Confidential

Agenda for

23rd GST Council Meeting

10 November 2017

Guwahati

GOODS AND SERVICES TAX COUNCIL

File No: 183/23rd Meeting/GST Council/2017
GST Council Secretariat

Room No.275, North Block, New Delhi
Dated: 10 October, 2017

Notice for the 23rd Meeting of the GST Council scheduled on 10 November 2017

The undersigned is directed to refer to the subject cited above and to say that the 23rd Meeting of the GST Council will be held on 10 November 2017 at Radisson Blu Hotel, Guwahati, Assam. The schedule of the meeting is as follows:

- Friday, 10 November 2017 : 11:00 hours onwards

2. In addition, an Officers' Meeting will be held on 9 November 2017 at the same venue as per following schedule:

- Thursday, 9 November 2017 : 12:00 hours onwards

3. The agenda items for the 23rd Meeting of the GST Council will be communicated in due course of time.

4. Keeping in view the constraints of rooms in the Hotel, it is requested that participation from each State may be limited to 2 Officers in addition to the Hon'ble Member of the GST Council.

4. Please convey the invitation to the Hon'ble Members of the GST Council to attend the 23rd GST Council Meeting.

(-*Sd*-)
(Dr. Hasmukh Adhia)
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, Delhi and Puducherry with the request to intimate the Minister in charge of Finance/Taxation or any other Minister nominated by the State Government as a Member of the GST Council about the above said meeting.

4. Chairperson, CBEC, North Block, New Delhi, as a permanent invitee to the proceedings of the Council.

5. Chairman, GST Network

Agenda Items for the 23rd Meeting of the GST Council on 10 November 2017

1. Confirmation of the Minutes of 22nd GST Council Meeting held on 6 October 2017

2. Analysis of revenue collected in the month of August, September and October 2017 under Goods and Services Tax, including the revenue accruing to Centre and States through settlement of funds

3. Deemed ratification by the GST Council of notifications, circulars and orders issued by the Central Government

4. Decisions of the GST Implementation Committee (GIC) for information of the Council

5. Modification of Rules on Anti-profiteering

6. Issues recommended by the Fitment Committee for consideration of the GST Council

    i. Changes in GST/IGST rates on Goods (Annexures I, II, III, IV)
    ii. Dual levy of IGST on the royalty paid for import of pictures on a tangible media where the rights have been granted for a temporary period (Temporary transfer or permitting the use or enjoyment of any intellectual property right)
    iii. GST rate on job work in relation to manufacture of handicrafts
    iv. Amendment in notification No. 21/2017-CT(R) dated 22.8.2017 regarding Public Distribution System (PDS) and Fair Price Shops (FPS)
    v. Alignment of the entry at item (vi) of Sl. No.3 of notification No. 11/2017-CT(R) with the entries at items (ii), (iii), (iv) and (v) of Sl.No.3
    vi. GST on Tour Operators services, request for allowing input tax credit of services in the same line of business at the existing rate of 5% without ITC
    vii. Clarification regarding warehousing of agricultural produce in GST regime
    viii. GST rate on permanent transfer of Intellectual Property (IP)
    ix. Inter-State transfer of aircraft engines, parts and accessories
    x. Issues related to rate of tax on certain Services

7. Issues recommended by the Law Committee for consideration of the GST Council

    i. Draft rule to be framed under section 107 of the CGST Act (Appeals to Appellate Authority)
    ii. Amendment in Central Goods and Services Tax Rules, 2017 recommended by Law Committee Meeting on 01.11.2017
    iii. Centralized UIN for Foreign Diplomatic Missions / UN Organizations
    iv. Reversal of Late Fee paid by registered persons who failed to furnish the return in FORM GSTR 3B for August and September 2017 within due date
    v. Apportionment of IGST between States and Union Territories (UTs) under section 12(14) of the IGST Act in the case of supply of advertisement services to Central/State Government, statutory body or a local authority
    vi. To restrict the maximum amount of late fee payable to the extent of output tax liability in a return by exercising powers under section 128 of the CGST Act, 2017

8. Other issues requiring urgent action

    i. Extension of due dates for furnishing of certain FORMs on the common portal
    ii. Amendment to Sub-rule (2) of rule 54 of CGST Rules, 2017
    iii. Presentation on GST on Real Estate sector
    iv. Exemption from GST on the Government's share of Profit Petroleum and clarification regarding taxability of Cost Petroleum in the oil and gas sector
    v. Incentivising Digital Payments in GST regime (Agenda Note would be circulated separately)

9. Recommendations of Group of Ministers (GoM) on Composition and tax structure on restaurants for consideration of the GST Council

10. Minutes of 3rd Meeting of Group of Ministers (GoM) on IT Challenges in GST Implementation for information of the Council and discussion on GSTN issues

11. Present status of e-Way Bill System as on 31 October 2017

12. Any other agenda item with the permission of the Chairperson

13. Date of the next meeting of the GST Council

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Discussion on Agenda Items

Agenda Item 1: Confirmation of Minutes of 22nd GST Council Meeting held on 6 October 2017

Draft Minutes of 22nd GST Council Meeting held on 6 October 2017

The twenty second Meeting of the GST Council (hereinafter referred to as 'the Council') was held on 6 October, 2017 in Vigyan Bhawan, New Delhi under the Chairpersonship of the Hon'ble Union Finance Minister, Shri Arun Jaitley. A list of the Hon'ble Members of the Council who attended the meeting is at **Annexure 1.** A list of officers of the Centre, the States, the GST Council and the Goods and Services Tax Network (GSTN) who attended the meeting is at **Annexure 2.**

1. The following agenda items were listed for discussion in the 22nd Meeting of the Council: –
1. Confirmation of the Minutes of 21st GST Council Meeting held on 9 September 2017
2. Decisions of the GST Implementation Committee (GIC) for information of the Council
3. Minutes of 1st Meeting of Group of Ministers (GoM) on IT Challenges in GST Implementation for information of the Council and discussion on GSTN issues
4. Note on revenue collected in August and September, 2017 under Goods and Services Tax (GST) and Compensation paid to States for the period July – August, 2017
5. Report and Recommendations of the Committee on Exports
6. Issues for consideration for relief to small taxpayers
    i. Proposal for increasing the aggregate annual turnover threshold under Composition scheme from Rs.75 lakh (Rs.50 lakh in Special Category States except Uttarakhand and Jammu & Kashmir) to Rs. one crore; and not taxing the exempt supplies made by a composition dealer
    ii. Proposal for quarterly filing of returns along with quarterly payment of taxes by taxpayers having annual turnover up to Rs. 1.5 crore
    iii. Proposal for suspension of application of provisions of sub-section (4) of section 9 till 31 March, 2018
    iv. Proposal for deciding the date for the operationalization of provisions of nationwide e-Way bill
7. Issues recommended by the Fitment Committee for consideration of the GST Council
    i. GST Rate in respect of government works contract services having high labour content
    ii. Definition of Governmental Authority and GST on Government Grants
    iii. Rate of tax on car leasing, sale of leased cars, sale of old and used cars and reverse charge mechanism on sale of used/seized vehicles, scrap etc. by government departments
    iv. GST on renting of motor cab and transport of passengers by motor cab services
    v. Reduction in rate of tax on some Job Work Services
    vi. Rate of tax on works contract in offshore areas beyond twelve nautical miles and transportation of natural gas through pipeline
    vii. Reverse charge mechanism for Overseeing Committee of the Reserve Bank of India (RBI) under GST
    viii. Amendment in GST notifications in respect of 5% GST rates on cereals, pulses and flours etc. put up in unit container and bearing a brand name
    ix. Changes in GST rates on certain goods/clarifications to be issued
8. Issues recommended by the Law Committee for consideration of the GST Council
    i. Extension of timelines for filing of FORM GSTR-5A and FORM GST ITC-01

ii. Amendment of some provisions of CGST Rules, 2017 [relating to invoice (rule 46, 54 (2), additional instruction in FORM GSTR 4)]
iii. Inclusion of additional items in Notifications No. 32/2017-Central Tax and No. 8/2017-Integrated Tax
iv. Clarification regarding the due dates for the generation of FORM GSTR-2A and FORM GSTR-1A for the month of July, 2017

9. Proposal for issuing notifications on cross-empowerment for ensuring single interface under GST
10. Proposal for deemed ratification of notifications, circulars and orders by the GST Council
11. Procedure for implementing GIC decisions of urgent nature requiring immediate implementation
12. Issues carried forward from the 21st GST Council Meeting: -
    i. Approach Paper on principles for Fitment post-implementation of GST
    ii. Issues listed in Annexure IIB of Agenda item 7 of 21st GST Council Meeting (List of goods discussed by the Fitment Committee where no change in rate of tax was proposed)
    iii. Issues listed in Annexure III of Agenda item 7 of 21st GST Council Meeting (GST rates on services – Proposals found NOT acceptable by the Fitment Committee)
    iv. List of Acts from the Central and State Governments as per Section 5(4) of the GST (Compensation to States) Act, 2017
13. Any other agenda item with the permission of the Chairperson
    i. Exemption from obtaining registration for persons making inter-State supply of services whose aggregate turnover is below the threshold limit
    ii. Decision on effective date for starting Tax Deduction at Source and Tax Collection at Source
    iii. Changes in GST rates on certain goods and exemption from IGST in certain cases
    iv. Issue of Annuity being given in Place of Toll Charges to Developers of Public Infrastructure-exemption thereon
    v. Additional relief to Small Tax Payers - Composition Scheme
    vi. GST on development charges collected by Gift City Company Limited for allotment of land on long term lease (of 30 years or more) to developers for development of commercial and residential spaces
    vii. Additional relief to Small Tax Payers – GTA to unregistered persons
14. Date of the next meeting of the GST Council

3. The Hon'ble Chairperson welcomed the Members of the Council. He stated that originally this Meeting was proposed to be held through video conferencing but as various letters and suggestions were received from States and other stake holders, a regular Meeting was being held. He commenced discussion on the agenda items.

Discussion on agenda items:

Agenda item 1: Confirmation of the Minutes of the 21st GST Council meeting held on 9 September, 2017

4. The Hon'ble Chairperson requested the Chairman, CBEC to inform regarding corrections suggested in the draft Minutes of the 21st Meeting of the Council held on 9 September, 2017 (hereinafter referred to as the 'Minutes').

4.1. Ms. Vanaja N. Sarna, Chairman, CBEC, informed that four States, namely, Gujarat, Odisha, Sikkim and Punjab had requested for modification in the Minutes. She invited Shri Arun Goyal, Additional Secretary, GST Council [AS (GSTC)], to inform regarding the suggestions for change in the Minutes to the Council.

4.2. The AS (GSTC) informed that the State of Gujarat had suggested to suitably add the following in paragraph 5.3 of the Minutes: 'Dr. P.D. Vaghela, CCT, Gujarat, stated that the report of CCTs on CST may be considered by the Council which has recommended that issuance of Form 'C' should be left to the wisdom of the States as no State would like to hurt the interest of its own tax-payers. In the absence of Entry Tax, the local tax-payers of the States would suffer as these goods would be brought from other States on Form 'C'. Also, the State revenue from petroleum goods and natural gas would be reduced considerably if this issue is not resolved even when the definition of goods has been amended and restricted to five petroleum products, namely, crude oil, petrol, diesel, aviation turbine fuel and natural gas and alcoholic liquor, in Section 8(3) of the CST Act, other three sectors i.e. telecom, mining and generation and distribution of electricity or any other form of power has been retained. This has created a confusion as to whether Form 'C' will be required to be issued for this set of activities also.' The Council agreed to suitably add the version proposed by the CCT, Gujarat.

4.3. The AS (GSTC) informed that the State of Gujarat had suggested to replace the existing sentence in the fourth line from the end of the paragraph 5.13 of the Minutes relating to the version of the Hon'ble Deputy Chief Minister of Gujarat ('He added that for new contracts, the rate of tax could be kept at 18%') with the following: 'He added that for new contracts, the rate of tax could be kept at 12%'. The Council agreed to replace the existing version with that proposed by the State of Gujarat.

4.4. The AS, GSTC stated that the State of Gujarat suggested to add the following in the beginning of paragraph 5.15 of the Minutes: 'CCT Gujarat made it clear that two issues raised by Gujarat with regard to definition of governmental authority and transfer of budgetary grant are to be discussed independently of the issue of works contract even when these two issues have been discussed in relation to works contract also'. The Council agreed to add the version proposed by the State of Gujarat.

4.5. The AS, GSTC informed that the State of Gujarat had requested to replace the first sentence of paragraph 5.22 of the Minutes with the following: 'CCT Gujarat stated that if a Government corporation or authority or board was allotted grants by the State government (for example grant allocated to construct a jail or police line, etc.), such transaction should not attract GST at the rate of 18%'. The Council agreed to add the version proposed by the State of Gujarat.

4.6. The AS, GSTC informed that the State of Odisha had suggested to replace the version of the Hon'ble Minister from Odisha recorded in paragraph 33.2(ii) of the Minutes ('The Hon'ble Minister from Odisha stated that fly ash was a very important commodity and that tax on it should be Nil') with the following: 'Fly Ash caused environmental pollution. There was no consideration for fly ash. If it was kept in taxable category, e-way bill would be required for movement/transportation and this would cause harassment. He suggested that Fly ash should be exempted under GST'. The Council agreed to replace the existing version with that proposed by the State of Odisha.

4.7. The AS, GSTC informed that the Government of Sikkim had requested to suitably insert the following in paragraph 47.9 or 47.10 of the Minutes: 'Shri Manoj Rai, Joint Commissioner, Commercial Tax, Sikkim requested GSTN to modify the registration software application to provide field requiring the applicant to fill in licence details. He said that this was necessary to make the software compatible with the GST law as Section 22(2) of the CGST Act, 2017 prescribed that holding of licence was pre-requisite for filing registration application. He also requested the Council to authorise GSTN to carry out the needful modification.' The Council agreed to add the version proposed by the State of Sikkim.

4.8. The AS, GSTC informed that the State of Punjab had requested to amend the version of the Hon'ble Minister from Punjab recorded in paragraph 31.2 of the Minutes ('He suggested that in one Chapter, there should not be more than three rates of tax and that …) with the following: 'He suggested

that similar goods should attract same rate and in one chapter there should not be more than three rates and that...' The Council agreed to add the version proposed by the State of Punjab.

4.9. The AS, GSTC informed that the State of Punjab had requested to add the following line in paragraph 33(vi) of the Minutes in the statement of the Hon'ble Chairperson: 'The Hon'ble Chairperson suggested that the idols made of clay could be exempted from tax whereas all other idols (except made of precious metals) could be taxed at 12%'. The AS, GSTC further informed that the State of Punjab had also suggested to replace the Council's decision in paragraph 34.1(iv) of the Minutes with the following: 'Idols other than those made of clay and precious metals shall be taxed at the rate of 12% and idols made of precious metals shall be taxed at the rate of 3%. The AS, GSTC informed that the Hon'ble Chairperson's version was correctly recorded in paragraph 33(vi) of the Minutes as idols made of some material like glass and crystal were not proposed to be covered under this decision. He added that in view of this, the amendments proposed by the State of Punjab in paragraphs 33(vi) and 34.1(iv) of the Minutes could not be accepted. The Council agreed not to make amendments in paragraphs 33(vi) and 34.1 (iv) of the Minutes.

4.10. The Hon'ble Minister from Punjab drew attention to the Council's decision recorded in paragraph 7.1 of the Minutes that the issue of Form 'C' under the Central Sales Tax (CST) Act shall be examined further in light of the court decision and requested that this issue should be examined urgently and issue necessary clarification as another judgment had been delivered by the Hon'ble Mumbai High Court on this issue. Shri Udai Singh Kumawat, Joint Secretary, Department of Revenue, (DOR) informed that an amendment proposed in Section 8(3) of the CST Act was presently being examined by the Union Law Ministry and the same would be issued shortly.

5. In view of above discussion, for **agenda item 1,** the Council decided to adopt the Minutes of the 21st Meeting of the Council with the changes as recorded below:

5.1. To suitably add the following version in paragraph 5.3 of the Minutes: 'Dr. P.D. Vaghela, CCT, Gujarat, stated that the report of CCTs on CST may be considered by the Council which has recommended that issuance of Form 'C' should be left to the wisdom of the States as no State would like to hurt the interest of its own tax-payers. In the absence of Entry Tax, the local tax-payers of the States would suffer as these goods would be brought from other States on Form 'C'. Also, the State revenue from petroleum goods and natural gas would be reduced considerably if this issue is not resolved, even when the definition of goods has been amended and restricted to five petroleum products, namely, crude oil, petrol, diesel, aviation turbine fuel and natural gas and alcoholic liquor, in Section 8(3) of the CST Act, other three sectors i.e. telecom, mining and generation and distribution of electricity or any other form of power have been retained. This has created a confusion as to whether Form 'C' will be required to be issued for this set of activities also.'

5.2. To replace the existing sentence in the fourth line from the end of paragraph 5.13 of the Minutes relating to the version of the Hon'ble Deputy Chief Minister of Gujarat with the following: 'He added that for new contracts, the rate of tax could be kept at 12%'.

5.3. To add the following in the beginning of paragraph 5.15 of the Minutes: 'The CCT, Gujarat, made it clear that two issues raised by Gujarat with regard to definition of governmental authority and transfer of budgetary grant are to be discussed independently of the issue of works contract even when these two issues have been discussed in relation to works contract also'.

5.4. To replace the first sentence of paragraph 5.22 of the Minutes with the following: 'CCT, Gujarat, stated that if a Government corporation or authority or board was allotted grants by the State government

(for example grant allocated to construct a jail or police line, etc.), such transaction should not attract GST at the rate of 18%.

5.5. To replace the version of the Hon'ble Minister from Odisha recorded in paragraph 33.2(ii) of the Minutes with the following: 'Fly Ash caused environmental pollution. There was no consideration for fly ash. If it was kept in taxable category, e-Way bill would be required for movement/transportation and this would cause harassment. He suggested that Fly ash should be exempted under GST'.

5.6. To suitably insert the following in paragraph 47.9 or 47.10 of the Minutes: 'Shri Manoj Rai, Joint Commissioner, Commercial Tax, Sikkim requested GSTN to modify the registration software application to provide field requiring the applicant to fill in licence details. He said that this was necessary to make the software compatible with the GST law as Section 22(2) of the CGST Act, 2017 prescribed that holding of licence was pre-requisite for filing registration application. He also requested the Council to authorise GSTN to carry out the needful modification.'

5.7. To amend the version of the Hon'ble Minister from Punjab recorded in paragraph 31.2 of the Minutes with the following: 'He suggested that similar goods should attract same rate and in one chapter there should not be more than three rates and that...'

Agenda item 2: Decisions of the GST Implementation Committee (GIC) for information of the Council

6. The Chairman, CBEC invited Shri Upender Gupta, Commissioner, (GST Policy), CBEC, to make a presentation on the decisions taken by the GST Implementation Committee (GIC) since the 21st Meeting of the Council held on 9 September, 2017. The presentation made by the Commissioner (GST Policy), CBEC is at **Annexure 3** of the Minutes.

6.1. In his presentation, the Commissioner (GST Policy), CBEC informed that between the 21st and the 22nd Meeting of the Council, GIC took some decisions by circulation due to urgency of the issues and some decisions were taken during the 9th and the 10th meeting of the GIC. The decisions related to: (i) Extension of time limit to file FORM GST TRAN-1 under Rule 120A and Rule 117 of the CGST Rules; (ii) changes in Rates notification relating to services provided by Advocate to comply with the order of the Hon'ble Delhi High Court; (iii) allow for amendment of rule 24(4) of CGST Rules for extension of date of application for cancelation of migrated taxpayers; (iv) minor Changes in FORM GST REG–29 prescribed for cancellation of registration of migrated person; (v) time limit for submitting the declaration in FORM GST TRAN-1 under Section 141 and 142 of the CGST Act, 2017 should be the same as the time limit for submitting the declaration in FORM GST TRAN-1 under Section 140 of the Act – Rule 118, 119 and 120 proposed to be amended; (vi) extending the facility of supplying goods or services for export without payment of integrated tax under Letter of Undertaking in place of bond to all registered persons; and (vii) extension of time limit for intimation of details of stock on the date preceding the date from which the option for Composition levy is exercised in FORM GST CMP-03. He also mentioned the related notification and Order numbers under which these decisions of the GIC had been implemented.

