

### Highlights of 38<sup>th</sup> GST Council Meeting

The 38<sup>th</sup> meeting of the GST Council was held on 18<sup>th</sup> December, 2019 at New Delhi under the Chairmanship of Smt. Nirmala Sitharaman, Union Minister for Finance & Corporate Affairs. The meeting was attended by the Union Minister of State for Finance & Corporate Affairs and Finance Ministers of all States and UTs. Officers from Department of Revenue, CBIC, State Tax administration, GSTN and GST Council Secretariat also attended the meeting. The meeting was held in NDMC Conference Hall, New Delhi.



Important recommendations by the Council are summarized below:

#### Uniform Rate on Lottery

A uniform tax rate of 28% irrespective of its mode i.e. State-run or State-authorized lottery. This proposal was subjected to voting which resulted votes of 21 States in favour of uniform rate, 7 States against and 3 abstained. Considering the majority in favor of a uniform single rate, the Council recommended GST rate at 28% on lottery to be effective from 1<sup>st</sup> March 2020. Hitherto, the lotteries run by the State are taxed at the rate of 12% whereas the lotteries authorized by State at the rate of 28%.

#### Woven and Non-Woven Bags

A uniform 18% GST rate on Woven and Non-Woven Bags and sacks of polyethylene or polypropylene strips or the like (whether or not laminated, of a kind used for packing of goods, HS code 3923/6305) and all such bags including Flexible Intermediate Bulk Containers (FIBC), to be effective from 1<sup>st</sup> January, 2020.

#### Long term Lease of Industrial/Financial Infrastructure Plots

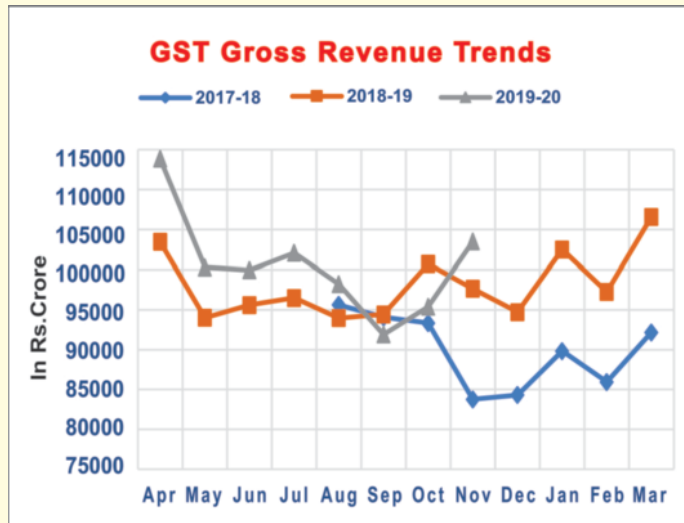
Exemption on upfront amount payable for long term lease of industrial/financial infrastructure plots by an entity having 20% or more ownership of Central or State Government to be effective from 1<sup>st</sup> January, 2020. Hitherto, the exemption was available to an entity having 50% or more ownership of the Central or State Government.

#### Measures for Revenue Augmentation

Shri Sushil Kumar Modi, Hon'ble Deputy Chief Minister of Bihar and Convener of Group of Ministers (GoM) on Revenue Analysis updated that the GoM had two meetings. After detailed discussion and deliberations, the GoM suggested some action points for revenue augmentation. Accordingly, a Committee of Officers (CoO) on Revenue Augmentation constituted in this regard met two times (15<sup>th</sup> October and 10<sup>th</sup> December, 2019) for examining the action points suggested by the GoM and the suggestions received from the States as well.



