

### Highlights of 45<sup>th</sup> GST Council Meeting

#### Recommendations of 45<sup>th</sup> GST Council Meeting Several people centric decisions taken by GST Council

The 45th meeting of the GST Council was held on 17.09.2021 at Lucknow under the chairmanship of the Union Finance & Corporate Affairs Minister Smt. Nirmala Sitharaman. The GST Council has inter-alia made the following recommendations relating to changes in GST rates on supply of goods and services and changes related to GST law and procedure:

- Life-saving drugs Zolgensma and Viltepso used in treatment of Spinal-Muscular Atrophy exempted from GST when imported for personal use.
- Extension of existing concessional GST rates on certain COVID-19 treatment drugs upto 31 December, 2021.
- GST rates on 7 other medicines recommended by Department of Pharmaceuticals reduced from 12% to 5% till 31 December, 2021.
- GST rate on Keytruda medicine for treatment of cancer reduced from 12% to 5%.
- GST rates on Retro fitment kits for vehicles used by persons with special abilities reduced to 5%.
- GST rates on Fortified Rice kernels for schemes like ICDS reduced from 18% to 5%.
- Council also recommends major changes in GST rates and scope of exemption on Services.
- Recommends several clarifications in relation to GST rates on Goods and Services.
- Council recommends several measures relating to GST law and procedure.
- Council decides to set up 2 GoMs to examine issue of correction of inverted duty structure for major sectors and for using technology to further improve compliance, including monitoring.



## I. Recommendations relating to GST rates on goods and services

### A. COVID-19 relief measure in form of GST rate concession

1. Extension of existing concessional GST rates (currently valid till 30th September 2021) on following Covid-19 treatment drugs, up to 31st December 2021, namely-

- Amphotericin B -nil
- Remdesivir – 5%
- Tocilizumab -nil
- Anti-coagulants like Heparin – 5%

2. Reduction of GST rate to 5% on more Covid-19 treatment drugs, up to 31st December 2021, namely-

- Itolizumab
- Posaconazole
- Infliximab
- Favipiravir
- Casirivimab & Imdevimab
- 2-Deoxy-D-Glucose
- Bamlanivimab & Etesevimab

### B. Major recommendations on GST rate changes in relation to Goods (w.e.f 1.10.2021 unless otherwise stated)

S. No.	Description	From	To
<b>GST rate changes</b>			
1.	Retro fitment kits for vehicles used by the disabled	Appl. rate	5%
2.	Fortified Rice Kernels for schemes like ICDS etc.	18%	5%
3.	Medicine Keytruda for treatment of cancer	12%	5%
4.	Biodiesel supplied to OMCs for blending with Diesel	12%	5%
5.	Ores and concentrates of metals such as iron, copper, aluminium, zinc and few others	5%	18%
6.	Specified Renewable Energy Devices and parts	5%	12%
7.	Cartons, boxes, bags, packing containers of paper etc.	12%/18%	18%
8.	Waste and scrap of polyurethanes and other plastics	5%	18%
9.	All kinds of pens	12%/18%	18%
10.	Railway parts, locomotives & other goods in Chapter 86	12%	18%
11.	Miscellaneous goods of paper like cards, catalogue, printed material (Chapter 49 of tariff)	12%	18%
12.	IGST on import of medicines for personal use, namely <ol style="list-style-type: none"> <li>Zolgensma for Spinal Muscular Atrophy</li> <li>Viltepsa for Duchenne Muscular Dystrophy</li> <li>Other medicines used in treatment of muscular atrophy recommended by Ministry of Health and Family Welfare and Department of Pharmaceuticals.</li> </ol>	12%	Nil
13.	IGST exemption on goods supplied at Indo-Bangladesh Border haats	Appl. rate	Nil
14.	Unintended waste generated during the production of fish meal except for Fish Oil	Nil (for the period 1.7.2017 to 30.9.2019)	

## C. Other changes relating to GST rates on goods

1. Supply of Mentha oil from unregistered person has been brought under reverse charge. Further, Council has also recommended that exports of Mentha oil should be allowed only against LUT and consequential refund of input tax credit.

2. Brick kilns would be brought under special composition scheme with threshold limit of Rs. 20 lakhs, with effect from 1.4.2022. Bricks would attract GST at the rate of 6% without ITC under the scheme. GST rate of 12% with ITC would otherwise apply to bricks.