6.2. The Hon'ble Minister from West Bengal stated in his written comments that proposals at serial numbers (i) and (iii) to (vi) were in the interest of small and medium enterprises and many taxpayers had been raising these issues.

7. For **agenda item 2,** the Council took note of the decisions of the GIC.

Agenda item 3: Minutes of 1st Meeting of Group of Ministers (GoM) on IT Challenges in GST Implementation for information of the Council and discussion on GSTN issues

8. The Hon'ble Chairperson invited the Hon'ble Deputy Chief Minister of Bihar, the Convenor of the GoM, to brief the Council regarding the deliberations of the GoM. The Hon'ble Deputy Chief Minister of Bihar informed that till date, two meetings of the GoM had taken place (on 16 September 2017 and 4 October 2017). He stated that about 48 issues had been identified to be addressed by the GSTN. He informed that timelines had been given for the development of priority functionality and mostly the timelines, as given, were maintained, except for delay of about 2-3 days. He further informed that return filing was getting stabilised and about 13 lakh Returns were filed on 20 September 2017, and in one hour, more than one lakh Return had been filed. He informed that the GoM had also decided that technical team from Infosys should be deployed in each State and that Infosys had already deployed some people but in the next two weeks, this deployment would be beefed up by deploying more technical persons. He added that the GoM had also asked Infosys to deploy separate team for development of Backend Applications for Model 2 States (27 in number) for which Infosys was developing the backend facility of the tax administration.

8.1. The Hon'ble Chairperson desired to have a briefing about the main IT related problems being faced by the taxpayers and how these were being addressed. Shri Prakash Kumar, Chief Executive Officer (CEO), GSTN made a presentation on this issue which is attached as **Annexure 4.**

8.2. In the presentation, the CEO, GSTN, gave an update on the number of Registrations, Returns, Invoices, daily collection statistics and daily filing status of GSTR-3B. He informed that as on 4 October 2017, 25.96 lakh new registrations had been approved. As on 5 October 2017, the status of uploading of GSTR-3B Returns was 53.36 lakh for the month of July, 2017 and 45.14 lakh for the month of August, 2017. Further, 34.90 lakh GSTR-1 Returns for the month of July, 2017 were also uploaded. He informed that 26.74 crore invoices had been processed and that filing through the GST Suvidha Providers (GSPs) was picking up. The peak for GSTR-3B for the month of August was 20 September, 2017 and that the System was able to handle the filing of large number of returns without putting stress on the IT infrastructure. He informed that a total of 13.76 lakh Returns were filed on 20 September, 2017 in addition to 7.48 lakh payment transactions conducted on the portal that day. He added that 1.36 lakh Returns were filed in one hour. He also informed that they had increased the limit for circuit breaker from 60,000 Returns to 80,000 Returns and now to one lakh Returns concurrent users, which implied that the System could handle one lakh people preparing Returns, Challans, etc. on the portal simultaneously. He added that last week, they had to apply circuit breaker once when this limit was breached. As regards tax payment, he informed that an analysis of payment trends in July, 2017 showed that 95% of the taxes came by 31 August, 2017 and that the Returns filed thereafter did not involve payment of large sums of tax. He stated that as per their analysis, 41% of Returns were filed with nil tax liability, 45% of the Returns involved payment through input tax credit (ITC) and Cash and 13.4% paid taxes only through ITC. He stated that 7,617 taxpayers falling under the tax slab of Rs. one crore and more (only 0.32% of total taxpayers) accounted for payment of 66.5% of the total tax collected.

8.3. The CEO, GSTN, also gave a brief update of the GoM review meetings. He stated that in its first meeting on 16 September 2017, the GoM had identified 48 items for time bound resolution. He informed that out of these 48 items, 8 were completed and status was presented to GoM in its second meeting held on 4 October 2017. The list of completed items are as follows: (i) Placement of Resident Engineers (Interim/Permanent) at 37 locations (CBEC/States/UTs) - Infosys was advised to replace interim personnel with permanent ones who are qualified to do this job, in next two weeks; (ii) Sharing of data on the following items with Model 1 and 2 in csv (comma separated values) format: (a) Enrolment Report-Daily incremental is being shared after sharing of complete data dump ; (b) New Registration Report -

Daily incremental is being shared after sharing of complete data dump; (c) Return Filer- Daily incremental is being shared after sharing of complete data dump; (d) Dealers complete Address list- Complete data dump (one time) shared for both, migrated as well as newly registered ones; (e) GSTR 3B filer-Complete data dump (one time); (iii) Sharing of data with Model 1 States -the root cause for difference in data reported and records (registration form, returns etc.) pulled by CBEC/Model 1 States has been found and corrective action taken; (iv) Enabling tax payers stuck at submit stage to edit the same and file GSTR-3B (2.2 lakh taxpayers); (v) Amendment of core and non-core items of Registration form rolled-out on the portal; (vi) Tran-1 Filing (Negative Credit issue) resolved for future use. Cases done in past are being dealt with separately by data fix; (vii) Suo moto Registration rolled-out on the portal having following functionalities: (a) ID creation, (b) Create Challan and (c) Making Payment; (viii) Opt-out from Composition scheme rolled-out.

8.4. The CEO, GSTN further stated that out of these 48 items, 4 were in progress with some delay, namely (a) GSTP Registration Application Processing; (b) TDS/TCS Registration Application Processing; (c) Revised TRAN-1 (Reopening Tran 1 to enable submission of revised TRAN-1); (d) Refund for Export - ICEGATE API (Application Programme Interface). He added that for 4 items, release dates had been advanced based on directions of GoM and these are: (a) GST PMT-07: Application for intimating discrepancy relating to payment; (b) GSTR-3B: Enhancement to enable Preview and Print out/PDF Download; (c) Revocation of RC (Registration Certificate); (d) Change of Authorised signatory by tax official. He also informed that the proposed date for roll out of TCS and TDS was from 1 December, 2017 and the filing would start from 1 January, 2018. He further informed that the GoM had advised the IT Committee of officers to go through all the compiled issues and present only those issues before the GoM which were not resolved at the level of the Committee and to also provide a progress report regarding the issues resolved. He informed that the IT Committee was meeting every week and trying to resolve the issues.

8.5. The Hon'ble Minister from Kerala requested for a hard copy of the presentation. Dr. Hasmukh Adhia, Secretary to the Council (hereinafter referred to as the 'Secretary') assured that the presentation shall be shared with all the Hon'ble Members (subsequently circulated to all States). The Hon'ble Minister from Kerala suggested that for Composition dealers and for taxpayers up to a certain turnover, the provisions of fine and penalty should be postponed for some time as there had been long delays in the filing of Returns. He added that small taxpayers were not yet familiar as to how to deal with Returns and accountants were having a field day. The Hon'ble Chief Minister of Goa supported the proposal for postponement of fines and penalties for small taxpayers. He observed that taxpayers were unable to file Returns without their fault and fine and penalty in such a situation was creating problem. He observed that the System should be such that all taxpayers should be able to file their Returns on the last date, if they so choose, and that overload on the System should not be a factor for inability to file Returns. He suggested that until the System stabilised, fine and penalty should be deferred. The Hon'ble Minister from Odisha stated that there should be a one-time measure not to impose fine and penalty. The Hon'ble Chairperson observed that if fine and penalty was deferred for the next six months, then no one would file Returns. He observed that the sanctity of dates for filing Returns should be maintained. The Hon'ble Deputy Chief Minister of Bihar suggested that this issue could be decided at a later date.

8.6. The Secretary informed that late fee was waived for July, 2017 Return but no late fee waiver was announced for August Return as it could discourage filing of Returns leading to loss of revenue. He observed that the amount of late fee leviable was not very high. The Hon'ble Chief Minister of Goa stated that those taxpayers who paid tax in July, 2017 but could not file their Returns due to glitches in the System should not be penalised for late filing of the Returns for the month of August, 2017. The Secretary observed that filing of GSTR-3B was necessary for fund settlement, and therefore, this could not be postponed indefinitely. He suggested that an additional 10 days' time could be given for filing Return by

those registered persons who had no tax liability. The Hon'ble Minister from Punjab stated that late filing of Returns and consequent late payment of tax attracted 18% interest which a taxpayer was legally bound to pay. The penalty was only Rs.100 per day of non-filing of Return which was not much and this should be waived to avoid unrest amongst the taxpayers.

8.7. The Hon'ble Chairperson observed that GSTN should give a more disaggregated break up of taxpayers as this would be helpful in formulating policy and procedure. He observed that 40% Returns involved nil tax and only a few thousand taxpayers paid 65% of the tax and getting their break up would be helpful. He also observed that bulk of the tax had been paid by the due date and the tax payment amount after the due date was small, and therefore, it appeared that late filers paid a very low amount of tax. The Hon'ble Chairperson further enquired whether the System was capable of taking the load if a large number of Returns were filed on the last date. The CEO, GSTN stated that this had posed some problem for Returns filed for the month of July, 2017 but no such problem was faced for filing Returns for August, 2017. The Hon'ble Chief Minister of Goa contradicted this claim and informed that in order to have a first-hand experience, he personally sat for Return filing and it took three hours to get one tax Return filed. Shri A.B. Pandey, Chairman, GSTN, stated that if the last date for filing Return was 20th of the month and 88 lakh taxpayers were entitled to file their Returns on the last date and if they tried to do so in the afternoon of that day, it would create problem for the System. He suggested to have turnover wise staggering for filing Returns and taxpayers up to a certain turnover could file their Returns by 18th of the month and the rest by the 20th of the month. The Hon'ble Chairperson observed that as the number of taxpayers paying large amount of tax was relatively less, such taxpayers, say with annual turnover above Rs.2 or 3 crore, could be given one date for Return filing, and the taxpayers below this turnover could be given another date.

8.8. The Hon'ble Minister from Jammu & Kashmir stated that new categories of taxpayers should not be introduced in the law. He suggested to do the staggering on the basis of existing categorisation like exemption threshold of Rs.20 lakh per annum, composition threshold, etc. The Hon'ble Minister from Karnataka stated that before taking decision on revising the dates for filing Returns, one should wait for one cycle of GST Return filing to be completed. He observed that once offline utility was fully operational in the next two weeks, the time spent by a taxpayer on the System for filing Return could come down from 40 minutes to 5-10 minutes and the throughput of the System would go up substantially. The Secretary stated that some modification in timelines for filing Returns by small taxpayers was already in the agenda of this Meeting [Agenda item 6(ii)].

8.9. The Hon'ble Deputy Chief Minister of Delhi raised three issues. First, he suggested that GSTN should also look at the capacity of the income tax IT System for accepting the number of Returns every hour and the load of Return filing that it can withstand on the last day of the Return filing. Second, he observed that there was no service level agreement with GSTN for delivery of services in a time bound manner and an action plan for not following the agreed upon timelines. Third, he observed that Infosys was a vendor of GSTN and Ministers should deal with GSTN and not its vendors. The Hon'ble Deputy Chief Minister of Bihar clarified that GoM had held a combined meeting of GSTN and Infosys and it helped to understand issues better. The Hon'ble Minister from West Bengal stated in his written comments that the agreed timelines of priority functionalities must be strictly adhered to.

8.10. Shri Arvind Subramanian, the Chief Economic Advisor (CEA), Government of India suggested that GSTN's data should have distribution by tax and distribution by turnover.

9. For **agenda item 3**, the Council took note of the presentation of the GSTN and the recommendations of the GoM in its meeting held on 16 September, 2017.

Agenda item 4: Note on revenue collected in August and September, 2017 under Goods and Services Tax (GST) and Compensation paid to States for the period July-August, 2017

10. The Chairman, CBEC invited the Joint Secretary, DOR, to make a presentation on this agenda item. The Joint Secretary, DOR, stated that a corrigendum had been circulated in respect of Table 1 (GST Revenue up to 31.8.2017 for July, 2017 Return period) of the agenda notes relating to this agenda item as per which the figures for fund transferred under the head of SGST for July 2017 return period had been revised from Rs. 7,504 crore to Rs. 7,680 crore. He informed that with this corrigendum, as per Table 1 of the agenda notes, the net revenue after settlement for CGST was Rs. 18,560 crore, for SGST was Rs. 30,950 crore, for IGST was Rs. 37,337 crore and for Cess was Rs. 7,216 crore. The total revenue was Rs. 94,063 crore. He stated that the total amount of fund settlement for August-September, 2017 was Rs. 10,977 crore. He further stated that the total revenue collected till 28 September, 2017 was Rs. 92,474 crore and out of this, the total revenue after settlement for CGST was Rs. 20,038.7 crore, SGST was Rs. 32,625 crore, IGST was Rs. 31,966.3 crore and Cess was Rs. 7,844 crore. He further informed that a compensation of Rs. 8,698 crore for the period July-August, 2017 had been provisionally released to the States. He informed that for calculating compensation amount, they had taken into account the revenue collection of VAT and SGST for the months of July and August, 2017 and the settlement fund released to States based on July and August, 2017 Returns. He informed that compensation could not be released to Arunachal Pradesh as the State had not yet reported the revenue collection in the month of August, 2017. He stated that revenue figures for the State of Rajasthan were also being further verified as the revenue collection figure reported by the State was very low.

10.1. The Hon'ble Minister from Assam stated that in order to ensure full transparency, the Department of Revenue of the Government of India should share the calculation sheet for compensation to the States. The Hon'ble Minister from Rajasthan stated that compensation for his State should not have been withheld on account of variation in the figures of revenue as the law was very clear in this regard. He observed that the Department of Revenue could ask reasons for variation but there was clear and categorical protection of law for not stopping compensation. The Joint Secretary, Department of Revenue, informed that the officers from Rajasthan had informed that they would clarify the issue shortly. The Secretary stated that as the difference in the revenue figure was high, there was a risk of giving extra compensation of about Rs.500 crore and hence compensation was withheld for a few days awaiting clarification from the State. The Hon’ble Chief Minister of Goa stated that there should have been some release of compensation amount to the State of Rajasthan as it would need to pay salaries, etc. The Hon'ble Minister from Kerala stated that the grievance of the Hon'ble Minister from Rajasthan was justified and that if there was over-payment, it could have been adjusted in the next month after due verification. The Hon'ble Chairperson stated that the Hon’ble Chief Minister of Rajasthan had spoken to him on the subject and that the Department of Revenue had requested for some data, which should come in a day or so. The Hon’ble Chief Minister of Goa stated that the Centre should have paid an amount which it deemed to be payable correctly. The Hon'ble Chairperson observed that compensation money was held in trust and due care and caution is to be taken before releasing it and that a huge fall in revenue in one month certainly needed a deeper look.

10.2. The Hon'ble Minister from Jammu & Kashmir stated that his State had not yet got compensation of Rs.330 crore and they had been waiting for the same. The Hon'ble Minister from Telangana stated that after implementation of GST in July, 2017, compensation amount could not be based on VAT revenue. The Hon'ble Chairperson stated that the compensation law provided for taking into account the revenue collection in the month of July, 2017 for compensation and this was VAT revenue. The Hon'ble Minister from Telangana reiterated that the VAT revenue should not have been considered for compensation. The Secretary stated that the residual VAT revenue would come to the States in the next few months and these receipts would also be taken into account for calculating compensation.

10.3. The Hon'ble Minister from Jammu & Kashmir enquired whether the revenue trend of the last two months was better off or worse off. The Secretary stated that due to large scale destocking of goods by dealers in the month of June, 2017, there was very high collection from VAT in July, 2017 and this lowered the compensation requirement due to which there was some surplus under the compensation account. He observed that this surplus could be depleted in the next 2-3 months depending upon the revenue trend. The Hon'ble Chairperson stated that in the coming months, buoyancy on account of VAT revenue would not be available and the amount available in the Cess fund was a floating fund which could be used as per the requirements of compensation. The Hon'ble Minister from West Bengal stated in his written comments that the downturn in revenue and reduction in the number of Returns filed for the month of August, 2017 as compared to the month of July, 2017 showed that there were serious procedural issues and shortcomings in the GSTN framework plaguing the implementation of GST, thereby adversely affecting the small and medium enterprises and this precarious situation required serious correction.

10.4. The CEA stated that there should be transparency in respect of compensation and each State should know the compensation given to other States including those States which had surplus revenue. The Secretary pointed out that the Hon'ble Minister from Assam had already made a similar demand. He added that revenue of the first two months would not show a reliable trend. The Hon'ble Minister from Punjab requested to share data of tax collection and compensation of other States to enable States to benchmark with each other. The Hon'ble Chairperson suggested that a chart showing revenue figure of each State and its compensation requirement (including the calculation for the same) should be prepared for each State on bi-monthly basis and shared with all the States while disbursing the compensation amount to the States. The Council agreed to this suggestion.

10.5. The CEA enquired about the revenue position of the Central Government and the revenue under IGST. The Secretary stated that the Central Government got a lesser amount after settlement due to higher utilisation of transitional credit of the Central taxes. He stated that the revenue to be protected for all the States after projecting a growth rate of 14% per year on base year revenue of 2015-16 was about Rs. 43,000 crore per month. He added that IGST accumulation would slowly subside once the goods transferred inter-State on stock transfer basis were sold in the further retail chain. He added that if it was decided in today's meeting to allow exemption from tax payment on imports and inter-State supplies by using Advance Authorisation etc., the IGST collection would go down anyway. He further stated that IGST amount of Rs. 75,000 crore also included the pending IGST refunds on exports. He added that the future buoyancy in revenue would also be determined after matching the figures filed in the returns of GSTR-3B and GSTR-3.

10.6. The Hon'ble Deputy Chief Minister of Delhi stated that about Rs. 70,000 crore was locked in IGST which was not being used. He questioned the need to have IGST and observed that since GST was a destination based tax, if it was collected properly in the destination State, there would be no need to collect IGST. He suggested to get rid of IGST as it was not a destination based tax. The Secretary stated that IGST was an interim mechanism to provide for transfer of tax to the destination State. The CEA stated that IGST would also be required as a levy on imports. The Hon'ble Deputy Chief Minister of Delhi observed that in such a case, IGST could be kept only for imports. The CEA observed that prior to GST, the ratio of revenue for the Centre and the States was 50:50 and the ratio of August, 2017 collection for CGST and SGST needed to be examined. The Hon'ble Minister from Kerala stated that the share of revenue of the Centre and the States pre-GST was 45:55. The Hon'ble Chairperson observed that compensation related issues of the States of Rajasthan, Sikkim and Jammu & Kashmir should be resolved at the earliest.

11. For **agenda item 4**, the Council took note of the GST collection for August and September, 2017. The Council also agreed that a chart showing revenue figure of each State and its compensation

requirement (including the calculation for the same) shall be prepared on bi-monthly basis and shared with all the States while disbursing the compensation amount to the States.

Agenda item 5: Report and Recommendations of the Committee on Exports

12. The Chairman, CBEC, invited Shri Sandeep M. Bhatnagar, Director General, Directorate General of Export Promotion (DGEP), CBEC and Member Secretary of the Committee on Exports to brief the Council on the report and the recommendations of the Committee. DG, DGEP, made a presentation on the report of the Committee on Exports, which is attached as **Annexure 5**. He informed that the Committee and its Sub-groups met six times between 19 September, 2017 and 29 September, 2017. He further informed that there was wide scale consultations within and outside the Government which included the Commerce Secretary, CEA, GSTN, Controller General of Accounts (CGA), Principal Chief Controller of Accounts (Pr. CCA), CBEC and the major Export Promotion Councils, such as Federation of Indian Export Organizations (FIEO); Gem and Jewellery Export Promotion Council (GJEPC); Engineering Export Promotion Council (EEPC); Council for Leather Exports (CLE); Basic Chemicals, Cosmetics & Dyes EPC (CHEMEXIL); Apparel Export Promotion Council (AEPC); Pharmaceuticals Export Promotion Council (PHARMEXCIL); and Handicrafts Export Promotion Council (HEPC).

12.1. DG, DGEP, stated that the Committee identified the following major problems being faced by exporters: (i) Delays in grant of refunds of IGST and input tax credit on goods and services used in exports; (ii) Working capital blockage for manufacturer exporters including EOUs due to requirement of upfront payment of GST on inputs/capital goods, and for merchant exporters due to requirement of upfront payment of GST on finished goods; (iii) Increased transaction cost due to requirement of bond/letter of undertaking (LUT) and for bank guarantee in certain cases; (iv) Reduced usability of duty credit scrips and levy of GST on their sale-purchase; (v) Levy of GST on bunker fuel supplies to foreign going vessels eroding competitiveness.