A presentation was made on behalf of the Committee of Officers when revenue scenario and policy options for revenue augmentation were presented. A comparative revenue trends, GST rate structure and reduction in GST rates since the inception of GST were presented, which is reproduced below:



### Evolution of GST Rates Structure

- GST rates were initially worked out on RNR basis
- However, on a number of items rates lower than the RNR rates were prescribed
- Items placed under 28% slab had pre-GST incidence in excess of 31%
- Items like tooth paste, mineral water, soap kept in 18% slab (Pre-GST 30%)
- Significant post GST rates reduction and other concessions

Date of GSTC meeting	Rate reduction (No. of goods)
09.09.2017	36
06.10.2017	26
10.11.2017	243
18.01.2018	24
21.07.2018	55
22.12.2018	16
20.09.2019	12
(about 80 services)	

#### Other Concessions

- Threshold limit increased to Rs. 40 lakhs in goods
- Composition limit increased from Rs. 75 lakh to Rs. 1.5 Crore
- Composition rate lowered from 12% to 1% for manufactures
- Composition Scheme extended to services

The Council had a constructive discussion on revenue position, impact of GST rate reductions, various suggestions to augment revenue such as measures for encouraging voluntary compliance, expanding tax base, measures to improve return filing and tax collection and rationalization of rates. The Council took note on various measures initiated in recent past such as E-invoice, New Return System and QR Code on bills.

The Council gave necessary guidance regarding exemptions and concession impact analysis, tax base analysis, sensitivity analysis and compliance measures needed to keep pace with revenue needs. The Council also directed for expeditious implementation of IT and other initiatives.

#### Restriction on ITC

At present, a taxpayer filing GSTR-3B can claim provisional ITC only to the extent of 20% of the eligible credit available, in respect of invoices or debit notes, the details of which have not been uploaded by the suppliers in the GSTR-2A (Notification No. 49/2019-Central Tax, dated 09.10.2019, Circular No. 123/42/2019 dated 11.11.2019).

On analysis, it was found that in FY 2018-19 the total differences in FORM GSTR-2A and GSTR-3B is 13% of total GSTR-2A, which led to approximately 13% of the total credit

unmatched. The Council was apprised the difference of ITC in FORM GSTR-3B and FORM GSTR-2A in the Financial Year 2017-18 and 2018-19 as under:

In Rs. Crore	Total Credit in 3B	Total Credit in 2A	Difference	Difference/2A%
FY 2017-18	882619.53	633098.53	249521.01	39%
FY 2018-19	1478118.21	1307857.86	170260.35	13%

The Council recommended, in the interest of revenue and to increase the proportion of matched credit in the system, to amend Rule 36(4) of the CGST Rules, 2017 to increase restriction of ITC on missing invoices for any recipient to 10% from 20% of the total supplies received in his FORM GSTR-2A from his suppliers. Accordingly, GST Rules have been amended vide Notification No. 75/2019-Central Tax dated 26.12.2019.

The effect of 10% restriction on ITC has been illustrated through an example below:

Amount in Rs.

		CGST	SGST	IGST
A	Total eligible ITC available during the period as per purchase register	500000	500000	500000
B	Total ITC appearing in GSTR-2A	400000	400000	450000
C	Ineligible ITC appearing in GSTR-2A	25000	25000	10000
D	Net eligible ITC in GSTR-2A (B-C)	375000	375000	440000
E	<b>10% of eligible ITC (10% of D)</b>	<b>37500</b>	<b>37500</b>	<b>44000</b>
F	Maximum ITC which can be availed (D+E)	412500	412500	484000

#### Measures to check menace of Fake Invoices

The Council was apprised that during the investigation of many cases, it was accepted by the persons /registered persons that fake ITC was passed on based on fake invoices, and such ineligible credits are to be reversed under section 16 of the CGST Act. However, reversal has not happened as the return FORM GSTR-3B is self-assessed and on a summary basis and hence it is not possible to determine the exact reason for the reversal.

In order to check menace of fake invoice, the Council approved the proposal for suitable actions for blocking of fraudulently availed ITC in certain situations.

