

**Confidential**



# **Agenda for the 44<sup>th</sup> Meeting of the GST Council**

**12<sup>th</sup> June 2021**







**GST Council Secretariat**

**New Delhi**

Dated: 09<sup>th</sup> June 2021

**Notice for the 44<sup>th</sup> Meeting of the GST Council Scheduled on 12<sup>th</sup> June 2021**

The undersigned is directed to refer to the subject cited above and convey that the 44<sup>th</sup> Meeting of the GST Council would be convened on **12<sup>th</sup> June 2021 (Saturday)** through Video Conference. The schedule of the meeting is as follows:

**12<sup>th</sup> June 2021(Saturday) : 1100 Hours onwards**

2. Please convey the invitation to the Hon'ble Members of the GST Council to attend the Meeting.

*Sd-*

**(Tarun Bajaj)**

**Secretary to the Govt. of India and ex-officio Secretary to the GST Council  
Tel: 011 23092653**

Copy to:

1. PS to the Hon'ble Minister of Finance, Government of India, North Block, New Delhi with the request to brief Hon'ble Minister about the above said meeting.
2. PS to Hon'ble Minister of State (Finance), Government of India, North Block, New Delhi with the request to brief Hon'ble Minister about the above said meeting.
3. The Chief Secretaries of all the State Governments, Union Territories (with legislature) of Delhi, Puducherry and Jammu and Kashmir with the request to intimate the Minister in charge of Finance/Taxation or any other Minister nominated by the State/UT Government as a Member of the GST Council about the above said meeting.
4. The Chairman, CBIC, North Block, New Delhi, as a permanent invitee to the proceedings of the Council.
5. The Chairman, GST Network



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# Discussion on the Agenda Item

## **Agenda Item: Report of the Group of Ministers for GST Concessions on Covid Relief Items**

The 43<sup>rd</sup> Meeting of the GST Council was held on 28<sup>th</sup> May 2021. An Agenda Item dealing with the representations/recommendations received from States, Ministries and other stakeholders (trade and individuals) seeking reduction/exemption in GST rates on items being used for Covid-19 relief was placed before the Council. These representations/ recommendations were broadly classified under two categories as under, -

- A. Requests for enhancement of the scope of Ad hoc Exemption Order No. 04/2021-Customs dated 03.05.2021 for Covid-19 relief goods received even on purchase basis from abroad for free distribution in India; and
- B. Requests for reduction in GST rates on Covid-19 related individual items like drugs, vaccines, oxygen therapy equipment like concentrators and other goods/equipment like kits, PPE, mask, sanitizer, ventilators etc.

Further, certain petitions for relief from GST on Covid-19 related items, including personal imports of oxygen concentrators, were also brought to the notice of the Council.

2. The Council in the said meeting took the following decisions relating to changes in GST rates on Covid relief items, -

- a. With regard to import of specified Covid-19 relief goods covered under the Ad hoc exemption, these were 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.
- b. Both the Ad hoc exemption and the IGST exemption to goods imported on payment basis for donation were made effective till 31<sup>st</sup> August 2021.
- c. Further in view of rising Black Fungus cases, the medicine “Amphotericin B” was included in the above stated exemption (i.e., when imported for free distribution in India). Additionally, Central Government also exempted Customs duty on Amphotericin B.
- d. As regards GST rates on individual items being used in Covid-19 relief there were divergent views in the Council as regards coverage, extent and modalities of GST concession/exemption. Therefore, it was decided to constitute a Group of Ministers (GoM) to go into the need for further relief to COVID-19 related individual items immediately. It was also decided the GoM shall furnish its report by the 8<sup>th</sup> June, 2021.

3. It is pertinent to mention here that the recommendations mentioned at (a) to (c) of para 2.2 above have since been implemented by the Central Government with effect from 31<sup>st</sup> of May 2021 [Notification Nos 31/2021-Cus, 32/2021-Cus and Ad hoc Exemption Order No. 05/2021 all dated 31.05.2021 refer].

4. As directed by the Council, a Group of Ministers (GoM) was constituted with Sh. Conrad K. Sangma, Hon’ble Chief Minister of Meghalaya as the convenor. As per the Terms of Reference, the GoM was entrusted to examine and make recommendations on the need for GST concession/exemption on, -

- a. COVID vaccines, drugs and medicines for COVID treatment, and testing kits for COVID detection,
- b. Medical grade oxygen, Pulse Oximeters, Hand sanitizers, Oxygen therapy equipment such as concentrators, generators and ventilators, PPE kits, N95 masks, surgical masks, temperature checking equipment, and
- c. Any other items required for COVID relief.

5. The GoM held its first and only meeting on 3<sup>rd</sup> June 2021 and has submitted its report for the Council's consideration (**Annexure-I**). Accordingly, the report of the GoM is placed before the Council for consideration and taking a decision as appropriate.





# **REPORT OF THE GROUP OF MINISTERS (GoM) FOR GST CONCESSION ON COVID RELIEF ITEMS**

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## **1. Context**

During April-May 2021, the country witnessed a sharp surge in the number and severity of COVID-19 cases. In this context, various stakeholders made representations/references/recommendations to the Central and State Governments to grant tax concessions to COVID-19 relief material, in order to augment supply for better management of the crises caused by the pandemic.