12.2. DG, DGEP, elaborated on the recommendations of the Committee. He stated that for delay in refund (due to various reasons like non-availability of GSTR-1 for the month of August, 2017 and subsequent months till the cycle of filing GSTR-1, GSTR-2, GSTR-3 is completed for previous months and lack of readiness of refund module in GSTN), the Committee recommended to process refunds manually till such time the System related issues were resolved. On refund of IGST paid on goods exported outside India, he explained that this was to be dealt with by Customs Officers. After discussion, all stakeholders were in agreement that refunds for July, 2017 would begin by 10 October, 2017 and that for August, 2017, would begin by 18 October, 2017. In this direction, the GSTN would make available electronically to CBEC, Table 6A of GSTR-1 of exporters containing details of zero rated supplies. He added that refunds for subsequent months shall be dealt in like manner as for August 2017 till the time the GSTR-1 was made available as per prescribed timelines in routine. He stated that refund of IGST paid on export of services, supplies to SEZs and refund of accumulated input tax credit on account of export of goods/services and supplies to SEZs under Bond/LUT had to be dealt with by jurisdictional Central/State GST officers. With concurrence of all stakeholders, the Committee had decided certain timelines for dealing with such refund claims. Thus, by 6 October 2017, the GSTN and the DG Systems, CBEC would finalize modalities for CBEC to receive all GSTR-1 and all GSTR-3B; by 10 October 2017, GSTN would make available on the website a new utility form RFD 01A for refund claimant which would contain a request to debit the credit ledgers for ITC refund being claimed; and by 30 October 2017, GSTN would make available facility in a new form RFD 01B for GST officers to order re-credit of the amount of refund rejected. He informed that Pr. CCA, CGA, CAG, Budget Division in the Department of Economic Affairs, Department of Revenue and State accounting authorities were finalizing the accounting procedure and settlement of funds. He added that GIC was looking into the cross

empowerment of State/Central GST officers for grant of refunds and developing a Standard Operating Procedure (SOP) for the grant of refunds manually till such time the Systems related issues were resolved.

12.3. DG, DGEP, further stated that another major problem identified by the Committee was the working capital blockage for exporters due to (i) discontinuing the facility to use Advance Authorization (AA), Export Promotion Capital Goods (EPCG) and Export Oriented Units (EOUs) for duty free procurement of inputs/capital goods for export production (as now the users of these schemes had to pay IGST on imports and GST on domestic supplies) and (ii) discontinuing the facility to merchant exporters to procure export goods free of taxes (earlier permitted under Rule 19 of the Central Excise Rules and Form-H under VAT). He explained that the Committee had explored two options to address the issue of blockage of working capital of exporters. **Option-1** was to grant exemption from IGST and Cess under Section 6 of the IGST Act, 2017 read with Section 25 of the Customs Act, 1962 to imports for exporters availing AA/EPCG/100% EOU schemes. For domestic supply, it was proposed to notify supplies of goods as deemed exports under Section 147 of the CGST/SGST Acts, 2017, to allow supply of goods on payment of taxes by the suppliers and thereafter, to allow refund of tax so paid to supplier by an amendment to Rule 89. The exporter having AA/EPCG or EOU status would issue Advance Release Order (ARO) in the name of supplier. The existing monitoring mechanism for exports under these schemes, which had been in place for many years would continue. He added that for refund of IGST on inter-State deemed export supplies, settlement mechanism as well as cross-empowerment of State and Central Government officers would be required. He further stated that to address the problem of fund blockage for merchant exporters, it was proposed that supplies of goods to merchant exporters registered with EPC/Commodity Boards shall be on payment of nominal 1% GST and to prevent misuse, adequate safeguards shall be provided such as requiring export goods to be aggregated in export warehouses etc. **Option-2** was to create an e-Wallet for exporters and give a notional credit in advance on the basis of the past export performance. An exporter could use the balance in e-Wallet to pay tax liability and then adjust the credit against the refund paid to him. He added that notional credit in e-Wallet was like an advance refund, with the restriction that this could only be used to pay taxes and would be adjusted against final payment of refunds. He explained that the credit in e-Wallet could be used for payment of IGST on imports thus ensuring that there was no additional burden of working capital. As regards payment of GST on domestic purchases, he explained that the e-Wallet system would permit transfer of balances from the exporter's account to his supplier's account so that GST could be paid by the supplier on the basis of the amount transferred in his e-Wallet by the exporter. He reiterated that balance in e-Wallet would be allowed only to pay taxes. He observed that the working capital requirement in the eco-system would get reduced by the amount of the notional credit given in the e-Wallets.

12.4. DG, DGEP, further informed that another cause of increased transaction cost identified by the Committee was the requirement of bond/letter of undertaking (LUT) for all exports and bank guarantee in certain cases. He stated that the Committee's recommendation was to dispense with the requirement of a bond as well as a bank guarantee and prescribe only a LUT and that this recommendation was endorsed by the GIC and implemented vide Notification No.37/2017-Central Tax dated 04.10.2017.

12.5. DG, DGEP stated that another problem being faced by the exporters was on account of reduced re-usability of duty credit scrips as post GST, these scrips could be used only for payment of Basic Customs Duty. The Committee recommended that for the present, the GST rate on sale-purchase of duty credit scrips should be reduced from 5% to 'Nil' and when the option of e-Wallet was adopted, even MEIS scrip could be deposited in e-Wallet in which case this concession might not be necessary.

12.6. DG, DGEP. recalled that in its 21st Meeting held on 9 September 2017, the Council had desired that the Committee should examine the proposals to disallow provisional refund under Section 54(6) of the CGST/SGST Acts to (a) exporters who obtain registration within 6 months of applying for refunds

and (b) exporters who do not furnish returns for 3 consecutive tax periods preceding the refund application [Agenda item 5(i) of the 21st Council Meeting]. He stated that the Committee recommended that provisional refund should not be denied to new exporters as the need of the hour was to encourage exports, especially by new exporters, and also refund was linked to the factum of export which is to be necessarily established. As regards the proposal at (b), the Committee felt that the proposal was infructuous and need not be proceeded with as the grant of refund was incumbent on the completion of the return cycle.

12.7. DG, DGEP, further stated that the issue of GST on bunker fuel supplied to foreign going vessels was discussed by the Committee and it recommended that GST rate on bunker fuel may be reduced to 5% for both foreign going vessels and those on coastal run. Explaining the rationale, he stated that the Committee observed that high rate of GST on bunker fuel supplied to foreign going vessels was making India less competitive *vis a vis* neighbouring countries and oil marketing companies reported that business was shifting to countries like Sri Lanka. The Committee took a view that the GST rate on bunker fuel should be such that it encourages coastal shipping at par with foreign going vessels and it also obviates the administrative problems of monitoring the end use.

12.8. Initiating the discussion on the recommendations of the Committee on Exports, the Hon'ble Minister from Punjab observed that it was an excellent report and congratulated the Committee members on their work. On the issue of working capital blockage to exporters, he suggested that presently Option-1 (allowing tax payment through Advance Authorisation/EPCG/EOU schemes) could be implemented and Option-2 (e-Wallet) could be implemented by April, 2018. The Hon'ble Minister from Jammu & Kashmir stated that Option-1 damaged the basic structure of GST of not giving exemptions which also applied for duty exemption schemes for North-Eastern States. He stated that the basic structure of GST should not be tampered with due to operational difficulties which was largely due to delay in the delivery by the IT vendor. He also expressed an apprehension that the vendor would take a long time to develop the system of e-Wallet. He cautioned that if a regime of exemptions was introduced, the GST architecture might collapse. The Hon'ble Minister from Karnataka stated that problems of exporters were critical and solution must be found but the proposed solutions were not the answer to the problems of exporters. He supported the view of the Hon'ble Minister from Jammu & Kashmir and observed that enough compromise had already been made with the original intent of GST and further compromises should be avoided. He stated that a regime of exemption would create a very high arbitrage on both sides and once people got used to it, it would be difficult to get rid of it. He added that e-Wallet was not proposed to be developed by the original vendor but either by NPCI (National Payments Corporation of India) or NSDL (National Securities Depository Limited). He suggested to work on the proposal for e-Wallet and not adopt the exemption route.

12.9. The Hon'ble Minister from Assam stated that the North-Eastern States wanted to continue with the area based exemption scheme but the decision was to adopt the reimbursement mode which was accepted in the larger national interest. He observed that e-Wallet was likely to take about 8 months to develop and the question was how to address the problem of exporters during the interim period. He emphasised that the need of the hour was to protect the industry and exports. He suggested to go by the recommendations of the Committee regarding payment of GST through Advance Authorisation etc. and to give a time bound deadline for development of e-Wallet within 8-9 months. He stated that without immediate relief, exporters might not be able to survive as the Government gave only 8% interest on delayed refund whereas Banks gave loan at more than 9% interest rate. The Hon'ble Chief Minister of Puducherry stated that there should be no compromise on policy on account of suffering by one sector as this would lead to a total disarray in policy. He suggested to have a mechanism by which the Department of Revenue, the Department of Commerce and the Reserve Bank of India could provide cushion to the exporters to raise resources. He cautioned against tinkering with the basic policy as this would lead to large scale dilution in the GST design. The Hon'ble Chief Minister of Goa stated that GST was a

consumption based tax and exporters were not liable to be taxed. They were being brought into the system only to avoid revenue leakage, which was a procedural issue. He suggested to accept Option-1 with a time bound implementation of Option-2.

12.10. The Hon'ble Deputy Chief Minister of Delhi observed that provisions of GST law were proposed to be tweaked due to the problems of the IT vendor. He enquired regarding the impact on revenue of 1% tax was levied on merchant exporters. He also enquired whether this proposal was discussed with the exporters. DG, DGEP explained that the issue was discussed with the various export associations and their preference was to have an upfront exemption but once they were explained the GST design, they agreed that 1% tax on supplies to merchant exporters was the best solution. Shri Khalid A. Anwar, Senior Joint Commissioner, Commercial Taxes, West Bengal, stated that the Hon'ble Minister from West Bengal had desired him to convey that exports were in a very bad shape and the Export Promotion Councils had reported that exports had come down drastically. He stated that as e-Wallet would take some time to develop, Option-1 proposing an upfront exemption should be considered. He stated that merchant exporters also enjoyed similar exemption through Form 'H' under VAT and they should not be discriminated against by charging tax at the rate of 1% on supplies made to them. The Hon'ble Deputy Chief Minister of Bihar observed that the officers from the States of Gujarat, Maharashtra, Karnataka, Uttar Pradesh, West Bengal and Tamil Nadu were members of the Export Committee and the recommendations of the Committee were unanimous. He stated that the fundamental question was how to save exports and the proposed exemption was only an interim measure until the scheme of e-Wallet was implemented. He observed that even if it involved some compromise with the GST design, the Council should support Option-1 to help exporters.

12.11. The Hon'ble Minister from Telangana stated that a way must be found to help the exporters. He supported the proposal of the officer from West Bengal to exempt merchant exporters from tax. The Hon'ble Minister from Punjab stated that non-payment of tax by exporters was not an exemption but an entitlement. The Hon'ble Chairperson stated that the exporters were facing problem as they have to block funds upfront and then wait for refund which would be available only after the exports were made. The Hon'ble Minister from Jammu & Kashmir stated that more thought could be given on this subject. He stated that one option could be to give 75% refund on the basis of self-assessed return and do the final settlement in a period of three years and that the banks could support this procedure. He stated that Council should not react in a state of panic to the situation of economic downturn for which GST was not the only factor. He emphasised that he did not object to taking corrective action for downturn in exports but the methodology could be different. The Hon'ble Chairperson observed that the Committee had suggested certain interim and some long-term solutions. DG, DGEP stated that the dialogue was already on with NPCI for development of e-Wallet and at this stage, a firm time-line might not be available but it would take at least four months, if not more. The CEA observed that some compromise could tear into the basic structure of GST. He suggested to have a simpler system of say 1% subsidy or to adopt the proposal suggested by the Hon'ble Minister from Jammu & Kashmir.

12.12. The Hon'ble Chairperson raised a question whether e-Wallet maintained the integrity of the GST system. The Hon'ble Minister from Karnataka stated that e-Wallet would maintain the integrity of the GST system and he fully supported it. He added that the system would be used only for payment of tax. He stated that in the interim, some measures could be taken to help the exporters meet their working capital requirement. The Hon'ble Minister from Jammu & Kashmir suggested to give upfront subsidy to exporters. He observed that the industry in Jammu & Kashmir was in crisis due to removal of area based exemption scheme and they would demand its restoration if exemption for exports was permitted. He added that no refund had been given to the industries in Jammu & Kashmir for the last three months and till now he had been explaining to them that it was a systemic reform, and now they would again demand upfront exemption. He observed that e-Wallet was virtual currency and the proposed solution was sectoral

in nature and so not desirable. He also expressed worry about the technology to be used for e-Wallet after the experience with the current vender. The Deputy Chief Minister of Gujarat desired to know as to how much money was blocked due to pending refunds on exports. The CEO, GSTN stated that this amount would have to be culled out from the GSTR-3B returns. The Secretary stated that GSTN might not have full data because GSTR-1 had been uploaded only till the month of July 2017.

12.13. The Hon'ble Minister from Assam stated that exporters fell into a different category as they were not required to pay GST on consumption based principle. He, therefore, supported the proposal to give them exemption in the interim period till the system of e-Wallet was developed. The Hon'ble Chief Minister of Goa stated that the discussion was only to find interim solution for exporters who were not making domestic supplies. He suggested that they should be given the facility of exemption for short period. He also suggested that tax for supplies to merchant exporters should be kept at 0.1% instead of the proposed 1%. He warned that without these support measures, the exports might collapse. Shri Alok Chaturvedi, Director General of Foreign Trade (DGFT) stated that the size of the problem of funds blockage for the exporters could be gauged from the fact that the revenue foregone for one year from advance authorization, EOU and EPCG was around Rs. 45,000 crore. He stated that Rs. 28,000 crore of duty foregone was due to advance authorization scheme, Rs. 9,000 crore was due to EPCG and Rs. 8,000 was due to EOUs scheme. He emphasised that exporters were facing competition in the international market and they had to compete against exporters from countries like Bangladesh, Vietnam, Cambodia and Philippines. He also reminded that Indian exporters faced problems in relation to infrastructure, lack of flexible labour laws and lack of economies of scale. He stated that the exporters needed support for the next seven to eight months and the system of e-Wallet could be developed by then.

12.14. The Hon'ble Minister from Goa stated that exporters were in a different category and therefore giving exemption to them was not diluting the GST structure. He stated that as per some media reports, Rs. 67,000 crore of working capital of exporters was blocked and they would find it very difficult to survive without support. He observed that the various slabs of tax rate had already created a very negative impact. He observed that it was important to be practical and not diluting the principle of GST could not be a ground to defer decision on this issue. He stated that Option 1 was the best available solution to get exporters out of trouble. He reiterated that tax for supplies to merchant exporters should only be 0.1%. The Hon'ble Chief Minister of Goa cautioned that once an exporter lost his market, he would not get it back as the buyer would switch to another supply chain. He recalled that Goa was once the biggest exporter of iron ore but once it lost its market due to certain reasons, it was not able to regain it. He suggested that the old system of exemption should be retained for some time. The Hon'ble Minister from Odisha supported the suggestion of the Hon'ble Chief Minister of Goa. The Hon'ble Minister from Chhattisgarh stated that export was exempt from tax as GST was a consumption based tax. He stated that the Committee had given unanimous recommendation and the Council should accept Option-1 as an interim measure and move to Option-2 later. The Hon'ble Minister from West Bengal stated in his written comments that till e-Wallet was introduced, he favoured the time-tested model of exemption like Section 5(3) of the Central Sales Tax Act for not only merchant exporters, but also for manufacturing exporters and EOUs. He further stated that the concern was whether, even after treating the supplies of domestic suppliers to exporters as deemed exports, they would become eligible for provisional refund under Section 54(6) which is meant for zero rated supplies. In his opinion, no discrimination should be made between 'exports' and 'deemed exports'.

12.15. The Hon'ble Minister from Kerala stated that he supported the proposal for temporary accommodation to exporters. However, there was another important issue of tax on gifts sent by Non-Resident Indians during festivals etc. and this issue also needed to be taken up. The Secretary stated that this was already part of another agenda item [13(iii)]. The Hon'ble Chairperson observed that exporters formed a different category who were not to be taxed and there was agreement to move to a system of e-

Wallet by a particular date. It needed consideration as to what steps could be taken in the interim period to help the exporters. The Hon'ble Chief Minister of Puducherry reiterated that a scheme could be worked out jointly by the Department of Commerce, the Department of Revenue and the Reserve Bank of India. The Hon'ble Chairperson stated that this would be a long-drawn process and exporters needed to be given quick relief. The Hon'ble Minister from Haryana suggested to accept Option-1 with a sunset clause. The Hon'ble Chief Minister of Goa suggested that Option-1 could be kept operational till 31 March 2018. The Hon'ble Minister from Andhra Pradesh supported Option-1 at this stage and e-Wallet to be developed at a later date. He also added that the system of GSTR-1, 2 and 3 should be set right at the earliest. The Hon'ble Minister from Karnataka stated that it was important to have an idea as to by when e-Wallet system would be up and running. He expressed an apprehension that if it was too delayed, the exporters would get used to the exemption route and then it would be difficult to remove it. He observed that the Committee had placed two options on the table and he supported the option for e-Wallet. The Secretary stated that ideally, e-Wallet should be with GSTN as it would be a third ledger for making payment of CGST, SGST and IGST. However, due to the difficulties faced by them, they might not be able to implement it. He stated that the GSTN had indicated a time-line of four to six months and the option was to develop e-Wallet in the GSTN system or have a separate system of e-Wallet with linkage to GSTN. He stated that this would take a minimum of six months to develop. The Hon'ble Chairperson stated that e-Wallet could be implemented by 1 April 2018 and till then the old system as proposed in Option-1 could be continued.

12.16. Shri Tuhin Kanta Pandey, Principal Secretary (Finance), Odisha stated that the system of e-Wallet should be legally examined as this system involved creating money to pay tax. The Hon'ble Chairperson stated that this issue could be looked at by officers who were not associated with drafting of the original Law. He stated that a new Committee of officers should review the law and propose changes in the CGST/SGST Acts and the IGST Act taking into account various feedbacks and these proposals could be brought before the Council. The Secretary stated that during the Budget session of the Parliament, changes in the Law could be introduced and for this a new Law Review Committee of officers could be constituted in which the old members of the Law Committee could be called for consultation but decisions should be taken by the new Law Review Committee. He added that the existing Law Committee could continue to look into day-to-day operational issues of the GST law and rules. The Hon'ble Chairperson observed that the Law Committee of officers should also look at the technology issues for e-Wallet.

12.17. The Hon'ble Minister from Jammu & Kashmir reiterated that if exemption mechanism was to be kept for exports till March 2018, then exemption scheme for Special Category States should also be continued till March 2018. The Hon'ble Chairperson stated that exporters formed a different category and for them too, exemption would be phased out. The Senior Joint Commissioner (Commercial Taxes), West Bengal reiterated that supplies to merchant exporters should not be subject to a tax of 1%. The Hon'ble Minister from Karnataka raised a question whether the proposed exemption scheme would also apply to export of services. DGFT clarified that the present scheme of advance authorisation, EPCG, etc. applied only to goods. The Secretary suggested that no new dispensation should be created under the GST. The Council agreed to this suggestion. The Secretary suggested that supplies to merchant exporters could be exempt if the goods were moved immediately to the port of shipment or to an export warehouse. The Senior Joint Commissioner (Commercial Taxes), West Bengal stated that in the earlier scheme of Form H under VAT, no tax was paid when goods were sold to merchant exporter but full tax became payable if goods were not eventually exported. He stated that a similar procedure should be continued and there should be no mandatory requirement of directly sending the goods to warehouses for export. The Secretary stated that input tax credit would not be available if full exemption was given for supply to merchant exporter. He suggested that a tax of 0.1% could be levied on supplies to merchant exporters. The Hon'ble Deputy Chief Minister of Delhi supported the proposal to keep the rate of tax on supplies to

merchant exporters at the rate of 0.1%. The Council agreed to this proposal. The Council also agreed to the other recommendations of the Committee on Exports.