### D. Correction in Inverted Duty structure in Footwear and Textiles sector

GST rate changes in order to correct inverted duty structure, in footwear and textiles sector, as was discussed in earlier GST Council Meeting and was deferred for an appropriate time, will be implemented with effect from 01.01.2022.

**E. In terms of the recent directions of the Hon'ble High Court of Kerala, the issue of whether specified petroleum products should be brought within the ambit of GST was placed for consideration before the Council. After due deliberation, the Council was of the view that it is not appropriate to do so at this stage.**

### F. Major GST changes in relation to rates and scope of exemption on Services [w.e.f 1.10.2021 unless otherwise stated]

No.	Description	From	To
1.	Validity of GST exemption on transport of goods by vessel and air from India to outside India is extended upto 30.9.2022.	-	Nil
2.	Services by way of grant of National Permit to goods carriages on payment of fee	18%	Nil
3.	Skill Training for which Government bears 75% or more of the expenditure [ presently exemption applies only if Govt funds 100%].	18%	Nil
4.	Services related to AFC Women's Asia Cup 2022.	18%	Nil
5.	Licensing services/ the right to broadcast and show original films, sound recordings, Radio and Television programmes [ to bring parity between distribution and licencing services]	12%	18%
6.	Printing and reproduction services of recorded media where content is supplied by the publisher (to bring it on parity with <i>Colour printing of images from film or digital media</i> )	12%	18%
7.	Exemption on leasing of rolling stock by IRFC to Indian Railways withdrawn.		
8.	E Commerce Operators are being made liable to pay tax on following services provided through them <ol style="list-style-type: none"> <li>transport of passengers, by any type of motor vehicles through it [w.e.f. 1<sup>st</sup> January 2022]</li> <li>restaurant services provided through it with some exceptions [w.e.f. 1<sup>st</sup> January 2022]</li> </ol>		
9.	Certain relaxations have been made in conditions relating to IGST exemption relating to import of goods on lease, where GST is paid on the lease amount, so as to allow this exemption even if (i) such goods are transferred to a new lessee in India upon expiry or termination of lease; and (ii) the lessor located in SEZ pays GST under forward charge.		



## G. Clarification in relation to GST rate on Goods

1. Pure henna powder and paste, having no additives, attract 5% GST rate under Chapter 14.
2. Brewers' Spent Grain (BSG), Dried Distillers' Grains with Soluble [DDGS] and other such residues, falling under HS code 2303 attract GST at the rate of 5%.
3. All laboratory reagents and other goods falling under heading 3822 attract GST at the rate of 12%.
4. Scented sweet supari and flavored and coated illachi falling under heading 2106 attract GST at the rate of 18%.
5. Carbonated Fruit Beverages of Fruit Drink" and "Carbonated Beverages with Fruit Juice" attract GST rate of 28% and Cess of 12%. This is being prescribed specifically in the GST rate schedule.
6. Tamarind seeds fall under heading 1209, and hitherto attracted nil rate irrespective of use. However, henceforth they would attract 5% GST rate (w.e.f. 1.10.2021) for use other than sowing. Seeds for sowing will continue at nil rate.
7. External batteries sold along with UPS Systems/ Inverter attract GST rate applicable to batteries [ 28% for batteries other than lithium-ion battery] while UPS/inverter would attract 18%.
8. GST on specified Renewable Energy Projects can be paid in terms of the 70:30 ratio for goods and services, respectively, during the period from 1.7.2017 to 31.12.2018, in the same manner as has been prescribed for the period on or after 1st January 2019.
9. Due to ambiguity in the applicable rate of GST on Fibre Drums, the supplies made at 12% GST in the past have been regularised. Henceforth, a uniform GST rate of 18% would apply to all paper and paper board containers, whether corrugated or non-corrugated.
10. Distinction between fresh and dried fruits and nuts is being clarified for application of GST rate of "nil" and 5%/12% respectively;
11. It is being clarified that all pharmaceutical goods falling under heading 3006 attract GST at the rate of 12% [not 18%].
12. Essentiality certificate issued by Directorate General of Hydrocarbons on imports would suffice; no need for taking a certificate every time on inter-state stock transfer.

