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BRIEF ON RECOMMENDATIONS OF 43rd GST COUNCIL MEETING HELD ON 28th MAY, 2021

Measures for Trade Facilitation

1. **Easing compliance of Annual Return for FY 2020-21**
   Taxpayers having aggregate turnover above 5 crores are required to file GSTR-9C for FY 2020-21 and can self-certify the same. However, Team Athena understands the complexity involved in certifying GSTR-9C and is pleased to provide its review services prior to Self-Certification by Management.

2. **Burden of Late fees reduced from prospective tax periods**
3. **Some more relaxations recommended as Covid-19 relief**
   Government has recommended reduction in interest rates, waiver of late fees, extension in due dates of returns and cumulative application of Rule 36(4) relating to tax periods March 2021 to June 2021.

4. **Amnesty Scheme regarding late fees for pending GST returns**

   Late Fees for pending GSTR-3B from July, 2017 to April, 2021 is reduced, if filed between 01.06.2021 to 31.08.2021.

5. **Certain clarifications/amendments have been approved by Council for specific goods/services.**

6. **IGST/Custom Duty exemption on various Medical products related to Covid-19.**

Read below for more details

What Pawan Arora, Partner @ Athena Law Associates has to say about measures

"Self-Certification of GSTR-9C instead of GST Audit from CA/CMA got approval from Council. In my view, despite this tax payer should get review their annual compliances to ensure proper compliance.

Despite the fact that petition is pending before the Hon'ble Delhi High Court, no extension in due dates of filing returns and therefore no relaxation on Interest for delay in payment of taxes. Considering the ongoing proceedings, the Court is more inclined towards giving relaxation by extending due dates or waiving interest directly.

However, definitely Amnesty Scheme for small tax payers may give some relief to them regarding late fees on their previously pending returns.

Set-back for industries like Footwear and Textile as no resolution to issue of inverted duty structure in the present meeting.

During the press conference, the judgment of Hon'ble Delhi High Court on import of Oxygen Concentrators for personal use (free of Cost) is accepted as effective and further confirmed that Committee is constituted for rationalization of tax rate on some Covid items which are presently taxable like Vaccine.

State may be benefited if sun-set of 5 years of compensation cess will be extended."

GST Audit: Certification Responsibility Shifted to Management [FY 2020-21 onwards]

5 Minutes Discussion You Tube: https://youtu.be/-hV9A8tXis4

1. Easing compliance of Annual Return for FY 2020-21

i. Filing of annual return in FORM GSTR-9 / 9A for FY 2020-21 to be optional for taxpayers having aggregate annual turnover upto Rs 2 Crore;

ii. The reconciliation statement in FORM GSTR-9C for the FY 2020-21 will be required to be filed by taxpayers with annual aggregate turnover above Rs 5 Crore.

iii. Amendments in section 35 and 44 of CGST Act made through Finance Act, 2021 to be notified. Thereafter, taxpayers would be able to self-certify the reconciliation statement, instead of getting it certified by chartered accountants. This change will apply for Annual Return for FY 2020-21.

2. Burden of Late fees reduced from prospective tax periods

A. <u>Late Fees for delay in furnishing Form GSTR-3B and GSTR-1</u>

a) For taxpayers having nil tax liability / nil outward supplies

Maximum Late fees **<u>per return</u>** - Rs 500 (Rs 250 CGST + Rs 250 SGST)

b) For other taxpayers:

The below mentioned amount of maximum late fees is **<u>per return.</u>**

Taxpayers having Annual Aggregate turnover in the preceding year -		
Upto 1.5 crores	**Between 1.5 crores to 5 crores**	**Above 5 crores**
Maximum Late fees – Rs 2000 (1000 CGST + 1000 SGST)	Maximum Late fees – Rs 5000 (2500 CGST + 2500 SGST)	Maximum Late fees – Rs 10000 (5000 CGST + 5000 SGST)

B. <u>Late fees for delay in furnishing Form GSTR-4 by composition taxpayers</u>

c) For taxpayers having Nil liability – Maximum Late fees **<u>per return</u>**: Rs. 500 (250 CGST + 250 SGST)

d) For other taxpayers - Maximum Late fees **<u>per return</u>**: Rs. 2000 (1000 CGST + 1000 SGST)

C. <u>Late fees for delay in furnishing Form GSTR-7</u>

Late fee is reduced to Rs. 50 per day (25 CGST + 25 SGST) and capped at a maximum amount of Rs. 2000 (1000 CGST + 1000 SGST) **<u>per return</u>**.

