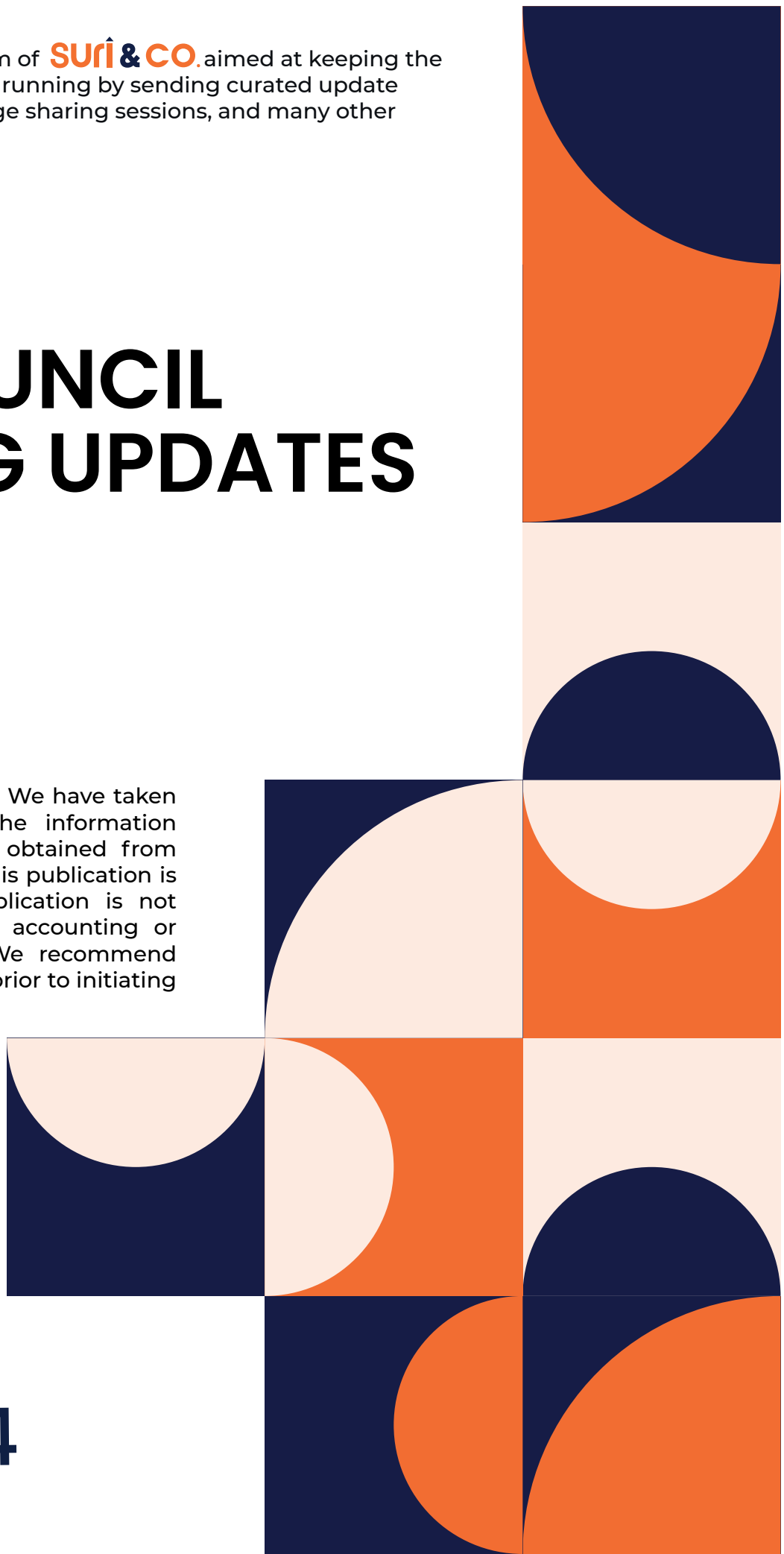


SUVIDYA is the knowledge arm of **Suri & Co.** aimed at keeping the spirit of learning continuously running by sending curated update documents, holding knowledge sharing sessions, and many other programs.

# GST COUNCIL MEETING UPDATES FINAL

## DISCLAIMER

For clients and firm use only. We have taken all steps to ensure that the information contained herein has been obtained from reliable resources and that this publication is accurate. However, this publication is not intended to give legal, tax, accounting or other professional advice. We recommend appropriate advice be taken prior to initiating action on specific issues.



## TAKEAWAYS FROM 50TH GST COUNCIL MEETING

50th GST council meeting was held on 11th July 2023 headed by Hon'ble Finance Minister of India. Key takeaways from the meeting are presented here.