1.1 By way of background, during the initial COVID-19 wave in April 2020, the Central Government had exempted certain goods, namely ventilators, face masks, personal protection equipment (PPE), COVID-19 testing kits and their inputs from Basic Customs Duty (BCD) and Health Cess for a limited period [Notification No. 20/2020-Customs dated 9th April, 2020 refers]. No concession from GST (including IGST on imports) on such COVID-19 related goods was however granted at that time.

1.2 In the midst of the 'second wave' of the pandemic during April and May 2021, based on the requests for tax concessions on COVID-19 relief material, the Central Government allowed exemption from Basic Customs Duty and Health Cess on a number of items, including Remdesivir medicine, medical oxygen and oxygen generation and transportation equipment and COVID-19 vaccines. [Notification Nos. 27/2021-Cus to 30/2021-Cus refers]. In addition, to address the needs arising out of prevailing exceptional circumstances, an Ad hoc Exemption Order No. 4/2021-Customs dated 3rd May 2021 was issued, allowing full IGST exemption on specified COVID relief materials like medical oxygen, oxygen concentrators and other oxygen storage and transportation equipments, certain diagnostic markers test kits and COVID-19 vaccines, on such goods, when imported free of cost for free distribution, subject to certain conditions for a limited period. There were also requests to extend this exemption to even such items which were purchased from outside India for donation to State for free distribution.

1.3 In certain cases, petitions were also filed before Hon'ble High Courts for seeking a direction for GST exemption on items like oxygen concentrator, their import as gift and import of medicines like Amphotericin B. In some cases, GST exemption was allowed by the Courts.

1.4 The requests/references for GST concession on various Covid relief items were referred to the GST Council after detailed examination by the Fitment Committee.

## **2. Decisions of the GST Council**

The 43<sup>rd</sup> Meeting of the GST Council was held on 28<sup>th</sup> May 2021. An Agenda Item dealing with the ibid representations/recommendations received from States, Ministries and other stakeholders (trade and individuals) seeking reduction/exemption in GST rates on items being used for Covid-19 relief was placed before the Council. These representations/recommendations were broadly classified under two categories as under: -

- A. Requests for enhancement of the scope of Ad hoc Exemption Order No. 04/2021-Customs dated 03.05.2021 for Covid-19 relief goods received even on purchase basis from abroad for free distribution in India; and
- B. Requests for reduction in GST rates on Covid-19 related individual items like drugs, vaccines, oxygen therapy equipments like concentrators and other goods/equipments like kits, PPE, masks, sanitizers, ventilators etc.

Further, certain petitions for relief from GST on Covid-19 related items, including personal imports of oxygen concentrators, were also brought to the notice of the Council.

2.1. The GST Council in its 43<sup>rd</sup> meeting held on 28th May 2021 took the following decisions relating to changes in GST rates on Covid relief items: -

- A. With regard to import of specified Covid-19 relief goods covered under the Ad hoc exemption, these were 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.
- B. Both the Ad hoc exemption and the IGST exemption on goods imported on payment basis for donation were made effective till 31st August 2021.
- C. Further in view of rising Black Fungus cases, the medicine “Amphotericin B” was included in the above stated exemption (i.e., when imported for free distribution in India). Additionally, the Central Government also exempted Basic Customs duty on Amphotericin B.
- D. Regarding GST rates on individual items being used in Covid-19 relief, there were divergent views in the Council with respect to its coverage, extent and modalities of GST concession/exemption. Therefore, it was decided to constitute a Group of Ministers (GoM) to examine the need for further relief on COVID-19 related items immediately. It was also decided that the GoM shall furnish its report by 8<sup>th</sup> June, 2021.

2.2. It is pertinent to mention here that the recommendations mentioned at A to C of para 2.2 above has since been implemented by the Central Government with effect from 31<sup>st</sup> of May 2021 [Notification Nos 31/2021-Cus, 32/2021-Cus and Ad hoc Exemption Order No. 05/2021 all dated 31.05.2021 refer].

### **3. Group of Ministers (GoM) and its Terms of Reference**

As directed by the GST Council in its 43rd Meeting held on 28<sup>th</sup> May 2021, a Group of Ministers (GoM) was constituted under the Chairmanship of Sh. Conrad K. Sangma, Hon’ble Chief Minister of Meghalaya. The constitution of GoM is at Annexure A.

3.1. As per the Terms of Reference, the GoM was entrusted to examine and make recommendations on the need for GST concession/ exemption on: -

- a) COVID vaccines, drugs and medicines for COVID treatment, and testing kits for COVID detection,
- b) Medical grade oxygen, Pulse Oximeters, Hand sanitizers, Oxygen therapy equipment such as concentrators, generators and ventilators, PPE kits, N95 masks, surgical masks, temperature checking equipment, and
- c) Any other items required for COVID relief.