*It is reiterated that above mentioned proposals of reducing burden of late fees is applicable for **prospective** tax periods.*

3. Some more relaxations recommended as so-called Covid-19 relief

A. Relaxation in interest rates and Late fees Waiver

S.No	Tax period	Relief / Waiver from Interest & Late Fees
Taxpayers having an aggregate turnover of **more than rupees 5 crores** in the preceding financial year		
1.	May-21	<u>Interest</u> From due date (20.06.2021) to 05.07.2021 = @ 9% From 06.07.2021 and onwards = @ 18% Late Fee -Waived off if GSTR-3B filed on or before 05.07.2021
For other taxpayers, see Annexure 1 at last page.		

B. Extension of Due dates

S. No	Form to be filed	Tax period	Extended Date
1.	Form GSTR-1	May 2021	26.06.2021
2.	Form IFF	May 2021	28.06.2021
3.	Form GST ITC-04	For Quarter ending March 2021	30.06.2021
4.	Form GSTR-4	FY 2020-21	31.07.2021

C. Restriction of Input Tax Credit under Rule 36(4)

The restriction laid in sub-rule (4) of Rule 36 relating to maximum 5% of eligible ITC is recommended to apply cumulatively for the months of April, May and June 2021 in the return for the period June 2021.

D. Filing of returns by Companies using Electronic Verification Code (EVC)

Recommendation is to allow filing of returns by Companies using Electronic Verification Code (EVC) instead of Digital Signature Certificate (DSC) till 31.08.2021

E. Relaxations under section 168A of the CGST Act

Time limit for completion of various actions, by any authority or by any person, under the GST Act, which falls during the period from 15th April, 2021 to 29th June, 2021, to be extended upto 30th June, 2021, subject to some exceptions.

[Wherever the timelines for actions have been extended by the Hon'ble Supreme Court, the same would apply]

4. Amnesty Scheme regarding late fees for pending GST returns

i. Late fees for non-furnishing FORM GSTR-3B for the tax periods from July, 2017 to April, 2021 has been reduced / waived as under: -
   - If taxpayers did not have any tax liability for said tax periods: Rs. 500 **per return**
   - Other taxpayers: Rs. 1000 **per return**

ii. Such late fees would apply if return for the said tax period is filed between 01.06.2021 to 31.08.2021.

5. Clarifications/ Amendments recommended in relation to GST rates

Goods:

a. Leviability of IGST on repair value of goods re-imported after repairs
b. GST rate of 12% to apply on parts of sprinklers/ drip irrigation systems falling under tariff heading 8424 (nozzle/laterals) to apply even if these goods are sold separately.

Services:

i. **For Real Estate Sector:** To make appropriate changes in the relevant notification for an explicit provision to make it clear that land owner promoters could utilize credit of GST charged to them by developer promoters in respect of such apartments that are subsequently sold by the land promotor and on which GST is paid. The developer promotor shall be allowed to pay GST relating to such apartments any time before or at the time of issuance of completion certificate.

ii. **For Road Construction Contractors:** To clarify that GST is payable on annuity payments received as deferred payment for construction of road. Benefit of the exemption is for such annuities which are paid for the service by way of access to a road or a bridge.

iii. To clarify that supply of service by way of milling of wheat/paddy into flour (fortified with minerals etc. by millers or otherwise)/rice to Government/ local authority etc. for distribution of such flour or rice under PDS is exempt from GST if the value of goods in such composite supply does not exceed 25%. Otherwise, such services would attract GST at the rate of 5% if supplied to any person registered in GST, including a person registered for payment of TDS.

iv. To clarify those services supplied to an educational institution including anganwadi (which provide pre-school education also), by way of **serving of food including mid- day meals under any midday meals scheme, sponsored by Government is exempt from levy of GST** irrespective of funding of such supplies from government grants or corporate donations.

v. To clarify these **services provided by way of examination including entrance examination**, where fee is charged for such examinations, by National Board of Examination (NBE), or similar Central or State Educational Boards, and input services relating thereto are exempt from GST.

vi. To extend the same dispensation as provided to MRO units of aviation sector to **MRO units of ships/vessels** so as to provide level playing field to domestic shipping MROs vis a vis foreign MROs and accordingly, -

(a) GST on MRO services in respect of ships/vessels shall be reduced to 5% (from 18%).

