both cash and credit in case of excess payment of tax;
4. To provide for recovery of refund on the export of goods where export proceeds are not realized within the time prescribed under FEMA; and
5. To operationalize Aadhaar authentication for new taxpayers.
6. Certain amendments to be carried out in the GST laws.

The Press Release can be accessed at: <https://pib.gov.in/PressReleaseDetail.aspx?PRID=1606430>

**Key Take Away of 39th GST Council Meeting on related on IT Roadmap**

# 39th GST Council Meeting



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In the 39th meeting of the GST Council, held on March 14, 2020, Shri Nandan Nilekani, on behalf of Infosys, made a presentation addressing the system related issues that are being faced by the taxpayers in the GST system. He first gave a summary of the recently observed IT issues and the way forward to resolve them.

2. He suggested that **in order to smoothen the rollout of the New Return System and to ensure better uptake of the new return, the transition to the new return system may be made in an incremental manner.** He suggested that the process may be initiated by addressing the compliance-related issues first so that the problem of tax evasion and gaming of the system due to non-linking of Form GSTR-1 and Form GSTR-3B is addressed immediately. **The journey could start with linking of the details of the statement of outward supplies in Form GSTR-1 to the liability in Form GSTR-3B. This would be followed by the linking of the ITC credit in Form GSTR-3B to the details of the supplies reflected in the Form GSTR-2A.** In order to tackle evasion and preventing the gaming of the system, implementation of Aadhaar authentication and spike rules would also be initiated.

3. He informed the Council that to augment the capacity of the IT system to concurrently handle 3 lakh taxpayers from the present level of 1.5 lakh taxpayers, the hardware procurement process has been initiated which is slightly impacted by the Covid-19 pandemic.

4. The GST Council further made the following suggestions after due discussions:-

(a) Shri Nandan Nilekani would attend the next 3 meetings of the GST Council and update the council of the status of implementation of the decisions taken by the Council and assist the Council in taking appropriate decisions on technology-related issues,

(b) To support the timely implementation of various initiatives, the Council gave a go-ahead for the deployment of additional manpower (60 in number) on T&M basis and assured that both on procurement of additional hardware and hiring of manpower, expeditious approvals would be given however the return filing experience of the taxpayers and removal of technical glitches needs to be carried out urgently.

5. Shri Nandan Nilekani assured that **he would personally monitor the progress of the GSTN project and also agreed to attend the IT-GoM for the next 6 months or till such time the initiatives are implemented. The GST Council expects these initiatives to be implemented by July 31, 2020.**

The Press Release can be accessed at: <https://pib.gov.in/PressReleaseDetail.aspx?PRID=1606430>

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## Key Takeaway of 39th GST Council Meeting w.r.t. Changes in GST Rates on Supply of Goods and Services



# GST COUNCIL

# 39th Meeting

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The 39<sup>th</sup> GST Council met under the Chairmanship of Union Finance & Corporate Affairs Minister Smt Nirmala Sitharaman here today. 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.

### GST Council took the following decisions relating to changes in GST rates on supply of goods and services:-

1. The recommendation of the Fitment Committee for calibrating the GST rate structure to correct the inverted duty structure on various items like Mobile phones, Footwear, Textiles and Fertilizers was placed before the GST Council for discussion. The Council had a detailed discussion on the matter. Upon discussion, the Council made the following recommendations:-

**(a) To raise the GST rate on Mobile Phones and specified parts presently attracting 12% to 18%.**

**(b) To deliberate the issue of calibrating the rate in other items for removing inversion in future meetings with further consultation and examination of the issue.**

2. **GST rate on all types of matches** (Handmade and other than Handmade) has been rationalized to 12% (from 5% on Handmade matches and 18% on other matches). This would address the classification issues. This issue was deliberated earlier in the 37<sup>th</sup> meeting and was pending for decision.

3. **To reduce GST rate on Maintenance, Repair and Overhaul ("MRO") services in respect of aircraft from 18% to 5% with full ITC and to change the place of supply for B2B MRO services to the location of recipient. This change is likely to assist in setting up of MRO services in India.** 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.

The Press Release can be accessed: <https://pib.gov.in/PressReleaseDetail.aspx?PRID=1606432>

## News Flash

1. Govt gives Infosys 15 days to submit plan to quickly fix glitches in GSTN

<https://www.a2ztaxcorp.com/govt-gives-infosys-15-days-to-submit-plan-to-quickly-fix-glitches-in-gstn/>

2. CGST Delhi detects Input Tax Credit fraud worth more than Rs 12 crore from 30 fake firms, one arrested

<https://www.a2ztaxcorp.com/cgst-delhi-detects-input-tax-credit-fraud-worth-more-than-rs-12-crore-from-30-fake-firms-one-arrested/>

3. 3 Bengaluru Infosys employees held for taking Rs 15 lakh bribe from taxpayers

<https://www.a2ztaxcorp.com/3-bengaluru-infosys-employees-held-for-taking-rs-15-lakh-bribe-from-taxpayers/>

4. Bail for kingpin of Rs 138cr GST fraud

<https://www.a2ztaxcorp.com/bail-for-kingpin-of-rs-138cr-gst-fraud/>

5. CBI arrests I-T officer, inspector, CA in bribery case

<https://www.a2ztaxcorp.com/cbi-arrests-i-t-officer-inspector-ca-in-bribery-case/>

6. GST Council meeting: Lottery scheme with up to Rs 1 cr prize to get nod

<https://www.a2ztaxcorp.com/gst-council-meeting-lottery-scheme-with-up-to-rs-1-cr-prize-to-get-nod/>

7. Gujarat HC issues notices to Centre, GST Council over surcharge imposition

<https://www.a2ztaxcorp.com/gujarat-hc-issues-notices-to-centre-gst-council-over-surcharge-imposition/>

8. GST Council to rationalise tax on mobile phones, shoes, textile

<https://www.a2ztaxcorp.com/gst-council-to-rationalise-tax-on-mobile-phones-shoes-textile/>

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A2Z TAXCORP LLP is a boutique Indirect Tax firm having professionals from Multi disciplines which includes Goods and Services Tax (GST), Central Excise, Custom, Service Tax, VAT, DGFT, Foreign Trade Policy, SEZ, EOU, Export – Import Laws, Free Trade Policy etc.

Thanks & Best Regards,

**Bimal Jain**

FCA, FCS, LLB, B. Com (Hons)

[Author of a book on Goods and Services Tax, titled, "GST Law and Analysis \(with conceptual procedures\) \[5<sup>th</sup>Edition\]](#)

Email: [bimaljain@a2ztaxcorp.com](mailto:bimaljain@a2ztaxcorp.com)

**Connect With Us:****Our Address:**

**A2Z TAXCORP LLP**  
**Tax and Law Practitioners**

Flat No. 34B,  
Ground Floor, Pocket – 1,  
Mayur Vihar Phase-1  
Delhi – 110091 (India)

Tel: +91 11 42427056

Web: [www.a2ztaxcorp.com](http://www.a2ztaxcorp.com)

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