### **4. Recommendations of the Fitment Committee**

Before going into detail of the GoM discussions and its recommendations, it is pertinent to discuss the recommendations that the Fitment Committee had made to the GST Council on these items. The Fitment Committee in its meeting on 20th May 2021 had, amongst other agenda, also examined in detail the requests/recommendations received from various Ministries, States and other stakeholders on GST concessions/exemption on individual items like vaccines, drugs, medicines and other goods/equipments being used in Covid-19 management.

4.1. While examining these representations, the Fitment Committee was broadly of the view that while there is need for providing relief by way of GST concessions for identified Covid-19 items, following aspects relevant to such decision making need consideration: -

- (i) Relief may be considered only by way of rate reduction
- (ii) Upfront exemption on manufactured goods is not desirable as exemption adversely impacts domestic manufacturing

- (iii) The general lowest rate of GST is 5%. Therefore, on merit, 5% rate may be considered where concession is to be granted. Any special lower rate than 5% may not be opted, since 5% is a nominal rate, and the lowest standard rate, applicable to other lifesaving medicines.
- (iv) The purchase of goods by the Government may not require exemption as cost is paid by the Governments and Tax also comes back to Government.
- (v) GST concessions should essentially be considered on those items which are critical and procured by patients.
- (vi) Zero rating of items for domestic consumption is not permissible in law.

4.2. The Fitment Committee had recommended reduction of GST rate from 12% to 5% on the following items for a period of two to three months:

- (i) Oxygen concentrator/generator
- (ii) Pulse oximeter
- (iii) Medical grade oxygen
- (iv) Covid testing kits.

The Fitment Committee had also viewed that the concessions on medicines may be considered on the recommendation of Ministry of Health/Pharma.

4.3. On other items, the Fitment Committee recommended no change in rates. The recommendations of the Fitment Committee, on individual items, are summarized as below: -

S. No.	Description of Goods	Present GST Rate (%)	GST Rate recommended by the Fitment Committee (%)
<b>A. Items where GST rate reduction recommended by the Fitment Committee</b>			
1.	Medical Grade Oxygen	12%	5% till 31.07.2021
2.	Oxygen Concentrators/generator	12%	5% till 31.07.2021
3.	Pulse Oximeters including personal imports	12%	5% till 31.07.2021
4.	Covid Testing Kits	12%	5% till 31.08.2021
<b>B. Items on which no change in GST rate was proposed by the Fitment Committee</b>			
1.	Vaccine	5%	No change
2.	Drugs and medicines	5% / 12%	Change only on recommendation of Ministry of Health
3.	PPE Kits	5%	No change
4.	N95 masks/ triple layer masks, Surgical masks	5%	No change
5.	Ventilators	12%	No change
6.	Hand sanitizers	18%	No change
7.	Temperature check equipment	18%	No change
8.	Ambulances	28%	No change
9.	Portable Hospital Units	18%	No change

10.	Raw materials for manufacture of Covid Testing Kits	Applicable Rate	No change
11.	RT PCR machines	18%	No change
12.	RNA extraction machines	18%	No change
13.	Genome sequencing kits and machines	12% / 18%	No change
14.	Specified Inflammatory Diagnostic Kit namely D-Dimer, IL-6, Ferritin and LDH	12%	No change

*(Detailed recommendations of the Fitment Committee are at Annexure B)*

## 5. Discussions by the GoM

The meeting of the GoM was held on the 3<sup>rd</sup> June 2021 via Video Conference. The GoM held elaborate discussions on each individual item required for Covid-19 relief. Keeping in mind the urgency and importance of the matter, the GoM while deliberating on each item at length, made extra efforts to conclude the discussion in one sitting only, which lasted long.

5.1. While examining all the issues, the general sense of the house was that the recommendations of the GoM need to be made, considering the broader context of providing relief by way of reduction of GST rates on items, which are directly procured by the public at large. At the same time, the kind of impact these recommendations may have on the domestic manufacturing, need to be taken into account. The GoM felt that the creation of domestic capacity in short and intermediate run is the key to tackle the pandemic crisis. The GoM also analysed the impact of any change in tax rates on the demand and supply sides, eventual impact on the consumers, revenue streams of the Governments and possible long-term implications of such recommendations made on the GST architecture and taxation structure across all sectors of the economy. Further, it was the endeavour of the GoM to arrive at its recommendations through consensus.

5.2. **Option of Zero rating and 0.1% rate:** The issues of zero rating and 0.1% rate were debated extensively in the Council while exploring the most optimal way for providing much needed relief to the masses in these difficult times. Needless to say, that these issues were discussed in equal earnest in the GoM too. Eventually, the GoM was guided by the reasoning that more than anything else, the recommendations of the GoM should benefit the people/common man of this Country (who are braving the pandemic) the most, while also ensuring that our domestic producers and supply chains do not suffer.