Accordingly, Rule 86A has been inserted by amending GST Rules vide Notification No. 75/2019-Central Tax dated 26.12.2019 enabling disallowing of an amount equivalent to such fraudulent credit in electronic credit ledger for discharge of any liability under section 49 of CGST Act or for claim of any refund of any unutilized amount.

#### Measures to improve filing of Return FORM GSTR-1

The Council was apprised that GSTR-1 filing has been low and has crossed 60% only once in the last six months. The late fees for delay in furnishing of FORM GSTR-1 by the due date are Rs. 20 per day for NIL filers and Rs. 50 per day for others. The maximum late fee is Rs. 10,000 per month under Section 47 of CGST/SGST Act. The only way taxpayers can declare outward supplies is through FORM GSTR-1.

Considering the above, the Council recommended the following measures:

### (i) Waiver of late fee

To improve filing of the GSTR-1 return, waiver of a late fee to all taxpayers in respect of all pending FORM GSTR-1 from July 2017 to November 2019, if the same is filed on or before 10.01.2020 (*Notification No. 74/2019-Central Tax, dated 26.12.2019*).

### (ii) Blocking of E-way bill

In addition to the blocking of the E-way bill facility for non-filers of FORM GSTR-3B, the Council recommended similar blocking of E-way bill generation to the taxpayers, who have not filed their FORM GSTR-1 for two tax periods. Accordingly, Rule 138E of CGST Rules has been amended vide Notification No. 75/2019-Central Tax dated 26.12.2019.

### Creation of Grievance Redressal Committee under GST

The Council recommended to constitute a Grievance Redressal Committee (GRC) at Zone/State level. Accordingly CBIC has issued instruction vide F.No. 20/10/16/2018-GST(Pt.I) dated 24.12.2019 for constitution of GRC.

The salient features for functioning of GRC are as below:

- (i) GRC shall consist of both Central Tax and State Tax officers, representatives of trade and industry and other GST stakeholders to be co-chaired by Chief Commissioners of Central Tax and Commissioner of State Tax.
- (ii) GRC of the Zone/State shall be co-chaired by the Principal Chief Commissioner/Chief Commissioner of Central Tax of the concerned Zone and the Chief Commissioner/Commissioner of State Tax of the concerned State.
- (iii) GRC shall be constituted separately at State level for each State having more than one State corresponding to a single Central Tax Zone.
- (iv) GRC shall be constituted at Zonal Level having more than one Central Tax Zone in a given state.
- (v) GSTN shall develop a portal for recording all such grievances and their disposal.
- (vi) Co-chairs of the GRC shall be responsible to ensure timely entry of the grievances and updating the status of their disposal on the portal.
- (vii) Secretary of the Committee shall be nominated for each GRC. The Secretary of the Committee shall submit a quarterly progress report to the GST Council Secretariat and to the GST Policy Wing, CBIC, so as to enable them to update status of action taken.

### Extension of due date of Filing of Annual Return

The Council recommended extension of due date to 31.01.2020 from 31.12.2019 for filing Annual Return in FORM GSTR-9 and reconciliation statement in FORM GSTR-9C for FY 2017-18. (*RoD Order No. 10/2019 - Central Tax, dated 26.12.2019*).

Considering interruption in internet facility in North Eastern States, the due date has been proposed to be extended (*Notification No. 76/2019 to 78/2019-Central Tax, all dated 26.12.2019*).

### Standard Operating Procedure for Non-filers of Returns

The Council approved a Standard Operating Procedure (SOP) for tax officers in respect of action to be taken in cases of non-filing of FORM GSTR 3B returns. Apart from other measures, cancellation of registration was proposed for taxpayers who failed to file returns for 6 consecutive months/3 tax periods in case of composition taxpayers (*CBIC Circular No.129/48/2019-GST dated 24.12.2019*).