13. **For agenda item 5,** the Council approved the following:

(i) Refund of IGST paid on goods exported during July, 2017 shall begin by 10 October, 2017 and those exported during August, 2017 shall begin by 18 October, 2017. Refund for subsequent months shall be dealt in like manner as for August 2017 till the time GSTR-1 was made available. GSTN shall make available electronically to CBEC, Table 6A of GSTR-1 of exporters containing details of zero rated supplies. These refunds shall be dealt with by Customs Officers.

(ii) For Refund of IGST paid on export of services, supplies to SEZs and refund of accumulated input tax credit on export of goods/services and those supplied to SEZs under Bond/LUT, the following timelines were approved: (a) The GSTN and the DG Systems, CBEC shall finalize modalities for CBEC System to receive GSTR-1 and GSTR-3B from the GSTN by 6 October 2017; (b) by 10 October 2017, the GSTN would make available on the website a new utility Form RFD 01A for refund claimant which would contain a request to debit the credit ledgers for ITC refund being claimed; (c) by 30 October 2017, the GSTN would make available facility in a new Form RFD 01B for GST officers to order re-credit of the amount of refund rejected; (d) these refunds would be dealt with by jurisdictional Central/State GST officers.

(iii) To grant exemption from IGST, Cess, etc. under Section 6 of the IGST Act, 2017 read with Section 25 of the Customs Act, 1962 to import of goods for exporters availing the schemes of Advance Authorisation/Export Promotion Capital Goods/100% Export Oriented Units up to 31 March 2018 and to continue the existing monitoring schemes for exports.

(iv) To notify domestic supplies of goods made to exporters as deemed exports under Section 147 of the CGST/SGST Acts, to allow payment of taxes by suppliers and to allow refund of tax so paid to supplier. An Advance Release Order (ARO) shall be issued in the name of domestic supplier by exporter having AA/EPCG or EOU status. This scheme shall be in place up to 31 March 2018. The existing monitoring mechanism for exports to continue.

(v) Supplies of goods to merchant exporters registered with Export Promotion Council/ Commodity Boards shall be on payment of tax at the rate of 0.1% and to prevent misuse, adequate safeguards shall be provided.

(vi) To make the e-Wallet scheme for exporters (make available to exporter a notional credit in advance on the basis of the past export performance) functional by 1 April 2018.

(vii) GST rate on sale-purchase of duty credit scrips shall be reduced from 5% to Nil for the present.

(viii) Exporters who obtain registration within 6 months of applying for refunds shall not be denied the benefit of provisional refund under Section 54(6) of the CGST/SGST Acts.

(ix) Proposal made in the 21st GST Council Meeting that exporters who do not furnish Returns for 3 consecutive tax periods preceding the refund application shall be denied the benefit of provisional refund under Section 54(6) of the CGST/SGST Acts is infructuous and need not be proceeded with.

(x) Rate of tax on bunker fuel shall be reduced to 5% for both foreign going vessels and those on coastal run.

(xi) To constitute a new Law Review Committee of officers which will propose changes in the CGST/SGST Acts and the IGST Act taking into account various feedbacks and these proposals shall be brought before the Council. The existing members of the Law Committee could be called for consultation but decisions shall be taken by the new Law Committee. The existing Law Committee shall continue to look into day-to-day operational issues of the GST law and rules and also look at the technology issues for e-Wallet.

Agenda item 6: Issues for consideration for relief to small taxpayers:

14. The Chairman invited Commissioner (GST Policy), CBEC to make a presentation on this agenda item. The Commissioner (GST Policy), CBEC stated that these issues were discussed during the meeting of the officers held on 5 October 2017 and the changes proposed by them were indicated in red colour in the presentation. The presentation is attached as **Annexure 3.** The discussion for each agenda item is recorded below. **Agenda Item 6(i): Proposal for increasing the aggregate annual turnover threshold under Composition scheme from Rs. 75 lakh (Rs. 50 lakh in Special Category States except Uttarakhand and Jammu & Kashmir) to Rs. 1 crore; and not taxing the exempt supplies made by a Composition dealer**

15. The Commissioner (GST Policy), CBEC stated that it was proposed to increase the aggregate annual turnover threshold under Composition scheme from the existing Rs. 75 lakh to Rs. 1 crore. He stated that the limit for the Special Category States could also be discussed by the Council. The facility of availing such increased limit could be extended to both the migrated as well as the new tax-payers and would become valid from the first day of the subsequent month in which the option to migrate to the Composition scheme was exercised. He added that the increase in the turnover threshold would make it possible for greater number of taxpayers to come within the Composition fold and avail its facility of easy compliance and that this was extremely important for the MSME sector. He stated that as per the data circulated during the 9th Meeting of the Council (held on 16 January, 2017), there were about 66 lakh and 74 lakh taxpayers having turnover up to Rs.50 lakh and Rs. one crore respectively and they contributed around 3% to 4% revenue. Accordingly, he stated that by making this change, around 4-5 lakh more taxpayers could avail the benefit of the Composition scheme. He stated that the second proposal under this agenda item was that the exempted turnover of Composition taxpayers should be nil rated to ensure that tax is collected on taxable supplies only. He explained that in the current Composition scheme, if a person is supplying both taxable and exempted supplies, he would need to pay tax on aggregate turnover of both the supplies. He added that this benefit was not proposed to be extended to persons engaged in supply of services (restaurants) and that this benefit would be available to a Composition taxpayer only if he maintained separate accounts for taxable and exempt supplies. He explained that by taxing exempted supplies under Composition scheme, the whole purpose of Composition was getting defeated as large number of traders dealt in relatively large amounts of exempted items (e.g. unbranded wheat, rice, flour etc.) as compared to taxable items. He added that in the Officers' meeting held on 5 October 2017, it was felt that exempt turnover should not be excluded as it would be difficult to maintain separate records and it could lead to harassment.

15.1. The Hon'ble Chairperson observed that presently about 15 lakh taxpayers had opted for Composition scheme when the turnover limit for Composition scheme is Rs.75 lakh per annum and the question was how to encourage more tax payers to opt for this scheme. The Hon'ble Ministers from Jammu & Kashmir and Kerala suggested that the annual turnover limit for Composition could be increased to Rs.1.5 crore. The Secretary pointed out that the provision of Section 10 of the CGST/SGST Acts dealing with Composition scheme had prescribed annual turnover ceiling of Rs. one crore, and therefore, presently the turnover threshold could not be raised beyond Rs. one crore. The Hon'ble

Chairperson stated that the new Law Review Committee could look at recommending a higher turnover threshold for the Composition scheme.

15.2. The Hon'ble Minister from Chhattisgarh stated that after three months of implementation of GST, his discussions with small taxpayers had revealed large scale dissatisfaction with procedures under GST amongst Micro, Small and Medium Enterprises (MSMEs). He stated that MSMEs and cottage industry had suffered setback after introduction of GST and that while they accounted for large scale employment, barely 5% of total revenue came from them. He stated that there was a need for balance between 5% revenue and employment scenario. In this light, he supported the proposal for increasing the threshold turnover for Composition taxpayers from Rs.75 lakh per annum to Rs. one crore per annum and to also exclude the exempt supplies from the calculation of the turnover of the Composition dealer. The Hon'ble Chief Minister of Goa, the Hon'ble Ministers from Jammu & Kashmir, Kerala, Odisha, Punjab, Haryana, Madhya Pradesh, Karnataka and Telangana, and the Senior Joint Commissioner (Commercial Taxes), West Bengal supported the proposal to increase the turnover threshold of Composition taxpayers from Rs.75 lakh to Rs. one crore per annum. The Hon'ble Minister from Karnataka added that the Composition rate was not a lower tax rate but only a mechanism to ease compliance. He observed that the challenge was how to make the compliance easier for regular taxpayers so as to encourage movement of Composition taxpayers into the fold of regular taxpayers as Composition scheme was basically a distortionary intervention.

15.3. The Hon'ble Chief Minister of Puducherry supported the proposal to increase the annual turnover threshold for Composition from Rs.75 lakh to Rs. one crore and to exclude the exempted turnover from the taxable turnover. The Hon'ble Minister from Andhra Pradesh supported the proposal to increase the Composition limit to Rs. one crore. The Hon'ble Minister from West Bengal stated in his written comments that Composition threshold should be increased from Rs.75 lakh to Rs. one crore and the exempted supplies should not be taxed. He stated that the latter could not be done without bringing an amendment to the definition of the term 'turnover in a State' in Section 2(112) as referred to in Section 10(1) of the CGST/SGST Acts, 2017. He suggested to introduce a bill or an ordinance immediately and give this amendment retrospective effect (i.e. from 1 July, 2017). He further suggested that while excluding exempt supplies, only those supplies should be exempted which were exempt from tax and not those supplies, which were non-taxable under the Act.

15.4. The Hon'ble Minister from Karnataka opposed the proposal to exclude the exempted supplies from the Composition turnover threshold and warned that this would lead to arbitrage and exercise of a lot of discretion at the field level. He pointed out that the rate of Composition had been arrived at after taking into account the supply of exempted goods into the total basket, and that if this turnover was proposed to be exempted now, then the rate for Composition taxpayers should also be revisited. He also cautioned that excluding the exempt turnover would fundamentally change the nature of the Composition scheme.

15.5. The Hon'ble Deputy Chief Minister of Gujarat supported the proposal not to tax the exempt supplies made by a Composition taxpayer and added that such taxpayers should not be forced to maintain separate books of accounts. The Hon'ble Deputy Chief Minister of Delhi stated that exclusion of exempt turnover would lead to inspectors visiting taxpayers to verify their books of accounts to ascertain the quantum of exempt supplies. The Hon'ble Minister from Tamil Nadu also expressed an apprehension that taxpayers would find it difficult to segregate their turnover into taxable and exempt categories and that this would lead to Inspector Raj. He suggested that tax for Composition dealers could be reduced to less than one per cent. The Hon'ble Minister from Assam stated that the fear of arbitrage and return of Inspector Raj was exaggerated. He added that it was not proper to always vilify Inspectors as the Government was paying them salary and they also did good work in expanding the taxpayer base and collecting more

revenue. He supported the proposal to exclude the value of exempted goods from the total turnover value for the Composition taxpayers. The Hon'ble Minister from Kerala stated that it would have been desirable to extend the limit of Composition turnover to Rs.1.5 crore if the law so permitted, but in its absence, it would be better to exclude the exempt turnover, so that the limit of Composition turnover *de facto* became Rs.1.5 crore. The Hon'ble Minister from Jammu & Kashmir expressed his reservation on this proposal as it changed the whole scheme of Composition. He warned that if these proposals were implemented, it could create severe economic problem and would increase the need for compensation.

15.6. The Senior Joint Commissioner (Commercial Taxes), West Bengal, stated that Section 10(1) of the CGST/SGST Acts, 2017 provided that the term aggregate turnover included exempt turnover, and therefore, change in law would be required to exclude the exempt supplies from the value of aggregate turnover of the Composition dealer. He added that it would be very difficult for small taxpayers to maintain two different accounts. The Secretary stated that exempt supplies would be counted towards aggregate turnover but tax would only be levied on the taxable turnover and the exempted turnover would not be subject to tax. The Hon'ble Minister from Assam stated that Composition was a voluntary scheme and if a taxpayer feared an Inspector Raj, he might not opt for Composition scheme. The Hon'ble Minister from Jammu & Kashmir stated that if the Act had to be changed regarding Composition scheme, then it would be desirable to increase the annual turnover threshold to Rs.1.5 crore rather than to create an exemption for the exempt turnover.

15.7. As regards the turnover limit for Composition taxpayers in the Special Category States, the Hon'ble Ministers from Uttarakhand and Jammu & Kashmir stated that they would like to increase the annual turnover threshold for Composition scheme in their States to Rs. one crore. Shri R. Selvam, Commissioner (Excise and Taxation), Himachal Pradesh stated that his State would increase the turnover threshold for Composition taxpayers from Rs.50 lakh to Rs.75 lakh. He also stated that his State would like to increase the turnover threshold for taking registration from Rs.10 lakh to Rs.20 lakh. The Hon'ble Minister from Uttarakhand expressed that his State would also prefer to increase the turnover threshold for registration from Rs.10 lakh to Rs.20 lakh. The Hon'ble Chairperson stated that this would not be possible at this stage because the turnover threshold for registration for the Special Category States was provided in the Law. The Hon'ble Deputy Chief Minister of Manipur expressed to increase the turnover threshold for Composition taxpayers from Rs.50 lakh to Rs.75 lakh in his State. Shri Y. Mhathung Murry, Commissioner of Taxes, Nagaland, Shri Hrisheekesh Modak, Commissioner (Commercial Taxes), Manipur, Ms. Dipa Basnet, Secretary (Commercial Taxes), Sikkim and the Principal Secretary (Finance), Tripura also expressed to increase the turnover threshold for Composition taxpayers from Rs.50 lakh to Rs.75 lakh in their respective States. The Hon'ble Chairperson suggested that the Council may agree with the proposal to increase the aggregate annual turnover threshold for eligibility for Composition scheme from Rs.75 lakh to Rs. one crore for normal States and for the two Special Category States, namely Jammu & Kashmir and Uttarakhand. The Council agreed to the suggestion. He further suggested to increase the aggregate annual turnover threshold under Composition scheme for Special Category States other than Jammu & Kashmir and Uttarakhand from Rs. 50 lakh to Rs. 75 lakh. He also suggested that the issue regarding excluding the turnover of exempted goods from the total turnover threshold for levying tax under the Composition Scheme could be examined by a Group of Ministers to be constituted by him and they could submit their recommendation in two weeks. The Council agreed to these suggestions.

15.8. The Hon'ble Deputy Chief Minister of Delhi stated that increasing the turnover limit from Rs.75 lakh to Rs. one crore would not be very beneficial as it would cover only a small number of taxpayers. He stated that he had flagged an issue regarding Composition in the 16th Meeting of the Council (held on 11 June 2017) and he would like to reiterate the same. He pointed out that in his State, out of 4.5 lakh registered taxpayers, only 18,000 were in the Composition scheme. He stated that the coverage of taxpayers under the Composition scheme was very limited as its benefit was available only to those who

made intra-State supplies. He stated that there was large scale movement of goods between Gurugram and Delhi even by small dealers and the number of taxpayers making supplies within the State only was very limited. He proposed that Composition scheme should also be allowed for taxpayers making inter-State supplies. The Hon'ble Deputy Chief Minister of Bihar supported this proposal and observed that due to such limitations, only 15 lakh taxpayers had opted for this scheme. He stated that it was rather odd that under the old VAT Composition scheme, even inward inter-State purchases were not allowed and that though this was allowed under the GST Composition scheme, the outward inter-State supplies should also be allowed to make the Composition scheme more popular. He also suggested that no upward limit of turnover should be provided for Composition in the GST Law to give flexibility to the Council to increase the Composition limit as per the requirement. The Hon'ble Minister from Jharkhand supported the proposal to allow Composition scheme for taxpayers making inter-State supplies.

15.9. The Hon'ble Ministers from Jammu & Kashmir and Andhra Pradesh did not support the proposal to allow Composition scheme to taxpayers making inter-State outward supplies. The CCT, Manipur did not support the proposal to allow the benefit of Composition scheme to taxpayers making outward inter-State supplies and stated that this would go against the interest of small States. The Principal Secretary (Finance), Tripura also supported this view. The Hon'ble Minister from Mizoram pointed out that the present agenda was only in respect of increasing the turnover threshold for Composition scheme and not to relax the provision of Section 10(2)(c) of the CGST/SGST Acts, 2017, which prohibited Composition taxpayers to make inter-State outward supplies. The Hon'ble Minister from Assam stated that the North-Eastern States would lose revenue if benefit of Composition scheme was extended to inter-State supply of goods as these States mostly got goods from the neighbouring bigger States like West Bengal and there was hardly any reverse supply from the North-Eastern States to the bigger neighbouring States. He stated that if such a provision was introduced in the law, there should be a provision for its review after five years once the scheme of compensation to the States for loss of revenue came to an end.

15.10. Shri Ritvik Pandey, CCT, Karnataka stated that for supplies made by a normal tax payer, under destination principle, the tax travels to the consuming State when input tax credit is utilised by the seller. For Composition tax payers, as tax was not on supplies but on turnover, no input tax credit was available and therefore taxes paid by Composition taxpayers would get trapped in the origin State. The Hon'ble Chairperson observed that the destination State would also gain tax for supplies made by Composition taxpayers located there and therefore the gains and losses could average out in the long run. He further observed that small taxpayers in any case paid very small amount of tax. The Hon'ble Chairperson suggested that the issue whether Composition scheme can be extended to taxpayers making inter-State outward supplies of goods could also be examined by the proposed Group of Ministers (GoM). The Council agreed to this suggestion.

15.11. Shri V.K. Garg, Advisor (Finance), Government of Punjab stated that the Council could also use the power of exemption vested under Section 11 of the CGST/SGSC Acts to exempt supplies on the basis of certain conditions without calling it a Composition scheme. He stated that the Council could use this provision to expand the eligibility of Composition scheme for inter-State supplies and to also permit supply of services up to a value of say Rs. one lakh per annum to a Composition taxpayer. The Senior Joint Commissioner (Commercial Taxes), West Bengal, stated that to allow Composition taxpayers to make inter-State outward supplies, Section 10 of the CGST/SGST Act, 2017 would need to be amended rather than to use some other provision of law. He further stated that the aggregate turnover included exempt supplies and if this was not to be subject to tax under the Composition scheme, an amendment to Section 10 of the CGST/SGST Acts, 2017 would be required. He added that the demand of small taxpayers was only to keep the rate of tax low. The Hon'ble Chairperson observed that Section 10 of the CGST/SGST Acts, 2017 contained a prohibition regarding inter-State supplies by Composition taxpayers and it was debatable whether this prohibition could be part of exemption under Section 11 of the

CGST/SGST Acts, 2017, as generally a specific provision of law could not be over-ruled by a general provision. The Advisor (Finance), Government of Punjab stated that a rate of tax could be specified subject to certain conditions and this could be worded as a decision of the Council.

15.12. The Hon'ble Minister from Punjab suggested that the exemption limit for services for the Composition dealers should be Rs.5 lakh. He also suggested to collect tax on maximum retail price (MRP) in some sectors like telecommunication where taxing supply of vouchers at each stage was bringing an additional 25 to 30 lakh people with small turnover in the tax net. The Advisor (Finance), Government of Punjab pointed out that the definition of aggregate turnover in Section 2(6) of the CGST/SGST Acts included all taxable supplies but excluded CGST, SGST, etc. He stated that this exclusion did not cover the earlier tax like VAT and as a result, the aggregate turnover of Composition taxpayers in the first year would be inclusive of VAT and as a result, their *de facto* turnover for benefit of Composition scheme in the first year would continue to be Rs.75 lakh (even when it is increased to Rs. one crore) in the first year. He suggested to clarify this issue.

15.13. The Hon'ble Deputy Chief Minister of Bihar stated that entities in the MSME (Micro Small and Medium Enterprises) sector availing the Composition scheme also made supplies to registered entities and there should be a provision that the registered buyers should be able to take input tax credit of the purchases made from Composition taxpayers. He suggested that purchases from Composition taxpayers in MSME sector should be allowed 2% input tax credit and they should have a simplified one-page return like the *Saral* Form of Income Tax. He suggested that a Committee could be formed to simplify the forms and to seek minimal data. He also suggested that the exemption limit for purchases under reverse charge mechanism should be increased from Rs. 5,000 to Rs. 15,000. The Hon'ble Deputy Chief Minister of Gujarat supported the proposal to allow input tax credit on purchases from Composition taxpayers and observed that in its absence, the registered tax payers were not buying goods from the small-scale sector. The Hon'ble Minister from Chhattisgarh also supported this proposal and observed that big industries purchasing from Composition dealers could not take input tax credit which was a disadvantage for the Composition taxpayers. He suggested that in the alternative, no tax might be charged on inputs bought by large tax payers from the Composition taxpayers. The Hon'ble Deputy Chief Minister of Delhi suggested that input tax credit should be allowed on purchases from Composition taxpayers. The Hon'ble Chairperson suggested that the issue whether input tax credit could be made available to registered persons receiving inward supplies from Composition taxpayers could also be examined by the proposed Group of Ministers (GoM). The Council agreed to this suggestion.