5.2.1 **Option of Zero rating:** Detailed discussion was held in the GoM meeting on the issue of zero rating of Covid-related goods. The GoM took careful note of the fact that the GST law at present, in terms of a conscious decision of the GST Council, does not allow zero rating of supplies, other than export of goods and services or supply of goods or services to a Special Economic Zone developer or unit. The Council has, in all these years, not yielded to any request to zero rate a domestic supply and did not make recommendation to change the provisions concerning zero rating, even though there have been consistent demands to extend zero rate to various supplies. Any amendment in the law of this nature will have wider implications and therefore, a cautious approach needs to be taken, was the view of the GoM. In any case, amendment in law, even if agreed to, would take a long time, since it requires significant changes in CGST, SGST and IGST Act and time is of the essence in handling the pandemic crisis. Therefore, granting immediate short term relief of zero rating would not be feasible.

5.2.2. **Option of 0.1% rate:** The GoM examined this issue at length, specifically going into details on its implications to the Industry. In this context, the GoM also enquired in detail on the experience of cases, where 0.1% rate had been recommended earlier by the Council. The GoM took note of the fact that the option of providing a lower rate of GST of 0.1% in the case of supplies to merchant

exporters was done as a matter of exception in the initial roll out period of GST, as the refund of exporters got stuck due to system-related issues. The 0.1% rate was prescribed only on supplies which were eventually to be zero rated (i.e., exports). Further, 0.1% rate was an interim measure for export supplies and was an optional rate. It applied to any domestic supply of goods made to the merchant exporters subject to certain conditions and restrictions. The goods so supplied were required to be dispatched directly to the port and to be exported within 90 days. Therefore, the 0.1% rate was provided in the spirit of zero rating of exports and to facilitate exports. However, as per the available information, 0.1% rate is availed by a small percentage of those cases who are eligible to claim. The GoM was informed that 0.1% only enables refund of accumulated Input Tax Credit (ITC) as is allowed for inverted rate supplies. This means that with 0.1% rate, domestic manufacturer would only be eligible for refund of ITC on inputs and he does not get refund of ITC on input services or input capital goods. Therefore, domestic manufacturer supplying goods at 0.1% rate would be stuck up with ITC on input services and capital goods, while imports will have no such burden. Also with 0.1% rate, the need of claiming refund of accumulated ITC on inputs for domestic manufacturer gets accentuated. Hence, 0.1% rate on supplies to the merchant exporters, being the optional rate is being availed only in a few cases.

5.2.3. The GoM noted that while the ongoing pandemic was unprecedented in nature, however, 0.1% rate does not really help, as discussed above, and in fact, a mandatory 0.1% rate would impact domestic manufacturing adversely. Further, it creates another rate for domestic supply which in longer run, becomes a precedent for seeking such relief by others on various counts, even though such a rate only deepens the inverted rate structure and not really beneficial to anyone, except importers. Accordingly, the GoM felt that option of 0.1% rate may not be exercised for covid relief supplies, more so considering it to be a short-term measure.

5.3. **Vaccine:** The GST rate on vaccine has been the one of the most contentious issue. The GoM examined the issue with utmost care, minutely exploring all options. Apart from the proposals for zero rating or lower rate like 0.1% as discussed in the preceding paras, the GoM also discussed in detail the proposal for fully exempting GST on vaccine or providing a differential rate structure for vaccine procurements by Centre, State and private parties. After exhaustive deliberations on the issue, the GoM strongly felt that having a multiple tax rate structure for vaccine for different levels of procurement is not feasible, and also taking into account an extremely relevant aspect that the vaccine is mostly procured (around 90%) by the Central and State Governments, who supply it to the people mostly free of cost, any GST reduction will not have direct benefit for the people (who are getting it free of cost anyway), or Government (as GST paid by the Government comes back to it as tax revenue and the States Government getting 70% share) or the manufacturer. Thus, change in GST rate on vaccine will have no visible impact on demand or supply or the consumer. In fact, an exemption or a levy of 0.1% rate would only affect the domestic manufacturers adversely. It was also noted that as per the decision of the GST Council, import of Covid-19 vaccines for free distribution, even if imported on payment basis, has been exempted from basic customs duty and IGST till 31.08.2021, which can be further extended, if need arises. Accordingly, the GoM did not recommend any change in the GST rate on vaccines.

5.4. **Medicines:** With regard to medicines, the GoM was of the view that unlike vaccines, the cost of medicines being used in Covid-19 treatment, in majority of the cases, is borne directly by the patients. Further, the GoM also took note of the fact that certain medicines used in Covid-19 treatment were expensive and hence reduction in GST rates merit due consideration. The issue of amphotericin B, as arising from Court matter, where Hon'ble High Court allowed, in the interim, relief by allowing the imports without payment of IGST, till the time matter was decided by the Government, was also placed before the GST Council in the meeting held on 28.5.2021. Detailed discussions were also held on the prices and availability of certain critical drugs like Amphotericin B, Tocilizumab and taking into cognizance the fact that at present, Tocilizumab is almost entirely imported and Amphotericin B

is also significantly imported (thus exemption for a short period may not have unintended impact like ITC blockage), the GoM recommended full exemption of GST on these two drugs till 31st August 2021. The GoM was convinced that domestic capacity needs to be created in these medicines and hence, GST exemption on these may not be extended beyond 31st August 2021, to avoid making unnecessary dent on the domestic efforts for creating the capacity. As regards other medicines, the GoM also recommended that for other drugs like Remdesivir, Heparin and similar anti-coagulant medicines, GST rate be reduced from 12% to 5%. Further, any other drug/medicine recommended by the Ministry of Health and Family Welfare (MOHFW) or Department of Pharmaceuticals, used in Covid treatment, on which current GST rate is 12%, may be reduced to 5% till 31st August 2021.

