

Plugging Loopholes: GST Council Meeting to Focus on Enforcement

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Abstract: *The July 11th and August 2nd, 2023 GST Council meetings in India resulted in significant changes impacting various industries. These decisions affect businesses operating in India through a combination of tax rate adjustments, exemptions, and a focus on strengthening GST implementation. A major point of contention is the 28% GST rate levied on online gambling, horse racing, and casinos. This has caused concern among online gambling operators. Positively, the healthcare sector benefits from an exemption on imports of essential pharmaceuticals. This exemption presents a welcome advantage for businesses in this industry. Overall, the recent GST Council meetings brought about a mixed bag of changes for Indian businesses. While some sectors face tax hikes, others benefit from exemptions. The emphasis on stricter GST implementation is another key takeaway, potentially impacting businesses across the board.*

Keywords: GST, India, Group of Ministers (GoM), Measures, Trade, Facilitation, e - commerce, OIDAR Services, e - way Bill, Recommendations, Strengthening, GST implementation

1. Introduction

The Goods and Services Tax (GST), which went into effect on July 1, 2017, is regarded as India's most significant tax reform to date since gaining independence in 1947. GST was supposed to go into effect in April 2010, but it was delayed because of political concerns and competing stakeholder interests.

It is a comprehensive tax system that will incorporate all indirect taxes levied by the federal government, state governments, and localities into a unified national market. The main reason for the construction of GST was to replace all indirect taxes in India, including Central Excise Tax, VAT/Sales Tax, Service Tax, and others with a single taxation structure. The GST - based taxation system promotes tax transparency, boosts GDP from 1% to 2%, and eliminates tax evasion and corruption in the nation.

Steps have been suggested to improve reporting, streamline procedures, handle tax liabilities, and improve compliance. This research paper summarizes the important findings and offers details on adjustments to tax rates, exemptions, strengthening GST implementation, and actions intended to improve compliance.

2. Objectives of the Research

The research has been undertaken and presented considering the following foremost objectives:

- 1) To evaluate the India's 50th and 51th GST Council Meeting, held in July and August 2023, has introduced significant developments and key decisions that impact various sectors.
- 2) To evaluate the prospects from tax rate changes to exemptions and measures to strengthen the GST implementation, these outcomes have far - reaching implications for businesses operating in India.
- 3) To furnish the information for future research on GST based taxation system.

3. Research Methodology

This research paper is based on exploratory research technique and secondary sources available on various websites of Indian Government like Finance Ministry (finmin.gov.in), GST Council (gstcouncil.gov.in), GST Council Archives (gstindia.com), and many more; annual reports; newspaper reports; and wide collection of magazine based on GST. Based on the analysis the objectives of the study are defined and research design is drafted which is highly descriptive in nature.

Scope of the Study

This research paper provides a detailed insight regarding new implementation of GST tax among various sectors of the country. The Good and Services Tax would surely be highly advantageous for major areas of the India economy.

(A) Changes in GST tax rates¹

GST Council approves rate reduction on four items

- GST rate on uncooked, unfried and extruded snack pellets reduced from 18 percent to five percent.
- GST rate on fish soluble paste will be reduced from 18 percent to five percent.
- GST rate on LD slag is to be at par with blast furnace slag. It has been changed from 18 percent to five percent to encourage better utilization of this product and for environmental protection.
- GST rate on Imitation Zari thread or yarn brought down from 12 percent to five percent.

Other changes relating to goods²

- Exemption from IGST will be provided for personal imports of *Dinutuximab (Quarziba)* medicine.
- IGST exemption will be extended to medicines and Food for Special Medical Purposes (FSMP) used in the

¹ <https://www.caclubindia.com/articles/key-highlights-of-50th-gst-council-meeting-49964.asp>

² <https://www.mondaq.com/india/sales-taxes-vat-gst/1344196/update-on-gst-council-meeting-held-on-july-11-2023>

treatment of rare diseases enlisted under the National Policy for Rare Diseases, 2021 for personal imports. The exemption will also apply to FSMP imported by Centres of Excellence for Rare Diseases or on the recommendation of the listed Centres of Excellence.