## H. Clarification in relation to GST rate on services

1. Coaching services to students provided by coaching institutions and NGOs under the central sector scheme of 'Scholarships for students with Disabilities' is exempt from GST
2. Services by cloud kitchens/central kitchens are covered under 'restaurant service', and attract 5% GST [without ITC].
3. Ice cream parlor sells already manufactured ice-cream. Such supply of ice cream by parlors would attract GST at the rate of 18%.
4. Overloading charges at toll plaza are exempt from GST being akin to toll.
5. The renting of vehicle by State Transport Undertakings and Local Authorities is covered by expression 'giving on hire' for the purposes of GST exemption
6. The services by way of grant of mineral exploration and mining rights attracted GST rate of 18% w.e.f. 01.07.2017.
7. Admission to amusement parks having rides etc. attracts GST rate of 18%. The GST rate of 28% applies only to admission to such facilities that have casinos etc.
8. Alcoholic liquor for human consumption is not food and food products for the purpose of the entry prescribing 5% GST rate on job work services in relation to food and food products.

## II. Compensation Scenario

On the issue of compensation scenario, a presentation was made to the Council wherein it was brought out that the revenue collections from Compensation Cess in the period beyond June 2022 till April 2026 would be exhausted in repayment of borrowings and debt servicing made to bridge the gap in 2020-21 and 2021-22. In this context various options, as have been recommended by various committees/ forums were presented. The Council deliberated at length on the issue. The Council decided to set up a GoM to examine the issue of correction of inverted duty structure for major sectors; rationalize the rates and review exemptions from the point of view of revenue augmentation, from GST. It was also decided to set up a GoM to discuss ways and means of using technology to further improve compliance including monitoring through improved e-way bill systems, e-invoices, FASTag data and strengthening the institutional mechanism for sharing of intelligence and coordinated enforcement actions by the Centre and the States.

## III. Recommendations relating to GST law and procedure

### I. Measures for Trade facilitation:

#### 1. Relaxation in the requirement of filing FORM GST ITC-04:

Requirement of filing FORM GST ITC-04 under rule 45 (3) of the CGST Rules has been relaxed as under:

- a. Taxpayers whose annual aggregate turnover in preceding financial year is above Rs. 5 crores shall furnish ITC-04 once in six months;
- b. Taxpayers whose annual aggregate turnover in preceding financial year is upto Rs. 5 crores shall furnish ITC-04 annually.

2. In the spirit of earlier Council decision that interest is to be charged **only** in respect of net cash liability, section 50 (3) of the CGST Act to be amended retrospectively, w.e.f. 01.07.2017, to provide that interest is to be paid by a taxpayer on **"ineligible ITC availed and utilized"** and not on "ineligible ITC availed". It has also been decided that interest in such cases should be charged on ineligible ITC **availed and utilized** at 18% w.e.f. 01.07.2017.

3. Unutilized balance in CGST and IGST cash ledger may be allowed to be transferred between distinct persons (entities having same PAN but registered in different states), without going through the refund procedure, subject to certain safeguards.

4. Issuance of the following circulars in order to remove ambiguity and legal disputes on various issues, thus benefiting taxpayers at large:

- a. **Clarification on scope of "intermediary services";**
- b. **Clarification relating to interpretation of the term "merely establishment of distinct person" in condition (v) of the Section 2 (6) of the IGST Act 2017 for export of services.** A person incorporated in India under the Companies Act, 2013 and a person incorporated under the laws of any other country are to be treated as separate legal entities and would not be barred by the condition (v) of the sub-section (6) of the section 2 of the IGST Act 2017 for considering a supply of service as export of services;

#### c. **Clarification in respect of certain GST related issues:**

i. W.e.f. 01.01.2021, the date of issuance of debit note (and not the date of underlying invoice) shall determine the relevant financial year for the purpose of section 16(4) of CGST Act, 2017;

ii. There is no need to carry the physical copy of tax invoice in cases where invoice has been generated by the supplier in the manner prescribed under rule 48(4) of the CGST Rules, 2017;

iii. Only those goods which are actually subjected to export duty i.e., on which some export duty has to be paid at the time of export, will be covered under the restriction imposed under section 54(3) of CGST Act, 2017 from availing of refund of accumulated ITC.

5. Provision to be incorporated in in CGST Rules, 2017 for removing ambiguity regarding procedure and time limit for filing refund of tax wrongfully paid as specified in section 77(1) of the CGST/SGST Act and section 19(1) of the IGST Act.