**5.5. Oxygen Therapy equipments and other devices:** With regard to GST rates on oxygen therapy goods/equipments being used for Covid management, the GoM was in agreement with the recommendations of the Fitment Committee for reduction in GST rates from 12% to 5% on Medical Grade Oxygen, Oxygen Concentrators and Pulse Oximeters, including personal imports thereof. The GoM was of the view that the period of these concessions should be uniform for all items and limited to 31st August 2021.

**5.6. Other essential medical devices [ventilators, ventilator masks/canula/ helmet, BiPAP Machine and high flow nasal canula (HFNC)]:** In addition to items mentioned at para 5.6 above, the GoM was of the view the medical devices, namely, ventilators, ventilator masks/canula/ helmet, BiPAP Machine and high flow nasal canula (HFNC) were also critical for Covid-19 management. Accordingly, the GoM recommended a tax rate reduction on these items to 5% till 31st August, 2021.

**5.7. Hand sanitizers and Temperature check equipment:** While deliberating on the sanitizers at length, the GoM felt that any exemption for a longer period may impact the competing goods, but in the present exceptional circumstances, exemption for a shorter period on sanitizers is merited. Upon detailed discussions on the requirement and application of these items, the GoM recommended reduction in GST rate on hand sanitizers from 18% to 5% and on temperature check equipment from 18% to 12% till 31st August, 2021.

**5.8. Covid testing kits and other testing kits (D-dimer, IL6, Ferritin and LDH):** The testing kits, including for markers like D-Dimer, etc., are essential items for dealing with Covid and it was felt that there is a need for extending GST concession on all these items. GoM agreed with the recommendation of Fitment to reduce GST rate to 5% on Covid testing Kits. However, on the other kits, the Fitment Commitment had not recommended any rate change. The GoM observed that the kits for marker tests are quite essential and deserve tax relief. Accordingly, the GoM recommended GST reduction to 5% on texting kits for d-dimer, IL-6, Ferritin and LDH till 31st August, 2021.

**5.9. Gas/Electric/other Furnaces for crematorium:** The need for reduction of GST rate on these items was raised by one of the members in the GST Council in its meeting held on 28th May 2021. The GoM noted that in the present pandemic situation, there is a felt need for providing GST relief on Gas/Electric/other Furnaces for use in Crematoriums for Covid-19 management. Based on the discussions, the GoM recommended reduction of GST rate from 18% to 12% on such Gas/Electric/other Furnaces (incinerators) for use in Crematoriums till 31st August, 2021.

**5.10. Other items:** With regard to all other items, viz. RT PCR Machines, RNA Extraction Machines, Genome Sequencing Kits, Genome Sequencing Machines, Raw materials for Manufacture of Covid Testing Kits, PPE Kits, N95 masks, triple layer masks, surgical masks, Ambulances and Portable Hospital Units, the GoM agreed with the recommendations of the Fitment Committee and accordingly no change in GST rate on these items is proposed.

**6. Personal imports of concentrators:** The GoM was also briefed of the petition filed before the Hon'ble Delhi High Court (WP (C) No. 5149/2021) and the order dated 21.05.2021 of the Hon'ble High Court whereby exemption under entry 607A of notification 50/2017-Customs had been extended



on personal import of concentrator as gift, by treating the same as lifesaving medicine. The GoM was also made aware of the Order dated 01.06.2021 of the Hon'ble Supreme Court, whereby the operation of the ibid order dated 21.05.2021 of the Hon'ble Delhi High Court has been stayed. The GoM was informed that as per the submissions made by the Learned Attorney General of India before the Hon'ble Supreme Court, the GoM would also scrutinize the need for further relief on Covid-19 related individual items, including Oxygen Concentrators. The GoM, after detailed discussion on the issue recommended that the reduced rate of 5% may suitably apply to personal imports of concentrator, including gifts to ensure uniform tax rate for import of concentrator by individual as a gift or others, while being aware of the fact that the matter is placed before the Hon'ble Supreme Court for a final decision.

## 6. Recommendations of the GoM

Based on the discussions as para 5 and 6 above, the GoM makes the following recommendations to the GST Council on concessions/ exemption on GST rates on Covid-19 relief material (upto 31.8.2021),

S. No.	Description	Present GST Rate	GoM Recommended GST Rate
<b>A. Vaccines</b>			
1.	Covid-19 Vaccines	5%	No change
<b>B. Medicines</b>			
1.	Tocilizumab	5%	Nil
2.	Amphotericin B	5%	Nil
3.	Anti-Coagulants like Heparin	12%	5%
4.	Remdesivir	12%	5%
5.	Any other drug recommended by Ministry of Health and Family Welfare and Dept. of Pharma for Covid treatment	Applicable Rate	5%