- Supply of raw cotton by agriculturists to cooperatives will be taxable under the reverse charge mechanism (RCM). Issues related to the past period will be regularized based on the existing interpretation.
- The entry in the compensation cess notification will be amended to include all utility vehicles meeting specific parameters. These criteria include a length of over 4000 mm, an engine capacity surpassing 1500 cc, and a ground clearance of 170 mm or higher. Furthermore, it is clarified through an explanation that “ground clearance” refers to the measurement in an unladen condition.
- Issues related to trauma, spine, and arthroplasty implants prior to July 18, 2022, will be regularized due to genuine interpretational issues.
- Issues related to desiccated coconut for the period July 1, 2017, to July 27, 2017, will be regularized due to genuine interpretational issues.
- The earlier ad valorem rate as applicable on March 31, 2023, will be notified for the levy of Compensation Cess on pan masala, tobacco products, etc., where it is not legally required to declare the retail sale price.
- RBL Bank and ICBC Bank will be included in the list of specified banks eligible for IGST exemption on imports of gold, silver, or platinum.
- Consequential changes in notifications will be made in line with the new Foreign Trade Policy 2023.
- Issues related to GST on plates and cups made of areca leaves prior to October 1, 2019, will be regularized.
- Issues related to GST on biomass briquettes for the period July 1, 2017, to October 12, 2017, will be regularized.

Changes in GST rates of services

GST exemption on satellite launch services will be extended to private sector organizations, including startups, in addition to ISRO, Antrix Corporation Limited, and New Space India Limited (NSIL).³

Other changes relating to services⁴

- Goods Transport Agencies (GTAs) will not be required to file a declaration for paying GST under forward charge every year. If they have exercised this option for a specific financial year (FY), it will be deemed as exercised for the next and future fiscal years, unless they file a declaration to revert to the RCM.
- Services supplied by a director of a company in their private or personal capacity, such as renting immovable property, will not be taxable under RCM. Only services supplied by a director as or in the capacity of a director will be taxable under RCM.
- Supply of food and beverages in cinema halls will be taxable as a restaurant service if supplied separately and independently of the cinema exhibition service. When

the sale of cinema tickets and supply of food and beverages are bundled together as a composite supply, the entire supply will attract GST at the rate applicable to the exhibition of cinema, the principal supply.

Second report of Group of Ministers (GoM) on casinos, race courses, and online gaming⁵

The Group of Ministers (GoM) has recommended that online gaming and horse racing should be taxed at a uniform rate of 28 percent. The tax will be applicable on the full - face value of bets placed. This means that the tax will be calculated on the amount of money that is wagered, regardless of whether the bet wins or loses.

The GoM has also recommended that online gaming and horse racing should be included in Schedule III of the Central Goods and Services Tax (GST) Act, 2017. This would make them taxable actionable claims, which are subject to GST.

The proposed changes to the GST law would ensure that online gaming and horse racing are taxed in a uniform manner across the country. This would help to level the playing field for businesses in these sectors and would also generate additional revenue for the government.⁶

(B) Measures for Trade Facilitation⁷

Goods and Services Tax Appellate Tribunal (Appointment and Conditions of Service of President and Members) Rules, 2023

The GST Council has put forth recommendations regarding the rules governing the appointment and conditions of the President and Members of the proposed GST Appellate Tribunal. These recommendations aim to facilitate the seamless constitution and functioning of the GST Appellate Tribunal.

Additionally, the council has suggested that the provisions of the Finance Act, 2023 related to the GST Appellate Tribunal should be officially notified by the Central Government, effective from August 1, 2023. This step would enable the timely implementation of the provisions and ensure the earliest possible commencement of operations for the GST Appellate Tribunal.

Continuation of relaxations and exemption for annual returns in FY 2022 - 23⁸

The GST Council has recommended the continuation of relaxations provided in the FY 2021 - 22 regarding specific sections of Form GSTR - 9 and Form GSTR - 9C for the FY 2022 - 23. Moreover, to alleviate the compliance burden on smaller taxpayers, the exemption from filing an annual return (in Form GSTR - 9/9A) will be extended for the FY 2022 - 23 as well. This exemption will be applicable to

⁵ <https://cleartax.in/s/50th-gst-council-meet-news>

⁶ <https://caclub.in/recommendations-of-50th-gst-council-meeting-highlights/>

⁷ Ibid.