#### J. Measures for streamlining compliances in GST

1. Aadhaar authentication of registration to be made mandatory for being eligible for filing **refund claim and application for revocation of cancellation of registration**.
2. Late fee for delayed filing of **FORM GSTR-1** to be auto-populated and collected in next open return in **FORM GSTR-3B**.
3. Refund to be disbursed in the bank account, which is linked with same PAN on which registration has been obtained under GST.
4. Rule 59(6) of the CGST Rules to be amended with effect from 01.01.2022 to provide that a registered person shall not be allowed to furnish **FORM GSTR-1**, if he has not furnished the return in **FORM GSTR-3B** for the preceding month.
5. Rule 36(4) of CGST Rules, 2017 to be amended, once the proposed clause (aa) of section 16(2) of CGST Act, 2017 is notified, to restrict availment of ITC in respect of invoices/ debit notes, to the extent the details of such invoices/ debit notes are furnished by the supplier in **FORM GSTR-1/ IFF and are** communicated to the registered person in **FORM GSTR-2B**.

K. GST Council has also recommended amendments in certain provisions of the Act and Rules.

Source: PIB Press Release dated 17.09.2021

#### GST Revenue collection for September, 2021

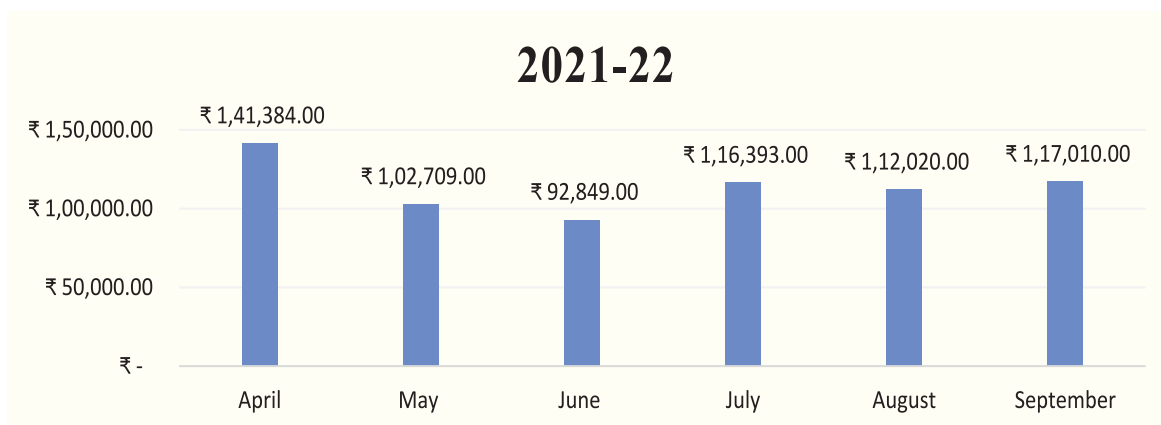
##### GST Revenue collection for September 2021

**₹ 1,17,010 crore gross GST revenue collected in the month of September 2021**

The gross GST revenue collected in the month of September 2021 is **₹ 1,17,010** crores of which CGST is **₹ 20,578** crore, SGST is **₹ 26,767** crore, IGST is **₹ 60,911** crore (including **₹ 29,555** crore collected on import of goods) and Cess is **₹ 8,754** crore (including **₹ 623** crore collected on import of goods). The government has settled **₹ 28,812** crore to CGST and **₹ 24,140** crore to SGST from IGST as regular settlement. The total revenue of Centre and the States after regular settlements in the month of September 2021 is **₹ 49,390** crore for CGST and **₹ 50,907** crore for the SGST.

The revenues for the month of September **2021 are 23% higher** than the GST revenues in the same month last year. During the month, revenues from import of goods was **30%** higher and the revenues from domestic transaction (including import of services) are **20%** higher than the revenues from these sources during the same month last year. The revenue for September 2020 was, in itself at a growth of 4% over the revenue of September 2019 of **₹ 91,916** crore.