S. No.	Description	Present GST Rate	GoM Recommended GST Rate
<b>C. Oxygen, Oxygen generation equipment and related medical devices</b>			
1.	Medical Grade Oxygen	12%	5%
2.	Oxygen Concentrator/ Generator, including personal imports thereof	12%	5%
3.	Ventilators	12%	5%
4.	Ventilator masks / canula / helmet	12%	5%
5.	BiPAP Machine	12%	5%
6.	High flow nasal canula (HFNC) device	12%	5%
<b>D. Testing Kits and Machines</b>			
1.	Covid Testing Kits	12%	5%

2.	Specified Inflammatory Diagnostic Kits, namely D-Dimer, IL-6, Ferritin and LDH	12%	5%
3.	(i) RT PCR Machines; (ii) RNA Extraction Machines (iii) Genome sequencing machine	18%	No change
4.	Genome sequencing kits	12%	No change
5.	Raw materials for Covid Testing Kits	Applicable rate	No change
<b>E. Other Covid-19 related relief material</b>			
1.	Pulse Oximeters, including personal imports thereof	12%	5%
2.	Hand Sanitizer	18%	5%
3.	Temperature check equipment	18%	12%
4.	Gas/Electric/other Furnaces for crematorium	18%	12%
5.	PPE Kits	5%	No change
6.	N95, triple layer, surgical masks	5%	No change
7.	Ambulances	28%	No change
8.	Portable Hospital Units	18%	No change

**These rate reductions/exemptions are recommended for a period upto 31.8.2021**

F.No. S-31011/12/2021-DIR(NC)-DOR

Government of India  
Ministry of Finance  
Department of Revenue

\*\*\*\*\*

New Delhi, 29<sup>th</sup> May, 2021

**Office Memorandum**

**Subject: Constitution of a Group of Ministers (GoM) on concessions/ exemption from GST to COVID relief material-reg.**

In pursuance of the decision of the GST Council at its 43rd meeting on 28 May 2021, a Group of Ministers (GOM) has been constituted to examine the issue of GST concessions/ exemption to COVID relief material. The GOM shall consist of the following members:

S. No.	Name	Designation and State	
1.	Shri Conrad Sangma,	Chief Minister. Meghalaya	Convenor
2.	Shri Nitinbhai Patel,	Deputy Chief Minister, Gujarat	Member
3.	Shri Ajit Pawar,	Deputy Chief Minister, Maharashtra	Member
4.	Shri Mauvin Godinho,	Minister for Transport & Panchayati Raj, Housing, Protocol and Legislative Affairs, Goa	Member
5.	Shri K.N. Balagopal,	Minister for Finance, Kerala	Member
6.	Shri Niranjan Pujari,	Minister for Finance and Excise, Odisha	Member
7	Shri T. Harish Rao,	Minister for Finance, Telangana	Member
8	Shri Suresh Kr Khanna,	Minister for Finance, U. P.	Member

2. **Terms of Reference:** The GOM shall examine the need for GST concession/exemption and make recommendations on –

- COVID vaccines, drugs and medicines for COVID treatment, and testing kits for COVID detection;
- Medical grade oxygen, Pulse oximeters, Hand sanitizers, Oxygen therapy equipment such as Concentrators, Generators and Ventilators, PPE kits, N 95 masks, surgical masks, temperature checking equipment; and
- any other items required for COVID relief.

3. The GOM on COVID relief shall be assisted by a Committee of officers from the Centre and the States as convened by the GOM.

4. The secretarial assistance to this GOM shall be provided by Joint Secretary (TRU-I), CBIC.
5. The GOM shall submit its recommendations to the Council latest by 8 June, 2021.

  
(Dinesh Bouddh)  
Director (DoR)  
Tel:011-23092686

To

1. All Members of GoM and Officers
2. Revenue Secretary, North Block, New Delhi
3. Chairperson, CBIC, North Block, New Delhi
4. Member (Tax Policy), North Block, New Delhi
5. Joint Secretary, TRU-I, Department of Revenue, North Block, New Delhi
6. GST Council Secretariat, New Delhi
7. PS to Hon'ble Minister of Finance, Government of India, North Block, New Delhi
8. PS to Hon'ble Minister of State (Finance), Government of India, North Block, New Delhi.

**Agenda Item 11: Issues recommended by the Fitment Committee for the consideration of the GST Council**

**Agenda Item 11(i): Covid-19 related recommendations**

This agenda note deals with representations/recommendations received from States, Ministries and other stake holders (trade and individuals) seeking reduction/exemption in GST rates on items being used for Covid-19 relief. These representations/recommendations can be broadly classified under two categories as under -

- A. Requests for enhancement of the scope of Ad hoc Exemption Order No. 04/2021-Customs dated 03.05.2021 for Covid-19 relief goods received from abroad; and
- B. Requests for reduction in GST rates on Covid-19 related drugs, vaccines and other goods/equipment.

In certain cases, petition for relief has been directly filed before the Hon'ble High Courts, mostly relating to personal import of concentrator.