⁸ Annual GST Return Exemption FY 2022-23 (GSTR-9): CBIC Notification

³ <https://www.mondaq.com/india/sales-taxes-vat-gst/1344196/update-on-gst-council-meeting-held-on-july-11-2023>

⁴ Ibid.

taxpayers with an aggregate annual turnover of up to INR 20 million.⁹

Input services distributor (ISD) mechanism¹⁰

India Tax, Accounting, and Audit Guide 2023 - 24The GST Council has made recommendations to address certain aspects related to the Input Services Distributor (ISD) mechanism. One of the recommendations is to issue a circular clarifying that the ISD mechanism is not mandatory for the distribution of input tax credit (ITC) of common input services acquired from third parties to distinct persons, as per the current provisions of the GST law.

Additionally, the council has suggested providing clarification on the taxability of internally generated services offered by one distinct person to another distinct person. Furthermore, the council has recommended that an amendment be made to the GST law, making the ISD mechanism mandatory in the future for the distribution of ITC related to such common input services procured from third parties.¹¹

Warranty replacement and repair services¹²

The Council has stated that a circular will soon be released to address concerns regarding GST liability and the reversal of ITC. Specifically, it will focus on situations where manufacturers provide warranty replacements for parts and repair services without charging customers any fees during the warranty period. The circular aims to provide clear guidance by stating that manufacturers are not obligated to apply GST on these replacement parts and repair services. Additionally, it will clarify that there is no requirement for manufacturers to reverse the ITC.¹³

Refund related issues¹⁴

Clarification to be issued on various refund - related issues, including the restriction of refund of accumulated ITC based on Form GSTR - 2B, inclusion of export goods in calculating "adjusted total turnover," and admissibility of refund in cases where export realization is made after the time limit provided under Rule 96A of CGST Rules, 2017.¹⁵

TCS liability for e - commerce operators (ECOs)¹⁶

The Council has recommended that a circular be issued to clarify the TCS liability under Section 52 of the CGST Act, 2017. The circular aims to address situations where multiple ECOs are involved in a single transaction of supplying goods or services.¹⁷

⁹ <https://caclub.in/recommendations-of-50th-gst-council-meeting-highlights/>

¹⁰ Ibid.

¹¹ CBIC Clarification on Taxability of Inter-office Supply of Services in Different State

¹² ITC Availability for Warranty Period Replacement/ Repair Services: CBIC Clarification

¹³ Ibid.

¹⁴ CBIC's Clarification on GST Refunds Related 4 Issues: GST Circular 197/09/2023

¹⁵ <https://taxguru.in/goods-and-service-tax/decisions-50th-gst-council-meeting-held-11th-july-2023.html>

¹⁶ GST TCS Liability in Case of Multiple ECOs in One Transaction (ONDC): CBIC Clarification

¹⁷ Ibid.

Simplification of tax invoices for e - commerce and OIDAR services

To simplify tax invoices, an amendment will be made to Rule 46 of the CGST Rules, 2017. This amendment will specify that in cases where taxable services are supplied by or through an e - commerce operator (ECO) or by a supplier of OIDAR (Online Information and Database Access or Retrieval) services to an unregistered recipient, the tax invoice will only require the inclusion of the recipient's state name, rather than the full address.¹⁸

Issuance of clarification circulars¹⁹

To address ambiguity and prevent legal disputes, the issuance of clarification circulars is planned. These circulars will cover a range of topics, including the requirement of e - invoicing for supplies made to government departments, the calculation of interest liability in cases of wrongly availed IGST credit, and the treatment of holding securities of a subsidiary company as a supply of services under GST. The purpose of these circulars is to provide clear guidance and resolve any uncertainties surrounding these issues.²⁰

Verification of ITC²¹

A circular will soon be issued to outline a procedure for the verification of ITC in situations where there is a discrepancy between the ITC claimed in Form GSTR - 3B and the ITC available in Form GSTR - 2A. This verification process specifically pertains to the period from April 1, 2019 to December 31, 2021. The purpose of the circular is to provide clear guidelines on how to address and reconcile any differences in the claimed and available ITC during this specified time frame.