15.14. The Hon'ble Minister from Kerala stated that no free software had been made available to small taxpayers as yet. The Hon'ble Minister from Assam suggested that free software should be available on 'cloud' to enable easy download by the taxpayers. The CEO, GSTN informed that NIC in Bengaluru had developed a free accounting software and given a demo for the same and that he had requested NIC to make it available countrywide.

15.15. The Hon'ble Deputy Chief Minister of Bihar stated that consumers were still not able to understand that under GST, hitherto hidden Central Excise duty had become visible. He suggested that a provision should be introduced that suppliers should quote price as MRP and CGST and SGST should be mentioned in the invoice after doing the back calculation. He observed that a large part of opposition to GST would be addressed by this measure. The Hon'ble Minister from Assam supported this proposal and stated that people had developed a negative impression of GST because of mention of separate rates for CGST and SGST. The Hon'ble Minister from Jammu & Kashmir stated that the requirement of declaring MRP and the GST were two different systems and it would not be possible to reconcile GST with MRP. He stated that MRP belonged to the pre-GST regime and that the margin of distributors etc. was taken into account while fixing the MRP. He observed that GST applied at every level of the retail chain and

the perception problem was because a tax of, say 18%, was being charged on MRP. He suggested that the system of MRP should be abolished in the GST regime. He added that another concern of the taxpayers was the fear of retrospective inquiry regarding their turnover in the pre-GST period and suggested that the Council should clarify that retrospective tax inquiry relating to returns filed during the pre-GST period shall not be initiated by the Central or State tax administration merely on the basis of returns filed during the GST period. The Hon'ble Chairperson supported this suggestion. The Council agreed to this suggestion.

15.16. The Hon'ble Chief Minister of Goa raised another issue regarding HSN Code. He stated that HSN Code was very confusing for traders due to multiple rate slabs and suggested that the traders should be exempted from the requirement of declaring HSN Code and that this should be declared only by manufacturers.

15.17. The Hon'ble Deputy Chief Minister of Gujarat stated that earlier, there was no tax on textiles and after introduction of GST, goods worth several crore of rupees were lying in warehouses and transporters were demanding double the charge for transporting such goods. He stated that the Council should explore some solution to this problem.

15.18. The Hon'ble Minister from Kerala stated that tax rate of 18% on restaurants had brought a lot of disrepute to GST and it caused additional financial burden to the ordinary people. He stated that 28% rate of tax on 5-star restaurants was causing large scale shift of business to Sri Lanka where rate of tax was about 16%. He recalled that the Hon'ble Minister from Goa had also been consistently raising the issue of high rate of tax on restaurants. He suggested that there should be a differential rate of tax for air conditioned and non-air-conditioned restaurants and this would send a message that the Council was responding to the concerns of people. The Hon'ble Minister from Goa supported this proposal and observed that people bad mouthed GST whenever they came out of a restaurant. He suggested that rate of tax on restaurants should be reduced to 12% as everyone went to restaurants. He added that Goa was a tourism State where the number of chartered flights had gone up by about 27% but now tourists were shifting to Dubai, Sri Lanka, Bali etc. The Hon'ble Chairperson observed that there was an increase of 30% in the export of services sector and hoteliers were adopting various mechanisms to pay tax in the lower slab of 12% by keeping the room tariff at less than Rs. 7500/- per night. One such method was to charge for breakfast separately from the room rent. The Hon'ble Minister from Goa reiterated that rate of tax on restaurants should be reduced.

15.19. The Hon'ble Minister from Karnataka stated that the provision of splitting the tax rate for air conditioned and non-air-conditioned parts of the restaurant was a legacy of service tax regime and should be discontinued. The Hon'ble Chairperson stated that data of tax on restaurants could be evaluated before having a relook at the rate of tax on restaurants. The Hon'ble Minister from Karnataka stated that perception about GST was important and for a restaurant having air conditioned and non-air-conditioned portion, tax should be charged at the rate of 18% if the bill was raised from the air-conditioned part of the restaurant and 12% if the bill was raised from the non-air-conditioned part of the restaurant. He stated that this change would generate a lot of good will for GST amongst the consumers. The Hon'ble Minister from Goa stated that this meeting should send a message that the Council cared for the common people. The Hon'ble Ministers from Tamil Nadu and Odisha supported the proposal made by the Hon'ble Ministers from Kerala and Goa. The Hon'ble Chairperson suggested that the proposed Group of Ministers tasked to look into the Composition issues could also examine the rate of tax on restaurants. He stated that a uniform rate of tax of 12% with input tax credit could cause revenue loss because aerated drinks attracted tax at the rate of 43% and this could lead to greater compensation requirement for the States. The Hon'ble Minister from Goa stated that input tax credit could be denied to the restaurant but the rate of tax should be kept at 12% to give due deference to public perception. The Hon'ble Chairperson stated

that revenue was as important as public perception as the government had to fulfil several obligations including payment of salaries. The Hon'ble Minister from Kerala stated that a person going for a cup of tea in a restaurant also had to pay tax at the rate of 18% which created a very bad image for GST. The Hon'ble Deputy Chief Minister of Delhi stated that as the annual turnover for Composition had gone up to Rs. 1 crore, its implication on restaurants could be examined first. The Hon'ble Minister from Kerala stated that the revenue earned from restaurant was not significant and new registrations for restaurants were minimal. After further discussion, the Council agreed that the proposed Group of Ministers would also examine the tax structure of different categories of Restaurants, with a view to their possible rationalisation/reduction.

Agenda item 6(ii): Proposal for quarterly filing of returns along with quarterly payment of taxes by taxpayers having annual turnover up to Rs. 1.5 crore

16. The Commissioner (GST Policy), CBEC stated that it was proposed to introduce quarterly filing of returns (GSTR- 1, 2 & 3) along with quarterly payment of taxes for taxpayers having annual turnover of up to Rs. 1.5 crore in the previous year. He added that taxpayers having annual turnover of more than Rs. 1.5 crore would continue to file monthly returns (GSTR- 1, 2 & 3) and pay monthly tax. He stated that GIC could be authorized to approve the changes in the CGST/SGST Rules, 2017 required to implement this proposal as may be recommended by the Law Committee. He stated that this step would help provide relief to a large number of taxpayers (around 85% contributing not more than 6% of the total revenue) from the onerous responsibility of filing monthly returns and would also substantially reduce the stress on the IT system.

16.1. The Commissioner (GST Policy), CBEC informed that this proposal was discussed in the meeting of the Officers on 5 October 2017 and several modifications were suggested to this proposal. The suggested changes were: (i) Option may be given to small taxpayers to file monthly return; (ii) ITC on purchases from such taxpayers may be permitted monthly; (iii) GSTR-3B may continue to be filed by all taxpayers for the month of December, 2017 as announced earlier; (iv) Cycle for July, 2017 returns may be completed by all taxpayers (including those taxpayers having an annual turnover of up to Rs.1.5 crore in the previous year) as announced earlier; (v) Dates for August and September, 2017 Return filing may be announced after seeing experience from July cycle; (vi) Quarterly returns for small taxpayers may start from quarter starting October, 2017; (vii) Last date for filing of GSTR-4 for the first quarter may be 15 November, 2017; (viii) Last date for filing of GSTR-6 for July, August and September, 2017 may also be 15 November, 2017. He stated that this would help GSTN and all other partners to make necessary changes in software. He added that GSTN had informed that FORM GSTR-4 and GSTR-6 would be available by 03 November, 2017 and 23 October, 2017 respectively.

16.2. The Hon'ble Minister from Chhattisgarh supported this proposal and suggested to further enhance the value of turnover of taxpayers eligible to file quarterly return. The Hon'ble Deputy Chief Minister of Delhi supported the proposal of quarterly return for small taxpayers. However, he observed that as these taxpayers were also supplying to each other, this provision could lead to complication and suggested that quarterly return should be introduced for all taxpayers while tax should be paid monthly. The Secretary stated that the GST design was such that the tax could not be paid without filing return. The Hon'ble Minister from Uttarakhand supported the proposal of quarterly return filing for all taxpayers. The Hon'ble Chief Minister of Goa also suggested that all returns should be filed on quarterly basis and payment of tax should be done on monthly basis. The Secretary stated that the proposal to have quarterly return for all taxpayers was discussed during the meeting of the Officers on 5 October 2017 but several complications were identified. For instance, this would require continuance of GSTR-3B on monthly basis and would also require tallying the figures in the returns filed under GSTR-3B and GSTR-3 and demanding tax on any shortfall between the two. He informed that all this would be a big exercise. He

informed that due to these complications, the experience of States was that no interest could be recovered under the VAT regime for short payment of tax. The Commissioner (GST Policy), CBEC stated that if return was made quarterly for all taxpayers, then IGST settlement would also have to be done only on quarterly basis. The CCT, Karnataka stated that the smaller taxpayers with annual turnover below Rs.1.5 crore accounted for only 6%-7% of tax collection and hence, their input tax credit contribution would also be around 6%-7%. Input tax credit matching for such taxpayers could be postponed to quarterly basis. He added that it would not be advisable to postpone matching of input tax credit for big taxpayers from monthly to quarterly cycle. The Hon'ble Ministers from Kerala, Punjab, Haryana, Karnataka, Andhra Pradesh and Odisha supported the proposal to file quarterly return for taxpayers having annual turnover up to Rs.1.5 crore. The Hon'ble Deputy Chief Minister of Bihar stated that during the VAT regime, in his State, return was filed quarterly but tax was paid on monthly basis. He suggested that taxpayers with turnover of up to Rs.5 crore should file quarterly return with monthly payment of tax and taxpayers with turnover above Rs.5 crore should file monthly return. The Hon'ble Chairperson observed that, as stated by the Hon'ble Minister from Jammu & Kashmir, it would not be advisable to make too many categories of taxpayers for compliance.

16.3. The Hon'ble Chief Minister of Puducherry stated that the small taxpayers were finding the return filing to be highly cumbersome and they were forced to employ a person permanently to submit return. He supported the proposal of filing quarterly return by small taxpayers but suggested that payment of tax should be done on monthly basis so that the small taxpayer did not keep the tax collected from the buyer with himself for three months. The Hon'ble Minister from Telangana supported the proposal. The Hon'ble Minister from Madhya Pradesh supported the proposal of filing quarterly return for taxpayers with turnover up to Rs.1.5 crore per annum and suggested that this could be implemented from 1 October, 2017. The Senior Joint Commissioner (Commercial Taxes), West Bengal supported the proposal of filing quarterly return for taxpayers with turnover up to Rs.1.5 crore per annum by using the enabling provision under Section 148 of the CGST/SGST Acts, 2017.

16.4. The Hon'ble Deputy Chief Minister of Delhi stated that this proposal would make the working of input tax credit more complex as big taxpayers would not be able to take credit of the taxes paid on purchases from small taxpayers. The Secretary explained that under the Law, credit could be taken by the big taxpayers upon their own declaration and the matching could be done subsequently when the small taxpayer filed his quarterly return. The Hon'ble Minister from Kerala supported the proposal of quarterly return and quarterly tax payment for taxpayers with turnover up to Rs.1.5 crore. He cautioned that quarterly return should not be introduced for bigger taxpayers as it would then lead to breakdown of the self-policing mechanism provided for under GST. The Secretary suggested that the taxpayers with annual turnover below Rs.1.5 crore may file GSTR-3B only till September, 2017 instead of till December, 2017 as proposed during the officers meeting held on 5 October, 2017 and from October, 2017, they could switch to quarterly filing of Returns.

16.5. The Hon'ble Chairperson observed that most of the States supported the proposal of filing quarterly Returns and quarterly payment of tax by taxpayers having annual turnover up to Rs.1.5 crore and filing monthly Returns and monthly payment of tax for taxpayers having annual turnover above Rs.1.5 crore. He suggested that the Council may approve the same. The Council approved this proposal. The Council also approved the proposals at paragraph 16.1 with the modification that for small taxpayers with annual turnover of less than Rs.1.5 crore, a view regarding GSTR 3B filing for months beyond September, 2017 could be taken after evaluating the experience of filing return cycle of GSTR 1, 2 and 3 for the month of July, 2017 (likely to be completed by 10 November, 2017). The CEO, GSTN, stated that this decision would require changes in software as different categories of taxpayers would file returns in different cycles and the big taxpayers would always need to add their purchases from small taxpayers (with annual turnover below Rs.1.5 crore) in their GSTR-2. He stated that the impact of this change on

the other parts of the software would require a thorough review and the changes in software would take between 8 to 10 weeks to implement. The Secretary observed that the changes might not be major and only change of dates were to be made in the software. The Chairman, GSTN, suggested that staggered dates for different categories of taxpayers should be prescribed for filing of GSTR-1, GSTR-2 and GSTR-3. The Secretary stated that the Law Committee could examine this suggestion. The Council agreed to this suggestion.

Agenda item 6(iii): Proposal for suspension of application of provisions of sub-section (4) of section 9 till 31March, 2018

17. The Commissioner (GST Policy), CBEC stated that this agenda item proposed suspension of application of provisions of sub-section (4) of Section 9 till 31 March, 2018. He added that in the meeting of the officers held on 5 October 2017, it was felt that this would also be required for section 5(4) of the IGST Act. He explained that the provision had virtually eliminated the exemption limit provided to the small taxpayers and increased compliance for larger taxpayers. He added that establishments making small quantity of taxable supplies but substantial quantity of exempt supplies (e.g. educational and religious institutions) were adversely affected. He stated that the provision of exempting purchases up to Rs. 5,000 per day from the purview of this Section was also proving to be difficult to implement as many entities had several business locations in one State. He also explained that the Union Law Ministry had suggested to prescribe an end date for suspension. This provision brought huge compliance burden without commensurate benefits. He stated that the proposed suspension of this provision would give trade and industry time to acclimatize itself with the GST system and allow its compliance matrix to get stabilized.

17.1. The Hon'ble Deputy Chief Minister of Delhi suggested that Section 9(4) of the CGST/SGST Act should be repealed altogether. The Hon'ble Minister from Jammu & Kashmir stated that while drafting the GST Law, some provisions were kept in the current shape on the consideration that any possibility of leakage of revenue could be addressed through reverse charge mechanism under Section 9(4). He supported the proposal to suspend this provision up to March, 2018 but not to repeal it. The Hon'ble Deputy Chief Minister of Bihar stated that there was a strong opposition to this provision in his State and it should be suspended for a year or two till GST stabilised. The Hon'ble Chairperson stated that the provision of reverse charge mechanism would check cash transactions. The Hon'ble Chief Minister of Goa supported the proposal to repeal the provision under Section 9(4) of the CGST/SGST Acts, 2017 and observed that easier ways should be found to check cash transactions. He suggested that one alternative mechanism could be to make a voluntary Composition scheme for micro sector with an annual filing of return and payment of 0.1% tax on their turnover. He added that such units should remain exempt from the provisions of Section 9(4) of the CGST/SGST Act. He suggested that the provision of reverse charge mechanism should be suspended till 31 March 2018 and alternate mechanisms could be considered during this period. The Hon'ble Minister from Madhya Pradesh suggested not to implement the reverse charge mechanism. The Hon'ble Minister from Kerala did not support the proposal to repeal the provisions of Section 9(4) of the CGST/SGST Acts, 2017 and observed that in its absence, GST would effectively become VAT on the total value of transaction. He supported the proposal to suspend this provision as a temporary measure. The Hon'ble Minister from Telangana also supported a temporary suspension of reverse charge mechanism.

17.2. The Advisor (Finance), Government of Punjab, stated that reverse charge mechanism had certainty of levy for goods but its applicability was uncertain in many cases in the services sector. He gave an example of an unregistered person providing free software to a registered recipient on the condition that the recipient would not share it with anyone else. This amounted to agreeing to not doing something which was also a supply of service by the unregistered person to the registered person making

the latter liable to tax under reverse charge mechanism. He stated that because of such uncertainties, large taxpayers were shy of making purchases from smaller taxpayers. The Senior Joint Commissioner (Commercial Taxes), West Bengal recalled that originally, the reverse charge mechanism under Section 9(4) of the CGST/SGST Acts, 2017 was meant only for Composition taxpayers buying from unregistered persons but the Council took a considered decision to apply it to all taxable persons. He pointed out that when small taxpayers raised objection, daily purchases up to Rs. 5,000 from one or more unregistered persons by a registered person had been exempted from this provision. He suggested to raise this limit to Rs. 10,000 to provide more cushion to the small and medium enterprises instead of removing the provision of reverse charge mechanism. The Hon'ble Minister from Andhra Pradesh supported this proposal.

17.3. The Hon'ble Ministers from Haryana and Assam supported the proposal to suspend reverse charge mechanism till 31 March, 2018. The Hon'ble Minister from Haryana added that the basic purpose of this provision was to expand the tax base and the original design of GST should be maintained. The Commissioner (GST Policy), CBEC stated that this proposal also applied to suspending the application of reverse charge on Composition taxpayers for purchases from unregistered persons.

17.4. The Hon'ble Chairperson suggested that keeping in view the discussions, the provision of reverse charge mechanism under Section 9(4) of the CGST/SGST Acts, 2017 and Section 5(4) of the IGST Act, 2017 could be suspended till 31 March, 2018 for all categories of registered persons including Composition taxpayers. In the meantime, the scheme could be reviewed by the new Law Review Committee constituted to review the changes required in the law. The Council agreed to this suggestion.

Agenda item 6(iv): Proposal for deciding the date for the operationalization of provisions of nationwide e-Way bill

18. The Commissioner (GST Policy), CBEC stated that the Council may decide the date of operationalization of provisions of nationwide e-Way bill. He informed that in the meeting of the Officers held on 5 October 2017, GSTN was requested to inform about the dates from which software would be made available. He stated that the taxpayers were already facing challenges in complying with the existing compliances and overloading them with this measure might only increase their dissatisfaction with the system. He added that the software for e-Way bill was likely to take at least one more month to be ready and then it was to be tested.

18.1. The Hon’ble Minister from Chhattisgarh stated that e-Way bill was a barrier to trade and it should be dispensed with. The Hon’ble Chief Minister of Goa also suggested not to have an e-Way bill system as this could lead to different types of problems and would become like check posts. The Hon’ble Minister from Kerala stated that e-Way bill system was very important and delay in its implementation was very unfortunate. He stated that as software had already been developed by NIC in Karnataka and its implementation was held up due to procurement of hardware, those States could start implementation that already had the requisite hardware. The Hon’ble Chief Minister of Puducherry stated that e-Way bill should be implemented at the earliest possible. The Commissioner (Commercial Taxes), Manipur also stated that the e-Way bill should be implemented at an early date. The Hon'ble Minister from Madhya Pradesh stated that e-Way bill should be implemented after the software was developed. The Hon'ble Minister from Punjab suggested that the e-Way bill should be implemented from 1 April, 2018 on goods which are prone to evasion. The Senior Joint Commissioner (Commercial Taxes), West Bengal, stated that e-Way bill system should not be introduced until the existing glitches in the System relating to registration, return and payment were successfully addressed. The Hon'ble Minister from Odisha stated that e-Way bill system should be studied properly before its implementation. The Hon'ble Minister from Haryana stated that e-Way bill system should be introduced as soon as possible and that his State was suffering tax evasion in its absence.

18.2. The Hon'ble Minister from Karnataka stated that in their experience, e-Way bill system reduced harassment. He observed that it was a very simple procedure where supplier of goods requiring e-Way bill has to register, fill up 6 or 7 mandatory fields and the vehicle number, and generate an e-Way permit. On being stopped, the transporter only needed to show e-Way permit which could also be carried on a mobile phone. He stated that as per the experience in his State, only 2% of e-Way permits were checked and physical examination of goods was only about 0.2% while rest of the goods moved without any interference from the tax administration. He observed that e-Way bill system would improve the climate of compliance without extra exertion by the tax administration and that the system would be further streamlined after installation of RFID (Radio Frequency Identification). He stated that this simple mechanism would encourage the taxpayer to comply with the law and this would also help to expand the tax base. The Hon'ble Deputy Chief Minister of Gujarat stated that the e-Way bill system was in vogue during the VAT regime also and that while taxpayers should be extended easier compliance, revenue should also be protected. He added that if manufacturing States lost revenue, other States would also lose revenue. He emphasised that e-Way bill system should be introduced at the earliest.