2. These issues have been considered in detail by the Fitment Committee and are summarised below, -

**A. Requests for enhancement of the scope of Ad hoc Exemption Order No. 04/2021-Customs dated 03.05.2021**

2.1 Amidst the surging second wave of the COVID-19 pandemic, requests have been received for exempting COVID-19 relief material donated from abroad and meant for free distribution, from customs duties, including IGST. In view of the exceptional circumstances, an Ad Hoc Exemption Order No. 4/2021-Customs dated 3.5.2021 was issued granting exemption from IGST on those goods for COVID-19 relief imported free of cost for free distribution, till 30<sup>th</sup> June, 2021. The Basic Customs Duty (BCD) and Health Cess has also been exempted on these items vide separate notifications.

2.2 In this regard, representations have been received from various States, Ministries and other offices of Centre as well as other stakeholders to extend the IGST exemption to goods specified in the Ad hoc Exemption Order No. 04/2021-Customs dated 03.05.2021, when these are imported, -

- (a) at own cost by UN and its agencies, especially WHO, UNICEF and UNDP for free distribution to States and other agencies;
- (b) at own cost by donor organisations based in India, whether governmental, non-governmental or purely private, for free distribution or donation to government; and
- (c) by corporates by their Corporate Social Responsibility (CSR) funds, for free distribution either to State or any hospitals/facilities involved in Covid-19 management.

2.3 The above representations were discussed in the Fitment Committee and the Committee was of the view that there was merit in extending the IGST exemption to import of the specified Covid relief material by any entity, at its own cost, for free distribution or donation to government or hospitals/facilities involved in Covid-19 management, subject to such conditions as may be prescribed to prevent misuse of this exemption. This exemption may terminate on the same date as Ad hoc exemption terminates (30.6.2019). The proposal for consideration of the Council is that exemption from IGST be granted to import by any person if such goods are supplied to Central or State

Government or to any not-for-profit hospital/facility involved in Covid 19 management. The condition of this exemption may be that the (i) importer shall submit a letter from the donee that the importer shall be donating the imported goods to them, and (ii) the importer shall, within 3 months from imports, submit a letter from donee that imported goods were received by them.

**B. Requests for reduction in GST rates on Covid-19 related drugs, vaccines and other goods/equipment**

3.1 Representations have also been received from various stakeholders for reduction in GST rates on specified goods being used in Covid-19 relief in the current wave of the pandemic. These requests are broadly related to reduction in GST Rates on, -

- (a) Covid-19 Vaccine;
- (b) Covid-19 related drugs and medicines; and
- (c) Other goods/equipment being used for Covid management and relief.

3.2 While examining these views, the Fitment Committee was broadly of the view that while there is need for providing relief by way of GST concessions for identified Covid-19 relief items, certain aspect relevant to decision making need consideration, which are as follows:

- (i) Relief may be considered only by way of rate reduction
- (ii) Upfront exemption to manufactured goods is not desirable as exemption adversely impact domestic manufacturing
- (iii) The general lowest rate of GST is 5%. Therefore, on merit 5% rate be considered where concession is to be considered. Any special lower rate may not be opted for considering 5% is a nominal rate, it the lowest standard rate that applies to other lifesaving medicines.
- (iv) The purchase of goods by Government may not require exemption as cost is paid by the Governments. Tax also goes to Government.
- (v) GST concessions should essentially be considered on those items which are critical and are procured by patients.
- (vi) Zero rating of items for domestic consumption is not permissible in law.

3.3 Further, the Fitment Committee also took note of the Writ Petitions being filed in various High Courts of the country seeking IGST exemption on personal imports of Oxygen Concentrators (received as gifts).

3.4 The proposal for reduction in IGST rate on Oxygen Concentrators and other critical goods and equipment for Covid-19 was discussed in detail and the recommendation thereon are mentioned in para 3.7 below.

**Covid-19 Vaccine**

3.5 With regard to Covid-19 Vaccine, the Committee was of the view that such vaccines are already in the lowest GST rate slab of 5%. These are almost entirely being procured by the Centre and State governments and being provided free of cost. GST paid would ultimately accrue to Centre and the States itself. On the other hand, granting complete exemption would result in increased cost of production because the domestic manufacturers of Covid-19 vaccines would not be able to take Input Tax Credit (ITC) on tax paid on their input goods and services. Accordingly, the Fitment Committee was of the view that Covid-19 vaccines may continue at 5% rate.

### **Covid-19 related drugs and medicines**

3.6 With regard to Covid-19 related drugs and medicines, including anti-body cocktails, the Fitment Committee noted that most of the drugs being used in Covid-19 management are already at a concessional rate of 12% or 5%. Further, the Covid-19 treatment protocol was also undergoing changes based on new learnings and studies on efficacy of drugs and medicines being used. That being so, the committee while in principle arriving at a view that the GST rate on such Covid-19 related drugs and medicines should be lower, it may not be feasible to identify any particular drug that is meant for Covid cure. Committee also observed that recently Remdesivir has also been removed by WHO from official medical list. If, Ministry of Health and Family Welfare, later recommends any medicine specifically the same may be examined for GST concession.