Special procedures and amnesty schemes²²

To facilitate certain processes and provide relief to taxpayers, special procedures and amnesty schemes will be implemented. Firstly, special procedures will be introduced to enable the manual filing of appeals against orders pertaining to TRAN - 1/TRAN - 2 claims. Additionally, amendments will be made to allow manual filing of appeals in specific circumstances.

Furthermore, the existing amnesty schemes for non - filers of returns, revocation of registration cancellation, and deemed withdrawal of assessment orders will be extended until August 31, 2023. These schemes aim to provide an opportunity for eligible taxpayers to rectify their compliance - related issues and benefit from certain concessions.

Overall, these measures are being taken to streamline processes, offer flexibility in filing appeals, and provide a window for eligible taxpayers to resolve their compliance - related matters.

¹⁸ Id.

¹⁹ <https://pib.gov.in/PressReleaseIframePage.aspx?PRID=1938812>

²⁰ <https://taxguru.in/goods-and-service-tax/decisions-50th-gst-council-meeting-held-11th-july-2023.html>

²¹ Ibid.

²² gstcouncil.gov.in

(C) Recommendations for strengthening GST implementation²³***Mandating e - way bills for intra - state movement of gold and precious stones***

Following the recommendations made by the GoM regarding the implementation of the e - way bill requirement for the movement of gold and precious stones under chapter 71, the Council has proposed the insertion of Rule 138F in both the CGST Rules, 2017 and the SGST Rules, 2017.

This recommendation applies to those states that wish to mandate the generation of e - way bills for the intra - state movement of gold and precious stones falling under Chapter 71 within their respective states.

The purpose of this proposal is to provide a framework for the states to enforce the requirement of e - way bills for such movements and ensure better compliance.²⁴

Capacity - based taxation and special composition scheme

In line with the recommendations put forth by the GoM, the Council has proposed several measures. These measures include:

- Issuance of a notification under section 148 of the CGST Act, 2017, which will prescribe a specific procedure to be followed by manufacturers of tobacco, pan masala, and similar items. This procedure will include provisions for the registration of machines and the filing of special monthly returns.
- Insertion of section 122A in the CGST Act, 2017, which will introduce a special penalty for manufacturers who fail to register their machines as required by the aforementioned special procedure.
- The provisions of section 123 of the Finance Act, 2021, which amend section 16 of the IGST Act, will be notified and come into effect from 01.10.2023. Additionally, a notification will be issued under section 16 (4) of the IGST Act, 2017, to enforce the restriction of the IGST refund route for exports of tobacco, pan masala, and similar items, as well as mentha oil.

These recommendations aim to establish specific procedures, penalties, and restrictions for manufacturers in the mentioned sectors, with the goal of enhancing compliance, regulating the industry, and controlling the export of these goods.

Amendments in CGST Rules, 2017 regarding registration²⁵

The Council has recommended amendments to the CGST Rules, 2017 in order to strengthen the registration process and address the issue of fake and fraudulent registrations in the GST system. The proposed amendments are as follows: -

- **Amendment in Rule 10A:** This amendment will require registered persons to furnish the details of their bank

account, in the name and PAN of the registered person, within 30 days of grant of registration or before filing the statement of outward supply (Form GSTR - 1/IFF) under section 37 of the CGST Act, whichever is earlier.

- **Amendment in Rule 21A (2A):** This amendment will introduce a system - based suspension of registration for those registered persons who fail to provide the details of a valid bank account within the prescribed time period under Rule 10A.
- **Insertion of 3rd proviso in Rule 21A (4):** This amendment will enable automatic revocation of the system - based suspension of registration once the registered person complies with the provisions of Rule 10A.
- **Amendment in Rule 59 (6):** Under this amendment, registered persons who have not furnished the details of a valid bank account under Rule 10A may not be allowed to provide the details of their outward supplies in Form GSTR - 1 or using the Invoice Furnishing Facility (IFF).