- ▶ Annual Return GSTR-9 for FY 22-23 to be on the same lines as of FY 21-22.
- ▶ ISD Registration is not 'Mandatory'. To be made compulsory for the future.
- ▶ Amnesty scheme for filing GSTR 4, 9 and 10 and revocation of cancellation is Extended up to 31st Aug 2023.
- ▶ Central Tribunal may see light from August 2023.
- ▶ E-Invoice applicable for supplies made to Government Departments also.
- ▶ Relief on Interest Calculation on Credit Utilised - to be seen as Single GST Credit instead of headwise.
- ▶ 2A Vs 3B Unmatched Credits - Relief given.

Outcome of the meeting has been discussed in a detailed manner below:

### 1. ANNUAL RETURN (GSTR – 9):

**Existing provisions** - Registered persons having a turnover of less than Rs.2 Crores are exempt from filing Annual return in Form 9/9A. With respect to registered persons having a turnover above Rs. 2 crores but less than Rs. 5 crores have to file GSTR – 9 but are not required to file reconciliation statement in Form GSTR – 9C. Incase the aggregate turnover is more than Rs. 5 crores, the registered person is required to file both the annual return in Form GSTR – 9 along with the Reconciliation Statement in Form GSTR – 9C. Further there are some relaxations in respect of certain tables while filing the forms.

**Recommendation** - The Council has recommended that the applicability of GSTR 9/9A and GSTR 9C shall continue to be as it was in the previous year and relaxations that were provided in FY 2021-22 in respect of various tables of Form GSTR – 9 and Form GSTR – 9C would continue for FY 2022-23 as well.

#### Our view:

- ▶ To follow the same procedure that has been followed in previous year for GSTR 9 and 9C as no additional disclosure is made mandatory this year.

### 2. CLARIFICATION ON ISD REGISTRATION:

#### Recommendation –

- a. It is recommended by the Council to clarify through a circular that Input service Distributor (ISD) is not mandatory for distribution of input tax credit of common input services procured from third parties to distinct persons and also to clarify issues regarding taxability of internally generated services provided by one distinct person to another distinct person.
- b. It is recommended by the Council that amendments may be made in **GST Act** to make **ISD mechanism mandatory prospectively** for distribution of input tax credit of such common input services procured from third parties.

#### Effect of the above recommendation –

ISD registration is not mandatory as on date for availment and distribution of credits on common services received for multiple registrations of the same entity. However, going forward, registered persons who avail common services for multiple registrations would have to take ISD Registration in order to distribute the ITC to those multiple registrations.

Clarifications would be issued in this regard and taxability of services provided by one registration to another registration under the same PAN.

## Our View – Two key challenges:

- ▶ What services would be treated as “Common” for the Company as a whole would achieve greater importance. It would entail a detailed health checkup and categorization of Input Services
- ▶ Presently many entities have been cross billing for services, should that continue going forwards?

### 3. Continuation of Amnesty Scheme up to 31.08.2023

It has been decided in the Council Meeting that, amnesty scheme for the Non-filers of Form GSTR-4, Form GSTR-9 and Form GSTR-10 returns, revocation of cancellation of registration and deemed withdrawal of assessment orders, where returns can be filed with reduced Late fees charges has been extended up to 31.08.2023 than previous date of 30.06.2023.

### 4. GST Appellate Tribunal to be formed w.e.f. 1st August 2023.

This will be the Central Bench of GST Appellate Tribunal hence Appeals involving “Place of Supply” can be taken up before the Tribunal.

Hence if any appeal is to be filed where the issue involved is “place of supply” then appeal can be prepared and filed once the tribunal is formed in August 2023.

#### Our view:

- ▶ It has been mentioned that state benches would be formed in a phased manner hence we have to wait and watch for the formation of state benches.

### 5. E-invoice for Supplies made to Government and Govt. Departments

Registered person whose turnover exceeds Rs. 5 crores are required to issue E – invoices for **supplies made to Government Departments or establishments / Government agencies / local authorities / PSUs, etc.**, even if they are solely registered for the purpose of TDS.

**Effect of the above recommendation** – Going forward, for those invoices which are to be raised to Government Departments or establishments / Government agencies / local authorities / PSUs, etc., E – invoice is to be generated with the GST TDS registration Number. So, a conscious effort is to be made to raise E – invoice to the above Govt. parties similar to the existing process of raising E – invoices to other private parties.

#### Our View:

- ▶ Entities who are supplying to the Government must request the Government Customer to share their GSTIN (used for TDS) before raising the invoice to ensure compliance.
- ▶ Practical difficulties of whether Government customers would respond to such requests.