18.3. The Hon'ble Minister from Assam stated that a timeline should be indicated by when the e-Way bill system would be ready. He observed that e-Way bill system would be a good instrument to check evasion which was going on in large scale today. The Hon'ble Minister from Andhra Pradesh stated that national e-Way bill system should be introduced at an early date. The Hon'ble Deputy Chief Minister of Bihar stated that presently, in his State, e-Way bill system was required for intra-State movement of goods of value more than Rs.2 lakh and inter-State movement of goods of value more than Rs. 50,000. He stated that a national e-Way bill system should be implemented quickly. The CEO, GSTN stated that the hardware for the e-Way bill system was expected by the end of October, 2017 and the earliest that they could implement e-Way bill system was from 1 December, 2017. He suggested to introduce the e-Way bill system from 1 January, 2018 after a month of beta testing. The Hon'ble Minister from Karnataka suggested to roll out e-Way bill system from one State, and then scale it up to 4-5 States by 1 November, 2017.

18.4. The Hon'ble Chairperson suggested that e-Way bill system could be rolled out from 1 January, 2018 in a staggered manner in State after State and could be implemented across the country from 1 April, 2018. The Council agreed to this suggestion.

19. For **agenda item 6,** the Council took the following decisions:

(i) To increase the aggregate annual turnover threshold for eligibility under the Composition scheme from Rs. 75 lakh to Rs. one crore for normal States and for two Special Category States, namely Jammu & Kashmir and Uttarakhand;

(ii) To increase the aggregate annual turnover threshold for eligibility under the Composition scheme from Rs. 50 lakh to Rs. 75 lakh for Special Category States other than Jammu & Kashmir and Uttarakhand;

(iii) A Group of Ministers to be constituted by the Hon'ble Chairperson to examine the following issues and submit its recommendations in two weeks:

(a) whether to exclude the turnover of exempted goods from the total turnover threshold for levying tax under the Composition Schemes;
(b) whether Composition scheme can be extended to taxpayers making inter-State outward supplies of goods;

(c) whether input tax credit can be made available to registered persons receiving inward supplies from Composition taxpayers;
(d) to examine the tax structure of different categories of Restaurants, with a view to their possible rationalisation/reduction;

(iv) Retrospective tax inquiry relating to returns filed during the pre-GST period shall not be initiated by the Central or State tax administration merely on the basis of returns filed during the GST period;

(v) Taxpayers having annual turnover of up to Rs.1.5 crore in the previous year to file quarterly Returns and make quarterly payment of tax and taxpayers having annual turnover above Rs.1.5 crore to file monthly returns and make monthly payment of tax as well as the following:

(a) Option to be given to small taxpayers to file monthly return;

(b) ITC on purchases from such taxpayers to be permitted monthly;

(c) For supplies up to the month of December 2017, GSTR-3B to be continued to be filed by taxpayers with annual turnover above Rs. 1.5 crore as announced earlier. For small taxpayers with annual turnover below Rs.1.5 crore, a view regarding filing of GSTR-3B for months beyond September, 2017 to be taken after evaluating the experience of filing of return cycle of GSTR-1, GSTR-2 and GSTR-3 for the month of July, 2017 (likely to be completed by 10 November, 2017);

(d) Cycle for July, 2017 returns to be completed by all taxpayers as announced earlier;

(e) Dates for August and September, 2017 return filing to be announced after seeing experience from July cycle;

(f) Quarterly returns for small taxpayers to start from quarter starting October, 2017;

(g) Last date for filing of GSTR-4 (for compounding taxpayers) for the first quarter shall be 15 November, 2017;

(h) Last date for filing of GSTR-6 (for Input Service Distributors) for July, August and September, 2017 shall also be 15 November, 2017;

(vi) The existing Law Committee to examine the possibility of prescribing staggered dates for filing GSTR-1, GSTR-2 and GSTR-3 for different categories of taxpayers;

(vii) To suspend the application of reverse charge mechanism under Section 9(4) of the CGST/SGST Acts, 2017 and Section 5(4) of the IGST Act, 2017 till 31 March, 2018 for all categories of registered persons including Composition taxpayers and during this period, the scheme shall be reviewed by the new Law Review Committee constituted to review the changes required in the law;

(viii) To roll out e-Way bill system from 1 January, 2018 in a staggered manner in State after State and to implement it across the country from 1 April, 2018;

(ix) To make similar changes in SGST Act and UTGST Act, wherever required.

Agenda item 7: Issues recommended by the Fitment Committee for consideration of the GST Council

Agenda item 7(i): GST Rate in respect of government works contract services having high labour content

20. Introducing this agenda item, Shri Amitabh Kumar, Joint Secretary (TRU-II), CBEC, stated that some States had requested to levy tax at the rate of 5% on those works contracts which had predominantly labour component and the material component was less than 25%. He stated that the details of various kinds of works provided by the Government of Telangana were examined and it showed that there were broadly eight categories of works contract services having varying content of labour and materials. While in the category of Irrigation and CAD (Command Area Development) i.e. canal works, the effective GST rate seemed to have gone down *vis-à-vis* the pre-GST rate, the effective GST rate for another category of Irrigation and CAD (Earth Works) had gone up by about 11% (Component of earth work in this work contract as reported by Telangana is 95%). In all other categories, namely, Irrigation and CAD (Electro mechanical Works, Dams and Barrages, Drinking Water Supply Scheme etc.), the incidence in the GST regime was less than the cumulative incidence of headline and embedded taxes in pre-GST regime. He further informed that for other categories of works contract, for instance, irrigation and CAD (dams and barrages), Drinking Water Supply Scheme/ Mission etc., the effective GST rate appeared to be less than the pre- GST rate and that for the following category of works, 12% GST rate could lead to a situation of giving refunds: (a) Roads and Buildings; (b) Road Renewals; (c) Bridge Works. He further informed that a communication had been received from the State of Tamil Nadu stating that works contracts which involved material component less than 25% of the contract value, for instance, digging of canals, deepening of ponds/lakes/other lake bodies, the rate may be 5%, provided the work is executed by using own labour but if the labour is supplied by the manpower supplier, then the GST rate for contracts involving material component less than 25%, should be 12%. He stated that it was proposed that the rate of tax in case of works contract services involving predominantly earth works (that is, constituting more than 75% of the value of the works contract) supplied to the Central Government, the State Governments, local authority or a governmental authority may be reduced to 5%. He added that if the agenda note for extending the reduced rate on specified works contract services to Central Government, State Government, local authority or Governmental authority to a "Government Entity" [agenda item 7(ii)] was approved, reduced rate on works contract service covered by this proposal would also be available to Government Entity.

20.1. Initiating the discussion, the Hon'ble Minister from Madhya Pradesh suggested that high labour content should be defined where the material component was less than 33%. The Hon'ble Minister from Jammu & Kashmir stated that if material component was kept at 25% and even if these attracted tax at the rate of 28%, there would be no outgo of refund but increasing the material component to 33% would lead to a situation of refund. The Secretary stated that this issue had been carefully considered by the Fitment Committee and the Council should go by its recommendation.

20.2. After discussion, the Council agreed that the rate of tax in case of works contract services involving predominantly earth works (that is, constituting more than 75% of the value of the works contract) supplied to the Central Government, State Governments, local authority or a governmental authority shall be reduced to 5%. In view of decision in respect of agenda item 7(ii), this reduced rate on works contract service would also apply to Government Entity.

Agenda item 7(ii): Definition of Governmental Authority and GST on Government Grants

21. Introducing this agenda item, Joint Secretary (TRU-II), CBEC, recalled that in the 21st Meeting of the Council (held on 9 September, 2017), the State of Gujarat had pointed out that the existing definition of Governmental Authority was limited to those authorities which have been entrusted with the functions of municipality under Article 243W of the Constitution and that reference to authorities entrusted with the functions assigned to Panchayat under Article 243G of the Constitution was missing. Consequently, the above-mentioned works contract services provided to a body which has been entrusted with the functions of a Panchayat may not be able to get the benefit of the lower rate of GST of 12%. He stated that another issue raised in the 21st Meeting of the Council was that instead of equity of 90%, any authority with 51% or more of Government equity should be considered a Governmental authority. In this regard, he pointed out that the benefit of tax exemption from the Service Tax regime was intended for bodies essentially governmental in nature, carrying out sovereign functions, and having no or little private equity and extending the benefit of tax exemption to corporations/companies having substantial private equity participation would enrich such private equity investors at the cost of the Government exchequer. He suggested that the requirement of 90% or more participation of Government by way of equity or control should not be diluted. He stated that another issue raised during the 21st Meeting of the Council was that the Governmental Authority should include all corporations, boards, statutory bodies which receive budgetary grants as also the SPVs (Special Purpose Vehicles) set up by Governments for carrying out Government Construction Works. In this regard, he pointed out that the definition of Governmental Authority, as it exists in Section 2(16) of the IGST Act, and as proposed to be included in the notifications includes "…Authority or a Board or any other body …" Thus, it already covered all corporations, boards, statutory bodies, SPVs which meet other requirements of the definition and hence no amendment needed to be carried out in the definition on this count.

21.1. He further pointed that the words "Central Government, State Government, Union Territory, local authority" appeared to have been omitted in Serial No.5 of Notification 12/2017-CT (Rate) dated 28.06.2017, and that the corresponding Service Tax exemption (Notification No. 25/2012-ST, Sl. No. 60 dated 20.06.2012) covered services provided by Central Government, State Government, Union territory, local authority as well as governmental authority. He informed that the Law Committee had recommended to modify the Entry at Sl. No. 5 of Notification No. 12/2017-CT (Rate) dated 28.06.2017 and corresponding IGST, UTGST and SGST notifications accordingly.

21.2. He stated that an incidental amendment connected with reduction in GST rate on specified works contract services was required to be carried out in paragraph 2 of notification No. 11/2017-CT dated 28.06.2017 and corresponding IGST, UTGST and SGST notifications. He explained that the said paragraph provides that " In case of supply of service specified in column (3) of the entry at item (i) against serial no. 3 of the Table above involving transfer of property in land or undivided share of land, as the case may be, the value of supply of service and goods portion in such supply shall be equivalent to the total amount charged for such supply less the value of land or undivided share of land, as the case may be, and the value of land or undivided share of land, as the case may be, in such supply shall be deemed to be one third of the total amount charged for such supply." The said paragraph referred to only the service specified at item (i) against serial no. 3 of the Table of the said notification as at the time of issue of the said notification, only the service specified therein involved transfer of property in land or undivided share of land. However, subsequently, works contract services have been specified at other items against Sl. No. 3 at GST rate of 12%, which may involve transfer of property in land or undivided share of land, such as construction of low cost houses under scheme of affordable housing in partnership or *Pradhan Mantri Awas Yojana*. In view of this, it was proposed that provision in paragraph 2 of notification No. 11/2017-CT dated 28.06.2017 may be made applicable to services specified against serial no. 3 at item (i), item (iv) [sub-item (b), sub-item (c), sub-item (d)], item (v), [sub-item (b), sub-item (c)

and sub-item (d)] and item (vi) [sub-item (c)] in column (3) of the Table of the said notification and item (vi), [sub-item (c)], involving transfer of property in land or undivided share of land.

21.3. The Joint Secretary (TRU-II), CBEC, further suggested to replace the word "Government" appearing in column (3) of the entry at item (iii) against serial No. 3 of the Table in Notification No. 11/2017-CT dated 28.06.2017 (as amended by notification No. 20/2017-CT dated 22.08.2017), with the words "Central Government, State Government, Union Territory". He pointed out that in the Finance Act, 1994 (which governed Service Tax), "government" included Central and State Governments and UTs, while in the CGST/SGST/UTGST Acts, "government" means only the respective government. He suggested that corresponding IGST, UTGST and SGST notifications may also be amended accordingly.

21.4. He stated that another issue covered in this agenda item related to GST on Government grants and informed that the Law Committee had recommended that grants given by the Central Government, State Government or a local authority to a government entity which is set up by an Act of Parliament or State Legislature, or established by any government with ninety per cent or more participation by way of equity or control, may be exempt under GST law. He informed that as per the proposal received from the Government of Gujarat, the State Government had set up various Boards/Corporations/Societies/ Institutes to implement various schemes of the Government and to carry out functions on its behalf, such as Gujarat Medical Services Corporation Limited (GMSCL), Gujarat Rural Industries Marketing Corporation (GRIMCO), Gujarat Municipal Finance Board (GMFB) etc. Government provided budgetary grants to these entities which in turn carried out allotted functions using these grants and it could be argued that the transfer was not solely a transfer of money as Government was expecting the entity to perform certain activities on its behalf, particularly keeping in view the fact that business was defined in very broad terms in Section 2(17) of the CGST/SGST Acts. He stated that the recommendations of the Law Committee could be accepted with certain modifications as highlighted in bold letters below:

> (a) *Grants given by Central Government, State Government or a local authority to* a "Government Entity" may be exempt under GST. "Government Entity" may be defined as ***an authority or a board or any other body including a society, trust, corporation*** *which is, -*
>
> *(i) set up by an Act of Parliament or State Legislature, or*
> *(ii) established by any government,*
> *with ninety per cent or more participation by way of equity or control,* ***to carry out a function entrusted by the Central Government, State Government or a local authority****".*

21.5. He stated that it was further proposed that the reduced rate of 12% on specified works contract services supplied to the Central Government, State Government, Union Territory, Local Authority and Governmental Authority may also be extended to a Government Entity, where such specified works contract services have been procured by the government entity in relation to the work entrusted to it by the Central Government, State Government, UT or Local Authority.

21.6. The Joint Secretary (TRU-II), CBEC, further stated that the Law Committee had suggested to examine exempting on-going works contract from GST where services were provided before 30 June, 2017 and bill was issued after 1 July, 2017, i.e. during GST regime. He stated that the justification for this proposal was the provision of Section 142(11) (b) of the CGST/SGST Act, 2017 which stated that notwithstanding anything contained in Section 13, no tax shall be payable on services under this Act to the extent the tax was leviable on the said services under Chapter V of the Finance Act, 1994. He pointed out that under Service Tax, point of taxation arose at the time of the earlier of the two events, time of issue of invoice or receipt of advance; if invoice was not issued within the prescribed time limit, then Point of Taxation was date of completion of service. Ongoing works contract services is a kind of

continuous service, which was defined in Service Tax law (Point of Taxation Rules) and in CGST Act. A harmonious construction of these provisions leads to a conclusion that GST would not be leviable on that portion of an ongoing works contract, where service tax was leviable in accordance with the then Point of Taxation Rules. He stated that there did not appear to be any need for any exemption from GST as this is what section 142 (11) (b) of the CGST sought to achieve.

21.7. He stated that keeping in mind the above, the following proposals were placed before the Council:

(I) For definition of Governmental Authority

(i) To amend the definition of Governmental authority in notification 12/2017-CT and corresponding IGST, UTGST and SGST notifications as under:

> "For the purposes of this notification, the expression "Governmental Authority" means an Authority or a Board or any other body (i) set up by an Act of Parliament or a State Legislature or (ii) established by any Government, with 90% or more participation by way of equity or control, to carry out any function entrusted to a municipality under Article 243 W of the Constitution **or to a Panchayat under Article 243 G of the Constitution.**

(ii) The same definition to be also included in the notification No.11/2017-CT dated 28.06.2017 and corresponding IGST, UTGST and SGST notifications which, as amended by notification No. 20/2017-CT dated 22.08.2017, prescribes GST rate of 12% on certain works contract services provided to Governmental Authority.

(iii) Entry at Sl. No. 5 of notification No. 12/2017-CT (Rate) dated 28.06.2017 may be amended along the lines of entry at Sl. No. 4 to include services provided by Central Government, State Government, Union Territory and local authority in addition to those provided by governmental authority. Corresponding IGST, UTGST and SGST notifications may also be amended.

(iv) Provision in paragraph 2 of notification No. 11/2017-CT dated 28.06.2017 may be made applicable to services specified against serial no. 3 at item (i), item (iv) [sub-item (b), sub-item (c), sub-item (d)], item (v), [sub-item (b), sub-item (c) and sub-item (d)] and item (vi) [sub-item (c)] in column (3) of the Table of the said notification and item (vi), [sub-item (c)], involving transfer of property in land or undivided share of land.

(v) The word "Government" appearing in column (3) of the entry at item (iii) against serial No. 3 of the Table Notification No. 11/2017-CT dated 28.06.2017 as amended by notification No. 20/2017-CT dated 22.08.2017, may be replaced with "Central Government, State Government, Union territory". Corresponding IGST, UTGST and SGST notifications may also be amended accordingly.

II. Exemption from GST on Government grants:

(i) Grants given by Central Government, State Government or a local authority to a "Government Entity" may be exempt under GST. "Government Entity" may be defined as **an authority or a board or any other body including a society, trust, corporation** which is, -

(i) set up by an Act of Parliament or State Legislature, or

(ii) established by any Government,

with ninety per cent or more participation by way of equity or control, **to carry out a function entrusted by the Central Government, State Government or a local authority**".

(ii) The reduced rate of 12% on specified works contract services supplied to the Central Government, State Government, Union Territory, Local Authority and Governmental Authority may also be extended to a Government Entity, where such specified works contract services have been procured by the Government Entity in relation to the work entrusted to it by the Central Government, State Government, Union Territory or Local Authority.

21.8. The CCT, Gujarat, stated that the supply made by an entity that received the grant should be exempted but purchases made by such entities should not be exempt from tax. He gave an example that if an entity was implementing *Sarva Shiksha Abhiyan* (SSA), the stationery, slates, etc. purchased by it for distribution free of cost should be purchased on payment of tax but when they supplied the services under SSA, the service should be exempted from tax as these were being supplied out of the grant given by the Government. In this regard, the Joint Secretary (TRU-II), CBEC, suggested the following formulation for exemption: 'Supply of service or goods by a Government Entity to Central Government, State Government, Union territory, local authority or any person specified by Central Government, State Government, Union Territory or local authority against consideration received from Central Government, State Government, Union Territory, or local authority, in the form of grants.' The Hon'ble Minister from Karnataka stated that his State had set up SPVs which might not be covered under exemption. The Joint Secretary (TRU-II), CBEC, explained that this would be covered under the definition of 'Government Entity'. The Hon'ble Minister from Jharkhand stated that where a works contract had been entered in April, 2017 (i.e. before GST) but the bill was raised in October, 2017 (i.e. after GST), the contractor was not in a position to pay tax at the new rate of 12% when his profit was only around 9%. The Secretary stated that such contracts would need to be renegotiated taking into account the new tax liability and that a Committee of officers could be constituted for the same. The Hon'ble Minister from Punjab suggested to exempt on-going works contract from the new rate of tax. The Secretary stated that big projects like *Sardar Sarovar* Dam Project was being built through an SPV and would need to pay tax at the rate of 12% and continuing with old tax rate would lead to loss of revenue. The Hon'ble Deputy Chief Minister of Delhi questioned as to why a Governmental authority should have 10% non-Government equity stake as then profit to this extent would go to a non-Government entity. The Secretary clarified that this provision existed under the Service Tax and could be continued under GST.

21.9. After further discussion, the Council approved the proposals at paragraph 21.7 and the formulation for exemption suggested by the Joint Secretary (TRU-II), CBEC, in paragraph 21.8 above.

Agenda item 7(iii): Rate of tax on car leasing, sale of leased cars, sale of old & used cars and reverse charge mechanism on sale of used /seized vehicles, scrap etc by Government Departments

22. Introducing this agenda item, the Joint Secretary (TRU-II), CBEC, stated that references had been received from the car leasing industry seeking various reliefs, like exempting CGST for vehicles leased prior to 1 July, 2017 or to fix a lower rate of tax for on-going leases as compared to new leases. He stated that some other proposals were to increase the allowed rate of transitional credit of CGST from 40% to 70%; amend rules relating to tax invoice and to exempt the existing leases and the subsequent sale of motor vehicles from Compensation Cess. He stated that the ACS and the CCT, Tamil Nadu, had studied this issue and submitted a report to the Fitment Committee recommending an enabling provision in the GST law to extend credit of Central Excise Duty paid on the goods purchased prior to 1 July, 2017 and to grant exemption from Cess. He pointed out that the first option suggested by the CCT, Tamil Nadu,

could not be accepted for various reasons, including the fact that car leasing companies had claimed depreciation of Central Excise Duty paid on cars, which precluded them from claiming input tax credit for the Central Excise Duty paid. He stated that the other available option was to exempt old leases from compensation cess but this option would benefit the larger and bigger cars (more than 4-metre-long and engine capacity more than 1500 cc) and would not resolve the issue of smaller cars where the incidence of cess was 1%-3%. He, therefore, suggested the alternative that the rate of GST for old leases could be 65% of the applicable GST rate and Compensation Cess. He stated that this approach would make the additional tax incidence on smaller cars (below 1200 cc and less than 4 metre) lower as compared to bigger cars (greater than 1500 cc). He stated that as per this proposal, leasing for small cars (LPG/CNG/Petrol) would attract tax at the rate of 18.85% as against the present 29% and the combined pre-GST incidence of VAT and Service Tax at the rate of 17% (14.5% + 2.5%). He added that leasing of diesel cars (below 1500 cc) would attract tax at the rate of 20.15% as against the present 31% and cars with engine capacity of more than 1500 cc would attract tax at the rate of 31.2% as against the present 48%. He stated that it was also proposed that the vehicles covered by such leases (i.e. leases of vehicles purchased and leased prior to 1 July, 2017 and registered as commercial vehicles prior to that date or within 15 days of leasing), when disposed of/sold shall also be taxed at 65% of the applicable GST plus Cess rate.