Amendments in Rule 9 and Rule 25: These amendments eliminate the requirement for physical verification of business premises in the presence of the applicant and provide for physical verification in high - risk cases, even when Aadhaar authentication has been conducted.

Additionally, a pilot project for risk - based biometric - based Aadhaar authentication of registration applicants will be conducted in the Union Territory of Puducherry. The state of Andhra Pradesh has also expressed its intention to participate in the pilot program after its readiness is tested in the states of Gujarat and the Union Territory of Puducherry.

These recommendations aim to enhance the integrity of the registration process, minimize fraudulent registrations, and strengthen compliance in the GST system.

Procedure for recovery of tax and interest in cases of excess output tax liability

Following the recommendations made during the 48th meeting of the GST Council held on December 17, 2022, Rule 88C was introduced in the CGST Rules, 2017 effective from December 26, 2022. This Rule implemented a system - based intimation process for registered persons in cases where their output tax liability, as declared in Form GSTR - 1 for a specific month, exceeded the output tax liability disclosed in the return filed in Form GSTR - 3B for the same month by a specified threshold.

To further address the issue of non - payment of the intimated amount, the Council has recommended the insertion of Rule 142B in the CGST Rules, 2017. This new Rule will outline the procedure for the recovery of tax and interest in cases where the amount intimated under Rule 88C remains unpaid and the registered person fails to provide a satisfactory explanation.

In addition to Rule 142B, a new form named "GST DRC - 01D" will be introduced. This form will specify the manner in which the recovery of tax and interest will be carried out for the outstanding amount as per the intimation made under Rule 88C.

²³ <https://gstcouncil.gov.in/sites/default/files/news-ticker/Press%20release%2050th%20GST%20Council%20Meeting.pdf>

²⁴ Rule 138F of CGST Rules 2017: Intra-State movement of Gold, Precious Stones, etc.

²⁵ <https://www.a2ztaxcorp.com/50th-gst-council-meeting-amendments-in-cgst-rules-2017-to-strengthen-registration-process/>

The purpose of these recommendations is to streamline the process of recovering tax and interest for cases where registered persons have not paid the intimated amount, despite no satisfactory explanation being provided.²⁶

Mechanism to address ITC differences between Form GSTR - 2B and Form GSTR - 3B²⁷

The GST Council has recommended the implementation of a mechanism to address differences in ITC between Form GSTR - 2B and Form GSTR - 3B. This mechanism involves a system - based intimation to taxpayers when there is an excess availment of ITC in Form GSTR - 3B compared to Form GSTR - 2B, exceeding a certain threshold.

To facilitate this mechanism, the Council proposes the insertion of Rule 88D and Form DRC - 01C in the CGST Rules, 2017. Additionally, an amendment will be made to Rule 59 (6) of the CGST Rules, 2017. These measures aim to reduce ITC mismatches and prevent the misuse of the ITC facility in GST.

Under this mechanism, taxpayers will receive an automated intimation regarding the ITC difference, prompting them to provide explanations for the reasons behind the discrepancy or take necessary remedial actions. The purpose is to promote compliance and ensure proper utilization of ITC in line with the GST regulations.

Enhancing compliance in annual return filing through amendment to Form GSTR - 3A²⁸

In order to enhance discipline and compliance in the filing of annual returns, the GST Council has recommended an amendment to Form GSTR - 3A. This amendment aims to introduce a provision for issuing notices to registered taxpayers who fail to furnish their Annual Return in Form GSTR - 9 or Form GSTR - 9A by the due date.

By amending Form GSTR - 3A, the tax authorities will be empowered to issue notices to registered taxpayers who have not fulfilled their obligation to file the annual return within the prescribed timeframe. This measure intends to improve compliance and ensure that taxpayers fulfill their responsibilities in submitting the required annual return documentation, namely Form GSTR - 9 or Form GSTR - 9A, as per the GST regulations.

