

# SKKA IDT ALERT

20/2022 dt 07<sup>th</sup> July 2022

## WEEKLY UPDATES

### KEY HIGHLIGHTS

1. Government extends the time for levy of GST compensation cess by nearly 4 years till March 31, 2026.
2. CBIC prescribes 5th July 2022 for making provisions of clause (c) of section 110 and section 111 of Finance Act, 2022 effective in eyes of law.
3. Exemption to taxpayers having aggregate turnover up to Rs. 2 crores from filing of Annual GST Return for FY 2021-22.
4. Extension of deadline and Waiver of Late Fees for Composition Dealers
5. CBIC extends time limit under section 73(10) for issuance of SCN for FY 2017-18.
6. CBIC Vide **Notification No. 14/2022 – Central Tax** makes various important amendments in CGST Rules, 2017

### INTRODUCTION

The GST entrance throughout the course of recent months has seen a few changes and updates. The GST Council after almost six months met for the 47th meeting under the Chairmanship of Union Minister for Finance & Corporate Affairs Smt. Nirmala Sitharaman in Chandigarh on 28th and 29th day of June 2022.

On 5th July 2022, a series of notifications were rolled out by CBIC to give effect to the recommendations of the 47th GST Council meeting. Summary of the same is hereunder.

Our Team at SKKA brings forth you weekly updates to ensure your business remains tax compliant.

### A. EXTENSION OF GST COMPENSATION CESS LEVY TILL MARCH 2026

Vide **Notification No. 01/2022 – Compensation Cess** dated 24<sup>th</sup> June 2022 government extends the time for levy of GST compensation cess by nearly 4 years till March 31, 2026.

Goods and Services Tax (GST) was presented in the country with impact from July 1, 2017, and states were guaranteed of compensation for the loss of any revenue emerging because of execution of GST for a time of five years.

The extension of the duty of compensation cess, albeit expected, will keep on monumental a weight on the influenced organizations.

Nonetheless, the compensation cess, exacted on extravagance and demerit goods, will keep on being gathered till March 2026 to reimburse the borrowings that were done in 2020-21 and 2021-22 to remunerate states for GST income misfortune.

## B. CBIC NOTIFIES AMENDMENT TO SECTION 49 & 50 OF CGST ACT WEF 05-07-2022

CBIC vide **Notification No. 09/2022 – Central Tax** dated 5<sup>th</sup> July 2022 prescribes the official date, that is, 5<sup>th</sup> July 2022 for making provisions of clause (c) of section 110 and section 111 of Finance Act, 2022 effective and operational in eyes of law.

Section 110 of Finance Act, 2022 related to amendment in Section 49 of CGST Act, 2017 and section 111 of the Finance Act, 2022 relates to amendment in section 50 of the CGST Act which appertains to Interest on delayed payment of tax.

Clause (c) of Section 110 of Finance Act, 2022 - Section 49 of CGST Act, 2017	Section 111 of Finance Act, 2022 - Section 50 of CGST Act, 2017
<p>This Section states that a registered person may, on the common portal, <b>transfer any amount of tax, interest, penalty, fee or any other amount available in the electronic cash ledger</b> under this Act, to the electronic credit ledger for –</p> <p>(a) Integrated Tax, Central Tax, State Tax, Union Territory Tax or Cess or</p> <p><b>(b) Integrated Tax or Central Tax of Distinct person as specified in Section 25(4) or as the case may be Section 25(5).</b></p>	<p>This provides for retrospective <b>amendment and states that where the input tax credit has been wrongly availed and utilized, the registered person shall pay interest on such input tax credit wrongly availed and utilized at such rate not exceeding 24%.</b></p>

## C. EXEMPTION TO TAXPAYERS FROM FILING OF ANNUAL GST RETURN

All registered persons having aggregate turnover in the **F.Y. 2021-22 up to Rs. 2 crores** are exempted from the filing of Annual Return in Form GSTR-9/9A for the same vide **Notification No. 10/2022 – Central Tax** dated 5<sup>TH</sup> July 2022.

The GST Council continues the relaxation which was available for previous financial years; also easing it for small businesses.