22.1. He further stated that the Fitment Committee proposed that the rate of tax should be extended to old private car leasing (leased prior to 1 July 2017) apart from commercial leased vehicles with a sunset clause of 3 years from the appointed date (i.e, 1 July 2017) for availing the reduced rate of tax. He stated that another recommendation was that the sale of second hand vehicles by a registered person who had procured the vehicles prior to 1 July, 2017 and had not availed the input tax credit of Central Excise Duty, VAT or any other taxes paid on such vehicles, should also attract tax at the rate of 65% of the applicable GST and Cess rates. He added that one more recommendation was that sale by way of auction etc. of used vehicles, seized goods, scrap, etc. by Government Departments should be taxed on reverse charge basis, at the hands of the buyer, under Section 9(3) of the CGST Act, 2017 so that Government Departments did not have to take GST registration only for selling old and used vehicles, seized goods, scrap, etc.

22.2. He stated that keeping the above in view, the following proposals were made for the consideration of the Council:

(a) Leasing of vehicles purchased and leased prior to 1 July 2017, may be taxed at 65% of the applicable GST plus Cess rate. This reduced rate would be applicable for a period of 3 years with effect from 1 July 2017;

(b) the vehicles covered by the above leases (i.e. leases of vehicles purchased and leased prior to 1 July 2017), when disposed of/sold shall also be taxed at 65% of the applicable GST plus Cess rate. This reduced rate would be applicable for a period of 3 years with effect from 1 July 2017;

(c) sale/supply of vehicles by a registered person, who had procured the vehicle prior to 1 July 2017 and has not availed input tax credit of Central Excise duty, VAT or any other taxes paid on such vehicles, would be taxed at 65% of the applicable GST plus Cess rate. This reduced rate would be applicable for a period of 3 years with effect from 1 July 2017;

(d) sale by way of auction etc. of used vehicles, seized and confiscated goods, scrap etc. by Central Government, State Government, Union Territory or a local authority, to any person,

to be subjected to GST under reverse charge under Section 9(3) of the CGST/SGST Act and Section 5(3) of the IGST Act.

22.3. The Hon'ble Minister from Assam supported the proposals made under this agenda item. The Hon'ble Minister from Karnataka stated that there would be double benefit under VAT for those who had earlier taken credit of VAT, as they would also be given the benefit of reduced tax rate. The Secretary stated that it would not be practical to separate the tax rate for the Centre and the States. The Hon'ble Minister from Karnataka suggested that Central Excise credit could be extended for such lease agreement. The Joint Secretary (TRU-II), CBEC, stated that the time period for availing the credit of Central Excise Duty had lapsed. After further discussion, the Council approved the proposal made at paragraph 22.2 above.

Agenda item 7(iv): GST on renting of motor cab and transport of passengers by motor cab services

23. Introducing this agenda item, the Joint Secretary (TRU-I), CBEC, stated that presently under Notification No.11/2017-Central Tax(Rate) dated 28 June, 2017, the rate of tax for transport of passengers by motor cab, where the cost of fuel was included in the consideration charged for the services from the recipient, was 5% without input tax credit (ITC) of goods and services and 12% with full ITC. Similarly, for renting of motor cab where the cost of fuel is included in the consideration charged from the service recipient, the rate of tax was 5% without ITC and 12% with ITC. He stated that several representations had been received to apply these GST rates not only for transport of passengers by motor cab or for renting of motor cabs but also for maxi cab, tempo traveller, buses, etc. as the same was permitted earlier under the Service Tax regime. He stated that the Fitment Committee recommended that the rate of tax of 5% without input tax credit and 12% with input tax credit as presently applied for transport of passengers by motor cab or for renting of motor cab may also be applied for service provided by using any other motor vehicle designed to carry passengers.

23.1. He further stated that representations were received that GST rate of 5% without input tax credit for renting of motor cabs resulted in cascading of taxes and that in renting of cab business, there was frequent use of renting of cab service provided by one operator to another. He stated that another representation was that not allowing credit of tax paid to business entities on renting of cab service was making such entities unwilling to pay GST at the rate of 12% to rent a cab operator. In view of this, he informed that the Fitment Committee had recommended that input tax credit for input service in the same line of business i.e. from another service provider of transporting passengers in any motor vehicle or renting a motor vehicle, could be allowed at the rate of tax of 5%. It was also recommended that input tax credit for renting any motor vehicle or transport of passengers by motor vehicles should be allowed to a person who supplied either of the service – renting of any motor vehicle or transport of passengers by motor vehicles.

23.2. He stated that another proposal of the Fitment Committee was to replace the word “or” appearing as a condition in the Notification No.11/2017-CT(Rate) against some serial numbers allowing GST at the rate of 5% with the word “and” as in other entries so that no confusion was created as presently it gave an impression that input tax credit of either goods or services could be taken at the rate of 5%. The relevant condition requiring amendment is as below:

> “Provided credit of input tax charged on goods or services used in supplying the service has not been taken”.

23.3. After discussion, the Council agreed to the following proposals:

(i) To apply rate of tax of 5% without input tax credit and 12% with input tax credit as presently applied for transport of passengers by motor cab or for renting of motor cab to service provided by using any other motor vehicle designed to carry passengers;

(ii) To allow input tax credit for input service in the same line of business i.e. from another service provider of transporting passengers in any motor vehicle or renting a motor vehicle, at the rate of tax of 5%;

(iii) To allow input tax credit for renting any motor vehicle or transport of passengers by motor vehicles to a person who supplied either of the service – renting of any motor vehicle or transport of passengers by motor vehicles.

Agenda item 7(v): Reduction in rate of tax on some Job Work Services

24. Introducing this agenda item, the Joint Secretary (TRU-II), CBEC, stated that representations had been received from various quarters to reduce the rate of tax on job work in certain services or to rationalise the rates of tax for different types of job work in the same sector like printing industry.

24.1. He stated that there was a proposal to reduce the rate of tax on job work services on imitation jewellery, on the ground of maintaining parity in rates in respect of goods and job work services. He pointed out that the imitation jewellery industry was labour intensive in nature (employed about 27 lakh work force where 60% were women) and had a high element of labour cost (about 50% to 55%) of the total cost of imitation jewellery. There was also a fear that high rate of tax could make exports internationally uncompetitive particularly *vis-à-vis* machine made imitation jewellery from China. He added that in imitation jewellery, value addition was 300% to 400% while real jewellery had value addition of only 10% to 15%. As 18% rate was applicable on the value addition while 3% rate was applicable to the final value, there was a possibility of credit accumulation. Keeping this in view, in order to bring parity in the job work rates for imitation jewellery and precious jewellery, the Fitment Committee had recommended to apply the rate of tax of 5% on job work services in relation to all products falling under Chapter 71.

24.2. He stated that in respect of *papad/appalam/*bread and other products, it was represented that *papad* falling under Heading 1904 was exempt from tax and the production process of *papad* entailed job work, being carried by various women groups, which attracted tax at the rate of 18% and thus increased the cost of *papad* because no input tax credit could be availed on it. He informed that similar request had been received from the Government of West Bengal to reduce the rate of tax on job work services in relation to bread from 18% to 5%. He pointed out that bread (other than pizza bread) was not taxable under GST but other types of bread like buns, pizza bread, etc. attracted tax in the range of 5% to 18%. He informed that representations had also been received from job workers manufacturing cattle/poultry feed on job work basis that the recipients of such supplies (suppliers of cattle/poultry feed) were contesting tax rate of 18% on such job work service as cattle/poultry feed falls under Chapter 23 and was exempt from tax under GST. He stated that representations had also been received from job workers in marble industry to reduce the rate of tax from 18% to 5% and from job workers in umbrella sector to reduce the tax from 12% to 5%. He added that representations were also received from job workers in packing of processed milk into packets to reduce the rate of tax on job work from 18% to Nil. He further stated that representations had also been received from job workers in clay bricks manufacturing to reduce the tax rate from 18% to 5%.

24.3. He informed that the issue of having the same rate of tax on job work services in relation to any goods as that on the (same) goods concerned, was discussed but was not found acceptable because this would lead to large scale classification disputes in job work services and potential differential in rate of

tax on job work services for intermediate goods and final goods thus leading to problem of lobbying. He stated that the following rates were proposed by the Fitment Committee:

(i) To prescribe a rate of 5% on job work services in relation to food and food products falling under Chapters 1 to 22 of the HS Code;
(ii) To prescribe a rate of 5% on job work services in relation to products falling under Chapter 23 of the HS code except for dog and cat food put up for retail sale (Chapter Heading 2309 1000);
(iii) To reduce the rate of tax on job work services in relation to manufacturing of umbrellas from 18% to 12% as the rate of tax on umbrella was 12%; and
(iv) To reduce the rate of tax on job work services in relation to manufacturing of clay bricks falling under Chapter 6900 0010 from 18% to 5% as the rate of tax on sand and clay bricks (CTH 6901 0010) was 5%.

24.4. He stated that the Fitment Committee did not recommend reduction in the rate of tax for job work in marble industry as marble blocks and marble slabs attracted tax at the rate of 12% and 28% respectively and reduction in the rate of tax for job work services might lead to misuse and loss of revenue.

24.5. He stated that the printing industry had represented to reduce the rate of tax on job work services as the rate of 18% was too high to bear as compared to pre-GST rate and was disruptive for MSME industry. It was represented that the printing industry had a large range of products like books, newspapers, journals, periodicals, children's pictures, drawing or colouring books, maps, atlas, brochures, leaflets, cheque books, wedding cards, tickets, envelopes, non-corrugated paper or paper board, etc. and all these products attracted different rates of tax ranging from Nil to 18%. It was represented that if part of the entire process was outsourced, then the treatment or process applied to another person's goods would be a supply of service and could have two variants – first where goods belonged to the printer where he is eligible to avail input tax credit and second where goods were supplied either by the customer or the principal manufacturer where the printer would not be eligible for input tax credit. He also pointed out that the job works service of printing of newspapers, books, journals and periodicals was kept at a concessional rate of tax of 5%. However, in these cases of printing where only the content was supplied by the publisher and the physical inputs including paper used for printing belonged to the printer, then the rate of tax was 12% as the rate of tax on paper was also 12% and prescribing a lower rate on job work would have resulted in refund of overflow of input tax credit to the printer. He stated that keeping in view various pros and cons, the Fitment Committee had proposed the following rates of tax:

(a) GST rate on services by way of printing on job work basis or on goods belonging to others in relation to printing of all goods falling under Chapters 48 and 49, which attract GST at the rate of 5% or Nil may be prescribed at 5%. (Heading 9988);

(b) GST rate on services by way of printing on job work basis or on goods belonging to others in relation to printing of all goods falling under Chapter 48 and 49, which attract GST at the rate of 12% may be prescribed at 12% (Heading 9988);

(c) GST rate on services by way of printing on job work basis or on goods belonging to others in relation to printing of goods falling under Chapter 48 and 49, other than those covered by (a) and (b) above, may continue at 18% (Heading 9988);

(d) GST rate on services by way of printing in relation to printing of all goods falling under Chapter 48 and 49, which attract GST at the rate of 5% or Nil, where only content is supplied by

the publisher and the physical inputs including paper used for printing belong to the printer may be prescribed at 12% [(Heading 9989), item (i) may be amended accordingly]. [It would not result in ITC overflow as most of the paper, paperboard attracts GST at the rate of 12%. It would also not result in any tax disadvantage to the printer because a recipient of such supply having in-house printing would have also suffered incidence of 12% on paper and paperboard];

(e) GST rate on services by way of printing of all goods falling under chapter 48 and 49 which attract GST at the rate of 12%, where only content is supplied by the publisher and the physical inputs including paper used for printing belong to the printer, may also be prescribed at 12%. (It would not result in ITC overflow as most of the paper, paperboard attracts GST at the rate of 12%).

(f) GST rate on services by way of printing of all goods falling under chapter 48 and 49 which attract GST at the rate of 18% or above, where only content is supplied by the publisher and the physical inputs including paper used for printing belong to the printer, may continue at 18%.

(g) It may be clarified that the supply of books, pamphlets, brochures, envelopes, cartons, boxes, etc. printed with logo, design, name, address or other content supplied by the recipient of such printed goods, are composite supplies and the question, whether such supplies constitute supply of goods or services would be determined on the basis of what constitutes the principal supply. Principal supply has been defined in Section 2(90) of the CGST Act as supply of goods or services which constitutes the predominant element of a composite supply and to which any other supply forming part of that composite supply is ancillary. In case of printing of books, brochures, annual reports, leaflets, pamphlets etc., where only content is supplied by the publisher and the physical inputs including paper used for printing belong to the printer, supply of printing of the content supplied by the recipient of supply is the principal supply and therefore such supplies would constitute supply of service falling under heading 9989 of the scheme of classification of services. In case of supply of printed envelopes, letter cards, printed boxes, tissues, napkins, wall paper, etc. falling under chapter 48 and 49, printed with design, logo etc. supplied by the recipient of goods but made using physical inputs including paper belonging to the printer, predominant supply is that of goods and the supply of printing of the content supplied by the recipient of supply is ancillary to the principal supply of goods and therefore such supplies would constitute supply of goods falling under respective headings of chapter 48 and 49 of the Customs Tariff.

24.6. The Joint Secretary, (TRU-II), CBEC, further stated that the hand-made carpet industry of Uttar Pradesh had represented that in pre-GST period, there was no Central Excise Duty on carpets but post-GST, there was 12% rate of tax on carpets and 5% on job work relating to manufacturing of carpets. The industry had pointed out that there were 23 processes involved in making of carpets, namely, spinning, weaving, washing and finishing activities, which were done by job workers and they were mostly poor, unorganized, illiterate and home based and it would not be possible for them to comply with GST law. Therefore, hand-made carpet exporters would not be able to claim refund of GST paid on inputs and services which would lead to increased cost and make Indian products globally uncompetitive. He pointed out that the entire textile sector had been exempt from Excise Duty when input tax credit was not availed and under GST, all textiles, whether hand-made or machine-made, were charged to tax at the rate of 5% or 12%. The job works services in relation to textile items attracted 5% tax while it was exempted under Service Tax regime and this 5% GST on job-work was being agitated by the hand-made carpet industry on the ground of increased cost of the final products thus making the Indian carpets uncompetitive in global market. He stated that the Fitment Committee had considered these aspects and recommended to

continue with the existing rate of 5% tax on job work services for making of carpets, as applicable to all textile goods.

24.7. The Hon'ble Minister from West Bengal stated in his written comments that he supported the reduction of tax on job work on imitation jewellery to 5% and that thousands of workers from West Bengal were engaged in job work of imitation jewellery. He further added that in printing industry, the rate of tax of job work for printing on goods belonging to others in all cases should be reduced to 5% and where only content was supplied by the publisher and the printer supplied paper etc., the rate of tax on job work should be 12%.

24.8. The Council agreed to the proposals made at paragraph(s) 24.1, 24.3, 24.4, 24.5 and 24.6 above.

Agenda item 7(vi): Rate of tax on Works Contract in offshore areas beyond twelve nautical miles and transportation of natural gas through pipeline

25. The Joint Secretary (TRU-II), CBEC, stated that the rate of tax on works contract in offshore areas beyond 12 nautical miles was 6% during the pre-GST regime and it had now gone up to 18%. He stated that these works were carried out for E&P (Exploration and Production) companies whose output - crude oil and natural gas – was not covered under GST and hence input tax credit for such works was not available. He informed that the GST Working Group on Oil and Gas sector had expressed concern over this.

25.1. He pointed out that the area beyond 12 nautical miles was beyond the jurisdiction of States, and therefore, VAT was not applicable on the same and only Service Tax of 6% was charged. He, therefore, recommended that works contract in offshore areas beyond 12 nautical miles may be taxed at the rate of 12% instead of 18%.

25.2. He stated that another issue was that during pre-GST regime, transportation of natural gas through pipeline attracted Service Tax at the rate of 15% with full input tax credit. He stated that now all forms of natural gas were outside GST. The Sectoral Group on Oil and Gas had pointed out that transportation of goods by road and rail attracted lower GST rate of 5% because input tax credit for petrol/diesel was not available and that the case was similar to that of transportation of natural gas through pipeline as no input tax credit of tax paid on the same could be availed because natural gas was outside the purview of GST.

25.3. He stated that in view of above, there was justification to reduce the rate of tax on transportation of natural gas through pipeline from 18% to 12% with input tax credit and to give an option to tax the same at the rate of 5% without input tax credit. He further pointed out that input tax credit on pipeline was not admissible under GST law as it amounted to immovable property under Section 17 of the CGST/SGST Acts, 2017. In view of the above, he proposed the following:

1. GST be levied at the rate of 12% on works contract services and associated services in respect of E&P (Exploration and Production Companies) in respect of offshore works in the area beyond 12 nautical miles;
2. GST be levied at the rate of 12% with ITC OR 5% without ITC for transportation of natural gas through pipeline.

25.4. The CCT, Karnataka suggested that the option of 5% rate of tax might not be given. The Secretary stated that as there was no GST on output, to prevent cascading, this option was required to be given. The CCT, Karnataka stated that pre-GST also, there was cascading in this sector. Shri P.K. Jain, DG (Audit), CBEC, stated that the rate of tax for transport service by road was 5%, and through pipeline, it was 18%

and the Government policy was that more and more transportation should be encouraged through pipeline in view of environmental concern. The Secretary stated that if the rate of tax was 5% on all modes of transport, then the same rate of tax should apply on transport service through pipeline. The Hon'ble Minister from West Bengal stated in his written comments that the rate of tax on transportation of natural gas should be kept at the same rate like transportation of goods by GTA i.e. 5% without input tax credit and 12% with input tax credit. The Council agreed to the suggestion made at paragraph 25.3 above.

Agenda Item 7(vii): Reverse charge mechanism for Overseeing Committee of Reserve Bank of India (RBI) under GST

26. Introducing this agenda item, the Joint Secretary (TRU-II), CBEC, stated that the Reserve Bank of India has constituted an Overseeing Committee as an advisory body to advise any banking company on resolution of stressed assets and it (RBI) pays sitting fees and retainer ship fees to OC members. The RBI has pointed out that the OC members do not have necessary infrastructure for registering themselves for payment of GST and suggested that the services provided by OC members could be included under the reverse charge mechanism. He further pointed out that services by a director of a company or a body corporate to the said company or body corporate was already under the reverse charge mechanism and the tax would be paid by the company or the body corporate but the members of OC could not be considered as directors of the body corporate i.e. the RBI. In view of this, he proposed that the Council may agree to the request of RBI to include the services provided by OC members to Reserve Bank of India under the reverse charge mechanism under Section 9(3) of the CGST/SGST Acts, 2017 and Section 5(3) of the IGST Act. The Council agreed to this proposal.

Agenda Item 7(viii): Amendment in GST notifications in respect of 5% GST rates on cereals, pulses and flours, etc. put up in unit container and bearing a brand name

27. Introducing this agenda item, Shri Alok Shukla, Joint Secretary (TRU-I), CBEC, stated that the Council, in its 21st Meeting held on 9 September, 2017 had recommended that in respect of 5% rate of tax on cereals, pulses and flours, etc. put up in unit containers and bearing a registered brand name, the following amendments may be made to the existing Notifications, so as to provide that: (i) A brand registered as on 15.05.2017 shall be deemed to be a registered brand for the purposes of levy of 5% GST, irrespective of whether or not such brand is subsequently deregistered; (ii) A brand registered as on 15.05.2017 under the Copyright Act, 1957 shall also be treated as a registered brand for the purposes of levy of 5% GST; (iii) A brand registered as on 15.05.2017 under any law for the time being in force in any other country shall also be deemed to be a registered brand for the purposes of levy of 5% GST; and (iv) A mark or name in respect of which actionable claim is available shall be deemed to be a registered brand name for the purposes of levy of 5% GST.