Strengthening reporting of OIDAR services and RCM²⁹

The CGST Rules, 2017 are set to undergo amendments to Rule 64 and Form GSTR - 5A in order to enhance the reporting requirements for OIDAR service providers. The objective is to enable better tracking of tax payments on a

reverse charge basis by registered persons in India for supplies received from OIDAR service providers.

Under the proposed amendments, OIDAR service providers will be mandated to provide details of the supplies made to registered persons in India within their return in Form GSTR - 5A. This requirement ensures that accurate information is available to track the due payment of tax on a reverse charge basis by the registered persons who have received OIDAR services.

By enhancing the reporting process and ensuring that OIDAR service providers include the necessary details in their returns, tax authorities can more effectively monitor and enforce the RCM for OIDAR services received by registered persons in India.

Inclusion of duty - free shop supplies in exempt supplies for ITC reversal³⁰

The GST Council has recommended the insertion of Explanation 3 after Rule 43 of the CGST Rules, 2017. This addition is aimed at clarifying that the value of supplies of goods from duty - free shops located at arrival terminals in international airports, made to incoming passengers, should be included in the value of exempt supplies.

With this amendment, supplies made by duty - free shops to passengers arriving at international airports will be considered part of exempt supplies under GST. Consequently, the ITC claimed on such supplies will need to be reversed.

Prescribing compounding amount for offenses under Section 132³¹

The CGST Rules, 2017 will be amended to insert sub - rule (3A) in Rule 162. This sub - rule will prescribe the compounding amount for various offenses under section 132 of the CGST Act, 2017.

The compounding amount will be determined as follows: -

- Minimum amount: 50 percent of the tax involved, subject to a minimum of INR 10, 000.
- Maximum amount: 150 percent of the tax involved, subject to a maximum of INR 30, 000.

The compounding amount will be payable in addition to the tax, interest, and penalty that is already due. The proposed amendment to the CGST Rules is a welcome move that will provide businesses with a mechanism to regularize their GST compliance without facing criminal prosecution.

Consent - based sharing of information of registered persons under GST³²

The Council has proposed to insert Rule 163 in the CGST Rules, 2017 to provide for the manner and conditions of consent - based sharing of information of registered persons available on the common portal with other systems. This includes "Account Aggregators" (AAs), which are entities

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<https://pib.gov.in/PressReleaseIframePage.aspx?PRID=1938812#:~:text=Amendment%20in%20rule%2010A%20to,%2F%20IFF%2C%20whichever%20is%20earlier.>

²⁷ Ibid.

²⁸

<https://pib.gov.in/PressReleaseIframePage.aspx?PRID=1938812#:~:text=Amendment%20in%20rule%2010A%20to,%2F%20IFF%2C%20whichever%20is%20earlier.>

²⁹ <https://caclub.in/recommendations-of-50th-gst-council-meeting-highlights/>

³⁰ Ibid.

³¹ <https://caclub.in/recommendations-of-50th-gst-council-meeting-highlights/>

³² Rule 163 of CGST Rules 2017: Consent-based Sharing of Taxpayer's Information

that will be notified by the government to receive and share this information.

The information that can be shared includes: -

- Name, address, and PAN of the registered person
- GSTIN
- Taxable turnover
- Details of supplies made and received
- Details of tax paid and due

The sharing of information will be done with the consent of the registered person. The AAs will be required to use the information for the purposes of providing financial services to the registered person, such as credit scoring and loan approvals.

The proposed amendment is aimed at improving the efficiency of the GST system and making it easier for businesses to access financial services.

Clarification on place of supply³³

The proposed amendment to the IGST Act will clarify the place of supply in respect of the supply of goods to unregistered persons. Currently, the place of supply of goods to unregistered persons is the location of the supplier. However, this can lead to confusion and disputes, especially in cases where the supplier and the recipient are located in different states.

The proposed amendment will clarify that the place of supply of goods to unregistered persons will be the location of the recipient. This will help to ensure that the correct amount of GST is collected on these supplies and that taxpayers are treated fairly.

State level coordination committee³⁴

The proposed formation of a State level coordination committee will help to facilitate knowledge sharing and coordinated efforts on GST matters. This will be especially beneficial in cases where there are cross - border transactions or where there are disputes between the state and federal GST administrations.