### **Other goods/equipment being used for Covid Management**

3.7 The Fitment Committee also discussed the representations on reduction in Other goods/equipment being used for Covid management and relief and recommendations of the Committee in this regard are as under, -

<b>S. No.</b>	<b>Description of Goods</b>	<b>Present GST Rate (%)</b>	<b>GST Rate recommended by Fitment Committee (%)</b>	<b>Comments</b>
<b>A. Recommendation of Fitment Committee for change in GST rate on Goods</b>				
1.	Medical Grade Oxygen	12%	5% till 31.07.2021	<ul style="list-style-type: none"><li>Keeping into account the present situation, Fitment Committee took a view to reduce GST on Medical Oxygen, Oxygen Concentrators and other oxygen generating equipment to 5% until 31<sup>st</sup> July, 2021.</li><li>Full exemption from GST is not recommended as that would result in increased cost of production of these goods because their domestic manufacturers would not be able to take ITC on tax paid on their input goods and services.</li></ul>
2.	Oxygen Concentrators/generator	12%	5% till 31.07.2021	
3.	Pulse Oximeters including personal imports	12%	5% till 31.07.2021	

S. No.	Description of Goods	Present GST Rate (%)	GST Rate recommended by Fitment Committee (%)	Comments
				GST Rate to 5% until 31 <sup>st</sup> July, 2021.
4.	Covid Testing Kits	12%	5% till 31.08.2021	<ul style="list-style-type: none"> <li>Owing to the increased demand for Covid-19 testing during the current wave of the pandemic, the Fitment Committee was of the view that the GST rate on such testing kits be reduced to 5% till 31.08.2021.</li> </ul>
<b>B. Items where no change of GST Rate proposed by Fitment Committee</b>				
1.	PPE Kits	5%	No change	<ul style="list-style-type: none"> <li>PPE Kit and mask are already at 5%. There is substantial production of these goods in the country.</li> <li>Hand sanitizer is a common use item. Even soap is at 18%. Masses use soap.</li> <li>Ventilators is not an item for procurement by an individual. It is not as critical and short supply as oxygen concentrator. 12% is a reasonable rate as applies to all medical equipment and hence it may continue at 12%</li> <li>Full exemption from GST is not recommended as that would result in increased cost of production of these goods because their domestic manufacturers would not be able to take ITC on tax paid on their input goods and services</li> </ul>
2.	N95 masks/ triple layer masks, Surgical masks	5%	No change	
3.	Ventilators	12%	No change	
4.	Hand sanitizers	18%	No change	
5.	Temperature check equipment	18%	No change	
6.	Ambulances	28%	No change	<ul style="list-style-type: none"> <li>The Fitment Committee did not recommend any change in GST rate as a</li> </ul>



S. No.	Description of Goods	Present GST Rate (%)	GST Rate recommended by Fitment Committee (%)	Comments
				majority these ambulances are modified after clearance as normal vehicles. <ul style="list-style-type: none"> <li>Ambulances are for institutional sale.</li> </ul>
7.	Portable Hospital Units	18%	No change	<ul style="list-style-type: none"> <li>The Fitment Committee was of the view that such Portable Hospital Units have very limited use in the context of Covid-19 management.</li> <li>The Fitment Committee accordingly did not recommend any change in GST rate on these goods.</li> </ul>
8.	Raw materials for manufacture of Covid Testing Kits	Applicable Rate	No change	<ul style="list-style-type: none"> <li>The Fitment Committee was of the view that these are goods are in the nature of inputs and the GST paid on such goods is available as ITC to the buyers thereof.</li> <li>Accordingly, the Fitment Committee did not recommend any change in GST rate on these goods.</li> </ul>
9.	RT PCR machines	18%	No change	
10.	RNA extraction machines	18%	No change	
11.	Genome sequencing kits and machines	12% / 18%	No change	
12.	Specified Inflammatory Diagnostic Kit namely D-Dimer, IL-6, Ferritin and LDH	12%	No change	<ul style="list-style-type: none"> <li>The Fitment Committee was of the view that these diagnostic kits are used for diagnosis of diseases other than Covid-19 also.</li> <li>Accordingly, the Fitment Committee did not recommend any change in GST rate on these goods.</li> </ul>

3.8 It is also to mention that in a petition filed before the Hon'ble Delhi High Court (WP No. 16554/2021) the Hon'ble Delhi High Court, vide order dated 21.5.2020, has given relief and has interpreted that exemption is available to the petitioner from IGST, on personal import of concentrator as gift, vide an entry 607A of notification 50/2017-Cus. This entry was inserted on the recommendation of GST Council (23rd meeting held on 10.11.2017.). Said entry 607A provides

exemption for lifesaving drugs and medicines for personal use, supplied free of cost by overseas supplier' subject to the similar condition of certification by prescribed medical authorities. In the process, Hon'ble Court has also waived of the condition as prescribed as being impractical and inefficacious and replaced the requirement of certification by medical authority in each case by a self-certification by the importer. Court has stated that drugs include oxygen concentrator and therefore covered under this exemption. It may be mentioned that Court was apprised the GST Council shall be looking at the issues of General exemption from GST on covid relief items. Hon'ble Council shall be updated of action taken in the matter during the meeting of the Council.