The average monthly gross GST collection for the second quarter of the current year has been **₹ 1.15 lakh crore**, which is 5% higher than the average monthly collection of **₹ 1.10 lakh crore** in the first quarter of the year. This clearly indicates that the economy is recovering at a fast pace. Coupled with economic growth, anti-evasion activities, especially action against fake billers have also been contributing to the enhanced GST collections. It is expected that the positive trend in the revenues will continue, and the second half of the year will post higher revenues



Centre had also released GST compensation of Rs. 22,000 crores to States to meet their GST revenue gap.

Source: PIB Press Release dated 01.10.2021

#### Circulars

SN	Circular No.	Dated	Subject
1.	158/14/2021-GST	06.09.2021	Clarification regarding extension of time limit to apply for revocation of cancellation of registration in view of Notification No. 34/2021-Central Tax dated 29th August, 2021
2.	159/15/2021-GST	20.09.2021	Clarification on doubts related to scope of "Intermediary"
3.	160/16/2021-GST	20.09.2021	Clarification in respect of certain GST related issues
4.	161/17/2021-GST	20.09.2021	Clarification relating to export of services-condition (v) of section 2(6) of the IGST Act 2017
5	162/18/2021-GST	25.09.2021	Clarification in respect of refund of tax specified in section 77(1) of the CGST Act and section 19(1) of the IGST Act.

#### Notifications

SN		Dated	Subject
1.	36/2021-Central Tax	24.09.2021	Seeks to amend Notification No. 03/2021 dated 23.02.2021.
2.	35/2021-Central Tax	24.09.2021	Seeks to make amendments (Eighth Amendment, 2021) to the CGST Rules, 2017.

#### Compensation Cess (Rate) Notifications

Notification No.	Dated	Subject
01/2021-Compensation Cess (Rate)	30.09.2021	Seeks to amend notification No. 1/2017-Compensation Cess (Rate).



Central Tax (Rate) Notifications			
SN	Notification No.	Dated	Subject
1.	12/2021-Central Tax (Rate)	30.09.2021	Seeks to exempt CGST on specified medicines used in COVID-19, up to 31st December, 2021
2.	11/2021-Central Tax (Rate)	30.09.2021	Seeks to amend notification No. 39/2017- Central Tax (Rate)
3.	10/2021-Central Tax (Rate)	30.09.2021	Seeks to amend notification No. 4/2017- Central Tax (Rate)
4.	09/2021-Central Tax (Rate)	30.09.2021	Seeks to amend notification No. 2/2017- Central Tax (Rate)
5.	08/2021-Central Tax (Rate)	30.09.2021	Seeks to amend notification No. 1/2017- Central Tax (Rate)
6.	07/2021-Central Tax (Rate)	30.09.2021	Seeks to amend notification No. 12/2017- Central Tax (Rate) so as to implement recommendations made by GST Council in its 45th meeting held on 17.09.2021.
7.	06/2021-Central Tax (Rate)	30.09.2021	Seeks to amend notification No. 11/2017- Central Tax (Rate) so as to notify CGST rates of various services as recommended by GST Council in its 45th meeting held on 17.09.2021.

### GST Portal Updates

#### • Advisory for Taxpayers regarding Generation of EWB where the principal supply is Supply of services.

- Representations have been received from various trade bodies stating that they are not able to generate EWB bill for movement of those goods where their principal supply is classifiable as a service, since there is no provision for generating E-way Bill by entering SAC (Service Accounting Code-Chapter 99) alone on the E- way bill portal.
- To overcome this issue, the taxpayers are advised as below:

- Rule 138 of CGST Rules, 2017, inter alia, states “Information to be furnished prior to commencement of movement of goods and generation of e-way bill. -(1) Every registered person who causes movement of goods of consignment value exceeding fifty thousand rupees....” Thus, E-way bill is required to be generated for the movement of Goods.
- Therefore, in cases where the principal supply is purely a supply of service and involving no movement of goods, the e-way bill is not required to be generated.
- However, in cases where along with the principal supply of service, movement of some goods is also involved, e-way bill may be generated. Such situations may arise in cases of supply of services like printing services, works contract services, catering services, pandal or shamiana services, etc. In such cases, e-way bill may be generated by entering the details of HSN code of the goods, along with SAC (Service Accounting Code) of services involved.

Portal updated on 16.09.2021

#### • On demand fetching of Bill of Entry details from ICEGATE Portal

- To help importers of goods, and recipients of supplies from SEZ, search Bill of Entry details, which did not auto-populate in GSTR-2A, a self-service functionality has been made available on the GST Portal that can be used to search such records in GST System and fetch the missing records from ICEGATE.