### Creation of Benches of GST Appellate Tribunal

The Council recommended to create a State bench of GST Appellate Tribunal (GSTAT) for Madhya Pradesh at Indore. Simultaneously the Council approved amendment in State GSTAT as under:

- (i) Creation of common State bench for Meghalaya with Assam at Guwahati, against earlier approved at Shillong.
- (ii) Creation of State bench for Punjab at Ludhiana, instead of earlier approved at Chandigarh.

The last date for filing of appeals before the GSTAT has been co-terminus with the date of constitution of appellate authority (*RoD Order No. 9/2019 - Central Tax, dated 03.12.2019*).

### New Return Filing: Trial Version

The New Return system will be mandatory from 1<sup>st</sup> April, 2020. GSTN had already launched trial versions of Form GST ANX-1 and Form GST ANX-2 to familiarize taxpayers with the new framework before the full fledged launch of new return system. A nationwide GST Stakeholder Feedback Diwas was organized on December 7, 2019 by the Central GST and State GST Authorities. More than 7500 trade associations/stakeholders including all prominent chambers of commerce and industry, tax practitioners and compliance managers participated in the programme in 125 cities in the country. It received a very good response from all the stakeholders and various suggestions were made to facilitate ease of compliance and convenience to taxpayers.

### Integration of E-way bill with FASTag

The integration of E-way bill system with FASTag got approved and is expected to be completed by mid-February, 2020. This integration will help to track the movement of vehicles and ensure that they are travelling to the same destination that the transporter or the trader had specified while generating the E-way bill.

### Implementation of E-invoicing

The GST Council in its 35<sup>th</sup> meeting approved introduction of E-invoicing for the reporting of business to business (B2B) invoices to GST System in a phased manner.

The Council was apprised that e-invoice would be implemented in following manner:

- (i) Taxpayers with a turnover of over Rs. 500 crore on voluntary basis from 1<sup>st</sup> January, 2020.
- (ii) Taxpayers with a turnover of over Rs. 100 crore on voluntary basis from 1<sup>st</sup> February, 2020.
- (iii) E-invoice shall be made mandatory for all taxpayers from 1<sup>st</sup> April, 2020.

### Implementation of Quick Response (QR) Code

The Council was apprised about implementation of Quick Response (QR) Code in following manner:

- (i) Taxpayers having annual aggregate turnover more than Rs. 500 Crore may be notified as class of taxpayers, who shall be required to issue invoice having dynamic QR code.
- (ii) To enable smooth roll out, such class of taxpayers may have an option to issue B2C invoice from 1<sup>st</sup> March, 2020. However, the same would be compulsory from 1<sup>st</sup> April, 2020.
- (iii) Where the supplier makes the dynamic QR code available to the recipient through a digital display, an invoice issued by such a supplier containing cross reference of the payment using such a dynamic QR code shall be deemed to have been issued with QR code.

## Best Practices by States

In furtherance of initiative taken in 1<sup>st</sup> National GST Conference on 25<sup>th</sup> November, 2019 for sharing the best practices being followed by States, presentations were made by Uttar Pradesh and Jammu & Kashmir in 38<sup>th</sup> GST Council about their efforts in improving GST collection.

UP presented that they physically verified more than 1.1 lakh dealers with the help of mobile App developed by the State. Towards augmenting revenue, their State had implemented many initiatives, including, return filing alert through SMS; creation of domestic dealer's risk profile; Mobile Management System (MMS); SIB Management System etc; affixed more than 3 lakhs RFID tags on goods carrying vehicles so far.

J&K presented several measures to augment revenue collections; establishment of over 60 facilitation centres with 118 systems for providing assistance to the taxpayers in filling their returns covering all districts and circles of UT; increased enforcement activities by way of physically verifying the goods.

## Amendments proposed to the CGST Act

The Council approved various GST law amendments in GST Act, which will be introduced in Annual Finance Budget, 2020.