(b) PoS of B2B supply of MRO Services in respect of ships/ vessels would be location of recipient of service

vii. To clarify those services supplied to a Government Entity by way of **construction of a rope-way** attract GST at the rate of 18%.

viii. To clarify that **services supplied by Govt. to its undertaking/PSU** by way of **guaranteeing loans** taken by such entity from banks and financial institutions is exempt from GST.

6. IGST/Custom Duty exemption on various Medical products related to Covid-19

1. As a COVID-19 relief measure, a number of specified COVID-19 related goods such as medical oxygen, oxygen concentrators and other oxygen storage and transportation equipment, certain diagnostic markers test kits and COVID-19 vaccines, etc., have been recommended for full exemption from IGST, even if imported on payment basis, for donating to the government or on recommendation of state authority to any relief agency. This exemption shall be valid upto 31.08.2021.
2. A Group of Ministers (GoM) is constituted to go into the need for further relief to COVID-19 related individual items. The GOM shall give its report by 08.06.2021

Please note that the above recommendations would be given effect through relevant Circulars/Notifications which alone shall have the force of law.

Compiled By: Team Athena Law Associates
Date: 29th May, 2021

For any query: Please contact undersigned

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To receive AKS on Emails, you may share your details on above link.

Annexure -1

<u>Relaxation in interest rates and Late fees Waiver for Other taxpayers</u>

<table>
<tr><td colspan="4">Taxpayers having an aggregate turnover of up to rupees 5 crores in the preceding financial year who are liable to furnish monthly return</td></tr>
<tr><td>1.</td><td>Mar-21</td><td colspan="2"><u>Interest</u>
From due date (20.04.2021) to 05.05.2021 = Nil
From 06.05.2021 to 19.06.2021 = @ 9%
From 19.06.2021 and onwards = @ 18%

Late Fee -Waived off if GSTR-3B filed on or before 19.06.2021</td></tr>
<tr><td>2.</td><td>Apr-21</td><td colspan="2"><u>Interest</u>
From due date (20.05.2021) to 04.06.2021 = Nil
From 05.06.2021 to 04.07.2021 = @ 9%
From 04.07.2021 and onwards = @ 18%

Late Fee -Waived off if GSTR-3B filed on or before 04.07.2021</td></tr>
<tr><td>3.</td><td>May-21</td><td colspan="2"><u>Interest</u>
From due date (20.06.2021) to 05.07.2021 = Nil
From 06.07.2021 to 20.07.2021 = @ 9%
From 21.07.2021 and onwards = @ 18%

Late Fee -Waived off if GSTR-3B filed on or before 20.07.2021</td></tr>
<tr><td colspan="4">Taxpayers having an aggregate turnover of up to rupees 5 crores in the preceding financial year who are liable to furnish Quarterly return (i.e. under Quarterly return Monthly Payment Scheme)</td></tr>
<tr><td>4.</td><td>Mar-21</td><td><u>Interest:</u>
For states having due date 22.04.2021

From due date to 07.05.2021 = Nil
From 08.05.2021 to 21.06.2021 = @ 9%
From 22.06.2021 and onwards = @ 18%

Late Fee -Waived off if GSTR-3B filed on or before 21.06.2021</td><td><u>Interest:</u>
For states having due date 24.04.2021

From due date to 09.05.2021 = Nil
From 10.05.2021 to 23.06.2021 = @ 9%
From 24.06.2021 and onwards = @ 18%

Late Fee -Waived off if GSTR-3B filed on or before 23.06.2021</td></tr>
<tr><td>5.</td><td>Apr-21</td><td colspan="2"><u>Interest</u>
From due date (25.05.2021) to 09.06.2021 = Nil
From 10.06.2021 to 09.07.2021 = @ 9%
From 10.07.2021 and onwards = @ 18%

Late Fee -Waived off if GSTR-3B filed on or before 09.07.2021</td></tr>
<tr><td colspan="4">Composition Taxpayers liable to furnish return under section 10</td></tr>
<tr><td>Quarter ending Mar-21</td><td colspan="3"><u>Interest</u>
From due date (18.04.2021) to 03.05.2021 = Nil
From 04.05.2021 to 17.06.2021 = @ 9%
From 18.06.2021 and onwards = @ 18%</td></tr>
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