- Please note that it usually takes 2 days (after reference date) for BE details to get updated on GST Portal from ICEGATE. This functionality should, therefore, be used if data is not available after this period.  
Note: The reference date would be either out of charge date, Duty payment date, or amendment date - whichever is later.

- Taxpayers can follow the below steps to fetch the requisite details:

- Login to GST Portal
- Navigate to **Services > User Services > Search BoE**
- Enter the Port Code, Bill of Entry Number, Bill of Entry Date and Reference Date and click the **SEARCH** button.  
Note: The reference date would be either out of charge date, Duty payment date, or amendment date - whichever is later.
- If the **BoE** details do not appear in the Search results, click on the **QUERY ICEGATE** button, at the bottom of the screen, to trigger a query to **ICEGATE**.
- History of fetched **BoE** details from ICEGATE along with status of query are displayed after 30 minutes from the time of triggering the query.

- For records of type **IMPG** (Import of Goods), details of: Period for Form GSTR-2A (system generated Statement of Inward Supplies); Reference Date; Bill of Entry Details like Port Code, BoE Number, BoE Date & Taxable Value; and Amount of Tax would be displayed.  
For records of type **IMPGSEZ** (Import of Goods from SEZ), details of: Period for Form GSTR-2A; Reference Date; GSTIN of Supplier; Trade Name of Supplier; Bill of Entry Details like Port Code, BoE Number, BoE Date & Taxable Value; and Amount of Tax would be displayed.
- Taxpayers are advised to confirm correct details either from BE documents, or using ICEGATE portal
- For more details, click on:  
[https://tutorial.gst.gov.in/userguide/taxpayersdashboard/index.htm#t=Manual\\_boe.htm](https://tutorial.gst.gov.in/userguide/taxpayersdashboard/index.htm#t=Manual_boe.htm)
- In case of any problem, please create a ticket at the GST Helpdesk or GST Self-service portal by including following details:

- complete details of BE records
  - GSTIN
  - BE Number
  - BE Date
  - Port Code
  - Reference Number
- Screenshot of ICEGATE portal with BE record
- Any error that they may have encountered while using the “Search BoE” functionality on GST Portal

Portal updated on 17.09.2021

#### • Webinars on ‘Functionality to fetch BoE details by Taxpayers’.

Recently, a self-service functionality has been made available on the GST Portal for taxpayers to fetch the missing Bill of Entry details from ICEGATE if these details are not auto-populated in their Form GSTR-2A. For creating awareness amongst all the stakeholders, GSTN is holding webinars, as per details given below:



Webinar Topic	Functionality to fetch BoE details by Taxpayers			
Language of webina	Hindi	Tamil	English	Marathi
Date	30.09.2021 Thursday	01.10.2021 Friday	05.10.2021 Tuesday	06.10.2021 Wednesday
Time	1200 Hrs to 1230 Hrs	1600 Hrs to 1630 Hrs	1600 Hrs to 1630 Hrs	1200 Hrs to 1230 Hrs
Speake	Sh. Vishal Pal Singh VP, GSTN	Sh. Rafi Ahmed Kidwai Manager, GSTN	Sh. Sanjay Kumar Sharma SM, GSTN	Sh. Bhagwan Patil VP, GSTN
YouTu be link to join	<a href="https://youtu.be/RK6JJEjRijs">https://youtu.be/RK6JJEjRijs</a>	<a href="https://youtu.be/IMJDK3fNxxzE">https://youtu.be/IMJDK3fNxxzE</a>	<a href="https://youtu.be/dlrbrP0QwCM">https://youtu.be/dlrbrP0QwCM</a>	<a href="https://youtu.be/8EDf-eT_0SM">https://youtu.be/8EDf-eT_0SM</a>

During these sessions, viewers can post their Queries in Live Chat / Comments section which will be responded to by our panel.

Recording of these sessions will also be available on GSTNs dedicated YouTube channel, at [https://www.youtube.com/channel/UCFYpOk92qurlO5t-Z\\_y-bOQ](https://www.youtube.com/channel/UCFYpOk92qurlO5t-Z_y-bOQ) for viewing later on.

Portal updated on 27.09.2021

#### 45<sup>th</sup> GST Council Meeting's Photo Gallery



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