## Generation and Quoting of Document Identification Number (DIN)

In continuation of CBIC's Circular No. 122/41/2019-GST dated 05.11.2019 (presented in the November issue of the Newsletter), scope of electronic generation and quoting of

Document Identification Number (DIN) has been increased for of all communications, including, e-mails sent to tax payers and other concerned persons by any office of the CBIC across the country. Online digital platform/facility on the Directorate of Data Management online portal "cbicddm.gov.in" has been accordingly enhanced to enable electronic generation of DIN. In this context, harmonized and standardized formats of search authorizations, summons, arrest memos, inspection notices etc. have been issued. *Source: CBIC Circular No.128/47/2019-GST dated 23.12.2019*

## Constitution of Group of Ministers as decided in the 37<sup>th</sup> GST Council Meeting

### (i) GoM on Movement of Gold and Precious Stones

A Group of Ministers (GoM) under the convenorship of Dr. T. M. Thomas Isaac, Finance Minister of Kerala has been constituted to examine the feasibility of implementation of e-way bill requirement for movement of gold and other precious stones or otherwise and to suggest alternative ways and mechanism for controlling tax evasion. *Source: F.No.591/GoM/Mvmt of Gold & Pre. Stones/GSTC/2019 dated 22.11.2019*

### (ii) GoM on IGST Settlement

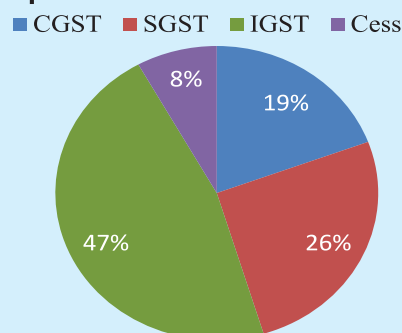
A Group of Ministers (GoM) under the convenorship of Shri Sushil Kumar Modi, Dy. Chief Minister of Bihar, has been constituted to examine the status of amount of IGST remaining unapportioned as on 31<sup>st</sup> March, 2018 as per the extant legal provisions and what action required to be taken at this stage. *Source: F.No.571/GoM/IGST Settlement/GSTC/2019 dated 07.12.2019*

## GST Revenue Collection

Gross GST revenue collected in the month of December, 2019 was Rs.1,03,184 crore, including CGST Rs.19,962 crore, SGST Rs. 26,792 crore, IGST Rs. 48,099 crore and Cess of Rs. 8,331 crore. GST revenue growth for the month of December, 2019 from domestic transactions was 16% higher than the month of December, 2018. The total revenue earned by Central Government and the State Governments after regular settlement in the month of December, 2019 was Rs. 41,776 crore for CGST and Rs. 42,158 crore for the SGST. The total number of GSTR-3B Return filed for the month of November upto 31<sup>st</sup> December 2019 was 81.21 lakh.

The snapshot of revenue collected in CGST, SGST, IGST and Cess for April-December 2019 is given below:

### Break up of GST Revenue in December 2019



### Revenue of Gross GST Collection (FY 2019-20)

Month	April	May	June	July	August	September	October	Nov.	Dec.
CGST	21163	17811	18366	17912	17733	16630	17582	19592	19962
SGST	28801	24462	25343	25008	24239	22598	23674	27144	26792
IGST	54733	49891	47772	50612	48958	45069	46517	49028	48099
Domestic	31444	25016	25792	26366	24140	22972	25071	28080	26804
Imports	23289	24875	21980	24246	24818	22097	21446	20948	21295
Comp.cess	9168	8125	8457	8551	7273	7620	7607	7727	8331
Domestic	8115	7172	7582	7754	6432	6892	6833	6858	7484
Imports	1053	953	876	797	841	728	774	869	847
<b>Total</b>	<b>113865</b>	<b>100289</b>	<b>99939</b>	<b>102083</b>	<b>98202</b>	<b>91916</b>	<b>95380</b>	<b>103492</b>	<b>103184</b>

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