### 6. Interest liability on Utilization of Wrong ITC

Change in manner of computation of interest u/s 50(3) of the CGST Act, 2017 read with Rule 88B of CGST Rules, 2017. In case of wrong availment and utilisation of IGST credit, the balance of input tax credit (ITC) in electronic credit ledger, under the heads of IGST, CGST and SGST together has to be taken into consideration to check the ITC utilized for calculating interest liability as per rule 88B of CGST Rules, 2017.

**Effect of the above recommendation** – This effectively means that interest that is to be computed for utilisation of excess IGST credit, is to be done after taking into consideration the balance of ITC in CGST, SGST, IGST on a combined basis. So, interest computation taking only the balance of IGST is no longer valid.

#### Our view:

- ▶ In case of any notice received for payment of interest on account of utilisation of wrong IGST credit, reply has to be submitted considering the balance in IGST, CGST and SGST together to arrive at the amount of ITC wrongly availed and accordingly interest shall be computed.

## 7. Certificate for GSTR 2A vs 3B Mismatch

As per Circular No.183/2022 dated 27th December 2022 was issued to provide for the procedure for verification of input tax credit in cases involving difference in ITC availed in GSTR 3B and ITC available in GSTR 2A during FY 2017-18 and 2018-19. Where it was stated that to obtain CA certification/ self-certification in case of ITC availed but not available in GSTR 2A due to the certain listed reasons in support of the claim of ITC.

It has been recommended in the meeting that the above mechanism shall be extended for the period 1st April 2019 to 31st December 2022 as well for verification of credits not available in GSTR 2A of the taxpayer.

### Our View

- ▶ In case of receipt of notices for the period April 2019 to Dec 2022 on account of ITC not appearing in GSTR 2A/2B, CA certificates/self-certificates can be submitted in support of claim of ITC.

## 8. Mechanism to deal with differences in ITC between Form GSTR 2B and Form GSTR 3B.

It has been recommended in the council meeting that, mechanism for system-based intimation to the taxpayer when ITC availed in GSTR 3B in excess of ITC available in GSTR 2B to a certain limit, and procedure of auto-compliance on the part of the taxpayers to explain the reasons for the said differences to be implemented.

For this purpose, Rule 88D and Form DRC-01C to be inserted in CGST Rules, 2017. The insertion of Rule 88D will help in reducing ITC mismatches and misuse of ITC on the part of the taxpayer.

Early identification of such mismatches helps the taxpayer to be vigilant on GST Compliances and availment of eligible ITC.

### Our View

- ▶ We need to wait and watch the mechanism that will be implemented.
- ▶ More emphasis on proper reconciliation month on month and correct reporting in GSTR-3B

## 9. GTA not required to file declaration every year for paying GST under Forward charge.

Goods Transportation Agency (GTA) has an option to pay tax under Forward Charge and Reverse Charge Mechanism. The option to pay tax under forward charge has to be exercised before the commencement of each financial year. Now it has been recommended that if GTA opts for payable of GST under Forward Charge in one year shall be deemed to have exercised it for the next and future financial years as well unless they file a declaration that they want to revert to reverse charge mechanism (RCM).

10. GTA can opt to exercise payment of GST under Forward charge till 31st March of the preceding financial year which was only till 15th March earlier.

11. System based intimation to be issued to taxpayers where tax payable in GSTR 1 is higher than GSTR 3B. Mechanism to be inserted for providing explanation and manner of recovery of tax and interest in case of non-compliance.

12. Services provided by a Director of a company in the capacity of director shall be subject to GST under RCM. However, services provided by the director in his personal capacity like renting of immovable property shall not be subject to RCM and it is recommended to issue clarification in this regard.

13. Casino, Horse Racing and Online gaming to be taxed at the rate of 28% and taxable value shall be the face value of the chips purchased in the case of casinos, full value of the bets placed with bookmaker/totalisator in the case of Horse Racing and full value of the bets placed in case of the Online Gaming.

14. No GST liability shall arise on warranty replacement of parts and services provided during the warranty period and ITC is also not liable to be reversed on those inward supplies used by the manufacturer.

15. Clarifications to be issued to remove ambiguity in claiming refund of accumulated ITC reflecting in GSTR 2B, computation of value of export goods and adjusted total turnover for refund computation, claim of refund in case where export of goods or the realization of payment for export of services is made after the prescribed time limit.

16. Mere holding of securities of a subsidiary company by a holding company cannot be treated as a supply of services and therefore, cannot be taxed under GST.

Above would be given effect through the relevant circulars / notifications/ law amendments which alone shall have the force of law. We shall share a detailed note on the issue of respective circulars / notifications / amendments in the law.

Press release on the recommendations of 50Th GST council meeting can be seen in the following link:

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