## D. EXTENSION OF DEADLINE FOR COMPOSITION DEALERS

CBIC Vide **Notification No. 11/2022 – Central Tax** dated 5th July 2022 extends due date for furnishing **Form CMP-08 for Q1 of F.Y 2022-23 from 18th July 2022 to 31st July 2022.**

Form GST CMP-08 is a statement that needs to be furnished by a composition dealer at the end of each quarter. Thus, the due date to file GST CMP-08 is 18th of the month following the quarter for which tax payment needs to be made by the composition dealer.

## E. EXTENSION OF WAIVER OF LATE FEES FOR COMPOSITION TAXPAYERS

The government provides extension of waiver of late fees till 28th July 2022 for delay in furnishing of Form GSTR-4 for F.Y. 2021-22 vide **Notification No. 12/2022 – Central Tax** dated 5th July 2022.

Under GST Law, GSTR-4 is a return for those taxpayers who have opted for GST Composition Scheme and to be filed on an annual basis electronically on GST Common Portal.

## F. TIME LIMIT EXTENSION UNDER SECTION 73(10) TO ISSUE SCN/ORDER FOR FY 2017-18

CBIC Vide **Notification No. 13/2022 – Central Tax** dated 5th July 2022 seeks to extend certain timelines thereby invoking Sec 168 of CGST Act, 2017. The said notification has been issued retrospectively with effect from 1st March 2020.

- **Time limit to issue order under Sec 73 for F.Y 2017-18 has been extended to 30th September 2023.**
- Period from 1st March 2020 to 28th February 2022 shall be excluded for computation of period of limitation under Sec 73(10) of the said Act for issuance of order under Sec 73(9) of the said Act, for recovery of erroneous refund.
- **Period from 1st March 2020 to 28th February 2022 shall be excluded for computation of period of limitation for filing refund application under section 54 or section 55 of the said Act.**

### Our Comments

The above amendments are aimed to help department to issue SCN for FY 2017-18 u/s73 for a further period till June 2023 as this timeline was supposed to expire in Nov 2022 itself.

Further, for application of refund for which time period u/s54 has expired between 01.03.2020 to 28.02.2022, the CBIC has relaxed the same following several High Court judgments applying the suo moto Supreme Court extension of limitation order due to outbreak of COVID 19. In fact the present amendment would be beneficial for large number of assesseees whose refund claims have been rejected on ground of limitation.



## G. CBIC MAKES VARIOUS AMENDMENTS IN CGST RULES, 2017

CBIC Vide **Notification No. 14/2022 – Central Tax** dated 5<sup>th</sup> July, 2022 makes various important amendment in CGST Rules, 2017 as explained hereunder:

- Amendment in Rule 21A proposed for **automatic revocation of suspension of registration of taxpayers on filing of all pending returns is now notified.**  
This amendment shall bring relief for genuine taxpayers who filed their returns belatedly along with applicable late fee, but their registration was still not restored thereby hindering business operations
- **Amendment in explanation 1 after Rule 43 of CGST Rules, to exclude sale of duty credit scrips from exempt supply for the purpose of reversal of common input tax credit.**
- Certain categories of taxpayers are exempted from the provisions relating to **E-invoicing such as**
  - *Where the supplier of taxable service is an insurer or a banking company or a financial institution, including a non-banking financial company.*
  - *Where the supplier of taxable service is a Goods Transport Agency (GTA).*
  - *Where the supplier of taxable service is supplying Passenger Transportation Service.*
  - *Registered person supplying services by way of admission to exhibition of cinematograph films in multiplex screens.*

Clause (s) has been added to Rule 46, requiring such persons to make a declaration in this regard in their invoices as mentioned below:

*“I/We hereby declare that though our aggregate turnover in any preceding financial year from 2017-18 onwards is more than the aggregate turnover notified under sub-rule (4) of rule 48, we are not required to prepare an invoice in terms of the provisions of the said sub-rule.”*

- Sub-rule (4B) has been inserted in Rule 86 to provide for **FORM PMT03A for re-crediting the amount of erroneous refund paid back by the taxpayers.** The format of the said form has also been notified.
- Sub-rule (14) has been inserted in **Rule 87 to provide for transfer of any amount of tax, interest, penalty, fee, or any other amount available in the electronic cash ledger under the Act to the electronic cash ledger for central tax or integrated tax of a distinct person** FORM GST PMT-09. (Refer section 49 of the Act above)