The committee will be composed of GST officers from both state and federal GST administrations. This will ensure that all stakeholders are represented and that the committee is able to make decisions that are in the best interests of all taxpayers.

IT system reforms³⁵

The proposed IT system reforms will help to combat GST fraud through system - based reforms. This will include strengthening the registration process, utilizing third - party data for risk management, and controlling the flow of fake ITC. The reforms will also help to protect the GST revenue and ensure that the system is fair to all taxpayers.

³³ MoF Press Release dated 11/07/2023: Highlights of Recommendations of 50th GST Council Meeting

³⁴ MoF Press Release dated 11/07/2023: Highlights of Recommendations of 50th GST Council Meeting

³⁵ Ibid.

(D) The GST council is standing its ground on Casino, Online Gaming and Horse Racing³⁶

Smt. Nirmala Sitharaman, the Union Minister for Finance & Corporate Affairs, presided over the *51st GST Council meeting*, which was conducted virtually on August 2, 2023, and made significant adjustments to the taxation structure for online gaming and casinos. The main conclusions and their ramifications for the gaming business are clarified in this article. In our remark, the following revisions and clarifications are highlighted³⁷: -

- 1) Regardless of whether the activities involve a game of skill or chance, the Council has suggested taxing actionable claims supplied in casinos, online gambling, and horse racing at a rate of 28% on the full value. However, notifications or guidelines will be issued to provide further clarification on the matter.³⁸
- 2) The Council has recommended that, in regards to the provision of online gaming and actionable claims in casinos, tax be applied to the amount paid, payable to, or deposited with the supplier by or on behalf of the player (exclusive of the amount entered into games or bets out of winnings of prior games or bets), rather than the total amount of each bet placed.³⁹

The Council proposed to add a special provision to the IGST Act, 2017 that would require a supplier who provides online gambling for money to a person in India to register only once there under a streamlined registration process and be subject to taxation under the IGST Act.⁴⁰

4. Concluding Remarks

The *50th GST Council Meeting of India*, which ended on July 11, 2023, saw important decisions and substantial advancements with broad ramifications for numerous sectors. One notable decision that caused anxiety among online gaming operators was the application of a 28 percent GST rate to gaming and gambling.

The online gaming and casino industries in India have seen substantial change as a result of the *51st GST Council Meeting*. The suggested reforms are meant to provide these industries with a more organised and fair tax system. The significance of these regulations in the actual world will depend significantly on how they are applied and interpreted, though.

The imposition of a 28% (twenty - eight percent) GST on the face value of bets is unfavourable and will undoubtedly have a significant negative impact on the development and stability of this industry. Stakeholders in the online gambling and casino businesses should keep a careful eye on

³⁶ <https://taxguru.in/goods-and-service-tax/highlights-51st-gst-council-meeting.html>

³⁷ <https://pib.gov.in/PressReleasePage.aspx?PRID=1945208>, Recommendations of 51th GST Council Meeting, held on 2 August 2023.

³⁸ <https://www.bqprime.com/economy-finance/51st-gst-council-meet-online-gaming-to-be-taxed-28-on-deposits-and-other-key-decisions>

³⁹ Ibid.

⁴⁰ <https://taxguru.in/goods-and-service-tax/highlights-51st-gst-council-meeting.html>

new developments since comprehensive notices and guidelines are still pending.

Positively, the council waived GST on necessary imports of pharmaceutical products, which helped the healthcare industry. The discussion also concentrated on improving GST implementation through adjustments to tax rates, reporting specifications, and compliance requirements.

The recommendation to establish the GSTAT with the intention of operationalizing it as soon as possible is a much - anticipated and positive step. The backlog of cases before the tax authorities should be reduced as a result of this.

While the majority of the adjustments suggested are either clarifying in nature or intended to speed up GST compliances and/or enable commerce to further the goal of “*ease of doing business*”.

These choices are intended to improve compliance, streamline procedures, and address the main problems that firms using the Goods and Services Tax (GST) system encounter.