- A new Rule 88B has been introduced with retrospective effect from 01.07.2017, prescribing the manner of calculation of interest under Section 50.
  - In case the supplies made during the Tax period are declared in the return after due date then Interest is calculated on the amount of tax paid by debiting Electronic Cash Ledger.  
In all other cases interest will be calculated @18% on unpaid tax.
  - Even in cases where Input Tax credit has been wrongly availed or utilized i.e., when the balance in the electronic credit ledger falls below the amount of input tax credit wrongly availed then interest shall be calculated @24%.
- As per second proviso to Rule 89 (1), in case of refund of ITC against supplies made to SEZ unit / SEZ developer, the “specified officer” of the SEZ zone shall certify the receipt of goods and services by SEZ unit / developer. Now, the term “specified officer” would also include “authorized officer” of the SEZ zone, who would be lower in rank than the “specified officer” and would be available in all SEZ.
- Though electricity is “goods” it is intangible and some of the conditions applicable for export of goods cannot be applied to electricity and hence certain special provisions have been made for export of electricity.
- Explanation has been added in Rule 89(4) to provide that the value of goods exported out of India shall be the FOB value as per shipping bill, or the value declared in tax invoice/Bill of supply, whichever is less.
- The Amendment in Formula prescribed in Rule 89(5) of CGST Rules 2017 would now increase the refund of those taxpayers who are availing ITC on Input Services also under INVERTED DUTY STRUCTURE MECHANISM.

In the case of refund on account of inverted duty structure, refund of input tax credit shall be granted as per the following formula: -

*Maximum Refund Amount =*

*{(Turnover of inverted rated supply of goods and services) x Net ITC Adjusted Total Turnover} - tax payable on such inverted rated supply of goods and services x (Net ITC / ITC availed on inputs and input services)*

- Rule 96 has been amended retrospectively w.e.f 1st July 2017 to provide for refund withheld in cases of risky exporters. Such refund claims shall be transmitted online to the proper officer in FORM GST RFD-01. The proposed amendment will be beneficial for all those exporters who get flagged as RISKY, since they will now be timely able to claim refund without much hassle.
- Rule 95 A has been omitted retrospectively w.e.f 01-07-2019

- **FORM GSTR-9 and GSTR-9C have been notified for the F.Y 2021-22 with following changes:**
  - **It shall be now mandatory to report in Table 17 HSN code at six digits level for taxpayers having annual turnover in the preceding year above ₹ 5.00 Cr and at four digits level for all B2B supplies for taxpayers having annual turnover in the preceding year up to ₹ 5.00 Cr.**
  - **The registered person shall report Non-GST supply (5F) separately and shall have an option to either separately report his supplies as exempted and nil rated supply or report consolidated information for these two heads in the “exempted” row only.**
- **Amendment in GSTR 3B:**
  - **“Other details” table will now include “ITC reclaimed which was reversed under Table 4(B)(2) in earlier tax period” as well as “Ineligible ITC under section 16(4) and ITC restricted due to POS provisions.**
  - **Details of supplies on which tax is paid by E-Commerce Operator u/s 9(5) of the CGST Act are to be shown separately.**
  - **Reversal as per Rules 38,42 & 43 and Sec 17(5) to be shown separately.**

**SKKA COMMENTS:**

***With provision of online compliances and payments, the framework of GST has become more accountable. The one nation, one tax system aims to improve India’s competitiveness in global markets. GST law though a new law has already seen several litigations on the process part of the law wherein the departmental officers have passed orders confirming tax demand, rejecting refund claims, cancelling registrations, all without following the due process of law and thereby leading to violation of principles of natural justice. Being GST-compliant, organizations can experience the merits of having a unified tax system and easy input credits. Notwithstanding compliance challenges, it's clear that noncompliance is vastly more expensive and far riskier to an organization.***

***The 47th GST Council Meeting held at Chandigarh addressed GST taxation matters via its clarifications. Several recommendations will be issued in near time as Circulars & Notifications by the Central Board of Indirect Taxes (CBIC) to clarify and notify such matters in GST Law.***

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