27.1. He stated that accordingly, Notifications No. 27/2017-Central Tax (Rate), 28/2017-Central Tax (Rate), 27/2017-Integrated Tax (Rate), 28/2017-Integrated Tax (Rate), 27/2017-Union Territory Tax (Rate), 28/2017-Union Territory Tax (Rate) and similar notifications under SGST Acts were issued on 22 September, 2017 giving effect to the recommendations of the Council.

27.2. He also stated that the said amending notifications also provided that 5% rate of tax would not apply if the person concerned voluntarily foregoes any actionable claim or enforceable right on such brand name. The amending notifications provide that the rate of 5% tax shall apply to such goods if:

put up in unit container and, -

(a) bearing a registered brand name; or

(b) bearing a brand name on which an actionable claim or enforceable right in a court of law is available (other than those where any actionable claim or any enforceable right in respect of such brand name has been voluntarily foregone), subject to certain conditions.

For this purpose, the phrase "registered brand name" means:

(A) a brand registered as on the 15th May, 2017 under the Trademarks Act, 1999, irrespective of whether or not the brand is subsequently deregistered;
(B) a brand registered as on the 15th May, 2017 under the Copyright Act, 1957;
(C) a brand registered as on the 15th May, 2017 under any law for the time being in force in any other country.

27.3. Further, it has been provided that for foregoing an actionable claim or enforceable right on a brand name, -

(a) the person undertaking packing of such goods in unit containers which bear a brand name shall file an affidavit to that effect with the jurisdictional Commissioner of Central Tax that he is voluntarily foregoing his actionable claim or enforceable right on such brand name as defined in Explanation (ii)(a); and

(b) the person undertaking packing of such goods in unit containers which bears a brand name shall, on each such unit container, clearly print in indelible ink, both in English and the local language, that in respect of the brand name as defined in Explanation (ii)(a) printed on the unit containers, he has foregone his actionable claim or enforceable right voluntarily.

27.4. He stated that the implementation of the decision of the Council required some drafting changes in the Notifications No.27/2017-Central Tax (Rate), 28/2017-Central Tax (Rate), 27/2017-Integrated Tax (Rate), 28/2017-Integrated Tax (Rate), 27/2017-Union Territory Tax (Rate), 28/2017-Union Territory Tax (Rate).

27.5. He stated that in view of this, the aforesaid notifications were being placed before the Council for ratification. The Council agreed to the proposal and ratified the notifications.

27.6. The Joint Secretary (TRU-I), CBEC further stated that it is possible that the person having actionable claim or enforceable right on a brand name and the person undertaking packing of such goods in unit containers are two different persons and in such cases, it would be necessary to provide that the affidavit (as mentioned in paragraph 27.3 above) is filed by the person having actionable claim or enforceable right on such brand name and he shall state the following in the affidavit: (a) He is voluntarily foregoing his actionable claim or enforceable right on such brand name, and (b) He has authorised the person (undertaking packing of such goods in unit containers bearing said brand name) to print on such unit containers in indelible ink, both in English and the local language, that in respect of such brand name, he (the person owning the brand name) is voluntarily foregoing the actionable claim or enforceable right on such brand name.

27.7. He requested the Council to approve the above proposal. The Council accordingly approved the proposal.

Agenda Item 7(ix): Changes in GST rates on certain goods/clarifications to be issued

28. Introducing this agenda item, the Joint Secretary (TRU-I), CBEC, stated that during the 21st Meeting of the Council held on 9 September, 2017, the Council had requested the Fitment Committee to

examine two issues – nutritious diet (*pusthaahar*) distributed under the Integrated Child Development Scheme (ICDS) and all goods falling under Heading 6802 (other than those of marble and granite or those which attract 12% rate of tax) afresh. He stated that in addition, the Fitment Committee examined a number of other issues referred to it by the States of Gujarat, Maharashtra and Uttar Pradesh and the recommendations on these issues were also presented before the Council for consideration. A record of discussion on these issues is as below:

28.1. **Food preparations put up in unit containers and intended for free distribution to economically weaker sections of the society under a programme duly approved by the Central Government or any State Government (Sl. No. 1)**: The Joint Secretary, TRU-I, CBEC informed that recommendation of the Fitment Committee was to reduce the rate of tax on food preparations put up in unit containers and intended for free distribution to economically weaker sections of the society under a programme duly approved by the Central Government or any State Government from 18% to 5%, subject to the condition that the manufacturer of the food preparations produces a certificate from an officer not below the rank of Deputy Secretary to the concerned State Government or Government of India to the effect that such food preparations have been distributed free to the economically weaker sections of the society under a programme duly approved by the Central Government or the State Government concerned, within five months from the date of clearance of such goods or within such further period as the jurisdictional Commissioner of GST may allow in this regard.

28.2. The Hon'ble Deputy Chief Minister of Delhi suggested that the rate of tax on such products should be kept at Nil. In his written comments, the Hon'ble Minister from West Bengal also suggested to exempt these products as these were meant for the weaker sections of the society. The Secretary pointed out that it would be desirable to keep tax at the rate of 5% because there would be tax on inputs like *ghee*, transport, rent, etc. which could be used for paying tax at the rate of 5%. The Council agreed to the recommendation of the Fitment Committee to tax the food preparations put up in unit containers and intended for free distribution to economically weaker sections of the society under a programme duly approved by the Central Government or any State Government at the rate of 5% subject to the condition as mentioned in the paragraph 28.1.

28.3. **All goods falling under heading 6802 (other than those of marble and granite or those which attract 12% GST) (Sl. No. 2)**: The Fitment Committee had recommended that tax on all goods falling under Heading 6802 (except those of marble and granite or those which attract 12% GST) should be reduced from 28% to 18%. However, Statues, statuettes, pedestals; high or low reliefs, crosses, figures of animals, bowls, vases, cups, cachou boxes, writing sets, ashtrays, paper weights, artificial fruit and foliage, etc.; other ornamental goods essentially of stone, falling under 6802, should continue to attract 12% GST.

28.4. The Hon'ble Minister from West Bengal stated in his written comments that the rate of tax on all goods falling under Chapter Heading 6802 should be reduced from 28% to 18%. The Hon'ble Minister from Chhattisgarh stated that the proposed rate of tax of 18% was too high and due to this, mining work in his State had stopped leading to large scale unemployment. The Hon'ble Minister from Rajasthan stated that the tax rate of 18% on Napa stone and Kota stone was too high. The Joint Secretary (TRU-I), CBEC, stated that all polished tiles, other than marble and granite stones, were proposed to be taxed at the rate of 18%. The Secretary stated that the rate of tax on these goods should not be brought to 12% if tax on all these goods were to be harmonised. The Hon'ble Minister from Chhattisgarh stated that rate of tax on fly ash bricks was 12% whereas it was 5% on normal bricks. This did not send a good message. The Council agreed to the recommendations of the Fitment Committee in this regard.

28.5. ***Khakra* (Sl. No. 5)**: The Fitment Committee had recommended to reduce the rate of tax on *khakra* from 12% to 5% at par with that on rusk, pizza bread, *seviyan*, and *sabudana*. The Senior Joint Commissioner (Taxes), West Bengal, suggested that plain *roti* should also be kept in the same tax bracket of 5%. The Hon'ble Chairperson agreed to this suggestion. The Council agreed to tax *khakra* and plain *roti/chapati* at the rate of 5%.

28.6. **Imposing GST only on the net quantity of superior kerosene oil (SKO) retained for the manufacture of Linear Alkyl Benzene (LAB) (Sl. No. 6):** Shri Parag Jain Nainutia, Special Commissioner of Sales Tax, Maharashtra stated that they had sent written comment on this proposal pointing out that there were several court cases going on this issue in Maharashtra and the proposed decision could adversely affect the outcome of the court cases. He stated that the State of Maharashtra had disallowed this claim and had treated the supply of SKO in the reverse stream as a separate sale altogether. He pointed out that the Advocate General of Maharashtra had also given an opinion that return of kerosene after extraction of N-Paraffin out of the original supply of kerosene would not be legally allowable as sales returns. The Joint Secretary, TRU-I, CBEC stated that the recommendation of the Fitment Committee had taken note of this objection and pointed out that if refineries were asked to pay tax on the whole quantity of SKO supplied to LAB manufacturer, then refineries would have to reverse a large portion of such credit as the majority of their final products were outside GST. Keeping in view this recommendation, the Council approved the proposal to issue a clarification stating that in such cases, GST will be payable only on the net quantity of superior kerosene oil (SKO) retained for the manufacture of Linear Alkyl Benzene (LAB).

28.7. **Staple pin (Sl. No. 10):** Shri P.K. Mohanty, Consultant (GST), CBEC, suggested to rationalise tax on all items falling under Chapter Heading 8305 and to subject them to a uniform rate of tax of 18%. The Council agreed to this suggestion.

28.8. **Parts of (a) fixed speed diesel engine of power not exceeding 15 HP, and (b) submersible pumps:** The Hon'ble Deputy Chief Minister of Gujarat stated that a view needed to be taken regarding the rate of tax on these items. The Secretary stated that these items were covered under Agenda item 13(iii) circulated in the morning and could be discussed when that agenda item came up for discussion.

28.9. **Real *zari* (not listed):** The CCT, Gujarat suggested to reduce the rate of tax on real *zari* (of silver) from 12% to 5% as the rate of tax on *saree* was 5%. The Council agreed to this proposal.

28.10. The Hon'ble Minister from Jammu & Kashmir suggested that the list of goods attracting tax at the rate of 28% should be trimmed as much as possible. The Hon'ble Minister from Tamil Nadu stated that the request of his State for reduction in rate of about 50 items is under consideration by the Fitment Committee and he had highlighted these goods in the 20th Meeting of the Council (held on 5 August 2017) which included items like packaged drinking water, fishnet and fishnet twine, wet grinders, dried fish, *kadalai mittai*, fire crackers, etc. He suggested that for arriving at pre-GST duty incidence, only the VAT rate where it was listed in the VAT schedule should be taken and that the residuary rate should not be taken as it artificially inflated the rate of VAT. He suggested to take average of only the rate of VAT of the schedules where it was a listed rate. He said that had this approach been followed, their request for rate reduction on several items would not have been rejected by the Fitment Committee. He added that since a Sub-Group comprising of officers had been constituted to study and recommend chapter-wise reduction of tax on goods and it had to submit its report within 15 days, discussion on the items for consideration before the Fitment Committee should be deferred till the Sub-Group submitted its report. The Hon'ble Minister from West Bengal stated in his written comments that the rate of tax on mango sliced dried (HSN 0804) and *singhada* dry should be reduced from 12% to 5%. He also suggested that

the rate of tax on poster colour (HSN 3213) and on modelling paste for children (HSN 3407) should be reduced from 28% to 18%.

29. For **agenda item 7,** the Council approved the following:

(i) GST Rate in respect of government works contract services having high labour content

29.1. To reduce the rate of tax in case of works contract services involving predominantly earth works (that is, constituting more than 75% of the value of the works contract) supplied to the Central Government, State Governments, local authority or a governmental authority from 12% to 5%. This reduced rate shall also apply to Government Entity.

(ii) Definition of Governmental Authority and GST on Government Grants

(I) For definition of Governmental Authority

29.2. To amend the definition of Governmental authority in notification 12/2017-CT and corresponding IGST, UTGST and SGST notifications as under:

> "For the purposes of this notification, the expression "Governmental Authority" means an Authority or a Board or any other body (i) set up by an Act of Parliament or a State Legislature or (ii) established by any Government, with 90% or more participation by way of equity or control, to carry out any function entrusted to a municipality under Article 243 W of the Constitution **or to a Panchayat under Article 243 G of the Constitution.**

29.3. The definition of Governmental Authority at paragraph 29.2 above to be also included in the notification No.11/2017-CT dated 28.06.2017 and corresponding IGST, UTGST and SGST notifications which, as amended by notification No. 20/2017-CT dated 22.08.2017, prescribes GST rate of 12% on certain works contract services provided to Governmental Authority.

29.4. Entry at Sl. No. 5 of notification No. 12/2017-CT (Rate) dated 28.06.2017 to be amended along the lines of entry at Sl. No. 4 to include services provided by Central Government, State Government, Union Territory and local authority in addition to those provided by governmental authority. Corresponding IGST, UTGST and SGST notifications to be also amended.

29.5. Provision in paragraph 2 of Notification No. 11/2017-CT dated 28.06.2017 to be made applicable to services specified against serial no. 3 at item (i), item (iv) [sub-item (b), sub-item (c), sub-item (d)], item (v), [sub-item (b), sub-item (c) and sub-item (d)] and item (vi) [sub-item (c)] in column (3) of the Table of the said notification and item (vi), [sub-item (c)], involving transfer of property in land or undivided share of land.

29.6. The word "Government" appearing in column (3) of the entry at item (iii) against serial No. 3 of the Table Notification No. 11/2017-CT dated 28.06.2017 as amended by notification No. 20/2017-CT dated 22.08.2017, to be replaced with "Central Government, State Government, Union territory". Corresponding IGST, UTGST and SGST notifications to be also amended accordingly.

II. Exemption from GST on Government grants

29.7. Grants given by Central Government, State Government or a local authority to a "Government Entity" may be exempt under GST. "Government Entity" may be defined as **an authority or a board or any other body including a society, trust, corporation** which is, -

(i) set up by an Act of Parliament or State Legislature, or

(ii) established by any Government,

with ninety per cent or more participation by way of equity or control, **to carry out a function entrusted by the Central Government, State Government or a local authority**".

29.8. The reduced rate of 12% on specified works contract services supplied to the Central Government, State Government, Union Territory, Local Authority and Governmental Authority shall also be extended to a Government Entity, where such specified works contract services have been procured by the Government Entity in relation to the work entrusted to it by the Central Government, State Government, Union Territory or Local Authority. Further, supply of service or goods by a Government Entity to Central Government, State Government, Union Territory, Local Authority or any person specified by any of these Governments against consideration received from any of these Governments in the form of grants shall be exempted from GST.

(iii) Rate of tax on car leasing, sale of leased cars, sale of old & used cars and reverse charge mechanism on sale of used /seized vehicles, scrap etc by Government Departments

29.9. Leasing of vehicles purchased and leased prior to 1 July 2017, to be taxed at 65% of the applicable GST plus Cess rate. This reduced rate shall be applicable for a period of 3 years with effect from 1 July 2017.

29.10. The vehicles covered by the above leases (i.e. leases of vehicles purchased and leased prior to 1 July 2017), when disposed of/sold shall also be taxed at 65% of the applicable GST plus Cess rate. This reduced rate shall be applicable for a period of 3 years with effect from 1 July 2017.

29.11. Sale/supply of vehicles by a registered person, who had procured the vehicle prior to 1 July 2017 and has not availed input tax credit of Central Excise duty, VAT or any other taxes paid on such vehicles, to be taxed at 65% of the applicable GST plus Cess rate. This reduced rate shall be applicable for a period of 3 years with effect from 1 July 2017;

29.12. Sale by way of auction etc. of used vehicles, seized and confiscated goods, scrap etc. by Central Government, State Government, Union Territory or a local authority, to any person, shall be subjected to GST under reverse charge under section 9(3) of the CGST/SGST Act and Section 5(3) of the IGST Act.

(iv) GST on renting of motor cab and transport of passengers by motor cab services

29.13. To apply rate of tax of 5% without input tax credit and 12% with input tax credit as presently applied for transport of passengers by motor cab or for renting of motor cab to service provided by using any other motor vehicle designed to carry passengers.

29.14. To allow input tax credit for input service in the same line of business i.e. from another service provider of transporting passengers in any motor vehicle or renting a motor vehicle, at the rate of tax of 5%.

29.15. To allow input tax credit for renting any motor vehicle or transport of passengers by motor vehicles to a person who supplied either of the service – renting of any motor vehicle or transport of passengers by motor vehicles.

(v) Reduction in rate of tax on some Job Work Services

29.16. Rate of tax on job work services in relation to all products falling under Chapter 71 shall be reduced from 18% to 5%.

29.17. Rate of tax on job work services in relation to food and food products falling under Chapters 1 to 22 of the HS Code shall be reduced from 18% to 5%.

29.18. Rate of tax on job work services in relation to products falling under Chapter 23 of the HS code except for dog and cat food put up for retail sale (Chapter Heading 2309 1000) shall be reduced from 18% to 5%.

29.19. Rate of tax on job work services in relation to manufacturing of umbrellas shall be reduced from 18% to 12%.

29.20. Rate of tax on job work services in relation to manufacturing of clay bricks falling under Chapter 6900 0010 shall be reduced from 18% to 5%.

29.21. Rate of tax on services by way of printing on job work basis or on goods belonging to others in relation to printing of all goods falling under Chapter 48 and 49, which attract tax at the rate of 5% or Nil shall be reduced from 18% to 5% (Heading 9988).

29.22. Rate of tax on services by way of printing on job work basis or on goods belonging to others in relation to printing of all goods falling under Chapter 48 and 49, which attract tax at the rate of 12% shall be reduced from 18% to 12% (Heading 9988).

29.23. Rate of tax on services by way of printing on job work basis or on goods belonging to others in relation to printing of goods falling under Chapter 48 and 49, other than those covered by paragraphs 29.21 and 29.22 above shall continue at 18% (Heading 9988).

29.24. Rate of tax on services by way of printing in relation to printing of all goods falling under Chapters 48 and 49, which attract tax at the rate of 5% or Nil, where only content is supplied by the publisher and the physical inputs including paper used for printing belong to the printer shall be reduced from 18% to 12% (Heading 9989).

29.25. Rate of tax on services by way of printing of all goods falling under chapter 48 and 49 which attract tax at the rate of 12%, where only content is supplied by the publisher and the physical inputs including paper used for printing belong to the printer shall be reduced from 18% to 12%.

29.26. Rate of tax on services by way of printing of all goods falling under chapter 48 and 49 which attract tax at the rate of 18% or above, where only content is supplied by the publisher and the physical inputs including paper used for printing belong to the printer, shall continue to be at 18%.

29.27. To issue a clarification that the supply of books, pamphlets, brochures, envelopes, cartons, boxes etc. printed with logo, design, name, address or other content supplied by the recipient of such printed goods, are composite supplies and the question, whether such supplies constitute supply of goods or

services would be determined on the basis of what constitutes the principal supply. Principal supply has been defined in Section 2(90) of the CGST Act as supply of goods or services which constitutes the predominant element of a composite supply and to which any other supply forming part of that composite supply is ancillary. In case of printing of books, brochures, annual reports, leaflets, pamphlets etc., where only content is supplied by the publisher and the physical inputs including paper used for printing belong to the printer, supply of printing of the content supplied by the recipient of supply is the principal supply and therefore such supplies would constitute supply of service falling under heading 9989 of the scheme of classification of services. In case of supply of printed envelopes, letter cards and printed boxes of un-corrugated paper, tissues, napkins, wall paper etc. falling under chapter 48 and 49, printed with design, logo etc. supplied by the recipient of goods but made using physical inputs including paper belonging to the printer, predominant supply is that of goods and the supply of printing of the content supplied by the recipient of supply is ancillary to the principal supply of goods and therefore such supplies would constitute supply of goods falling under respective headings of chapter 48 and 49 of the Customs Tariff.

(vi) Rate of tax on Works Contract in offshore areas beyond twelve nautical miles and transportation of natural gas through pipeline

29.28. Rate of tax on works contract services and associated services in respect of E&P (Exploration and Production Companies) in respect of offshore works in the area beyond 12 nautical miles shall be reduced from 18% to 12%.

29.29. Rate of tax of services in relation to transportation of natural gas through pipeline shall be reduced from 18% to 12% with input tax credit OR 5% without input tax credit.

(vii) Reverse charge mechanism for Overseeing Committee of Reserve Bank of India (RBI) under GST

29.30. Services provided by Overseeing Committee members to the Reserve Bank of India shall be subject to tax under the reverse charge mechanism under Section 9(3) of the CGST/SGST Acts, 2017 and Section 5(3) of the IGST Act.

(viii) Amendment in GST notifications in respect of 5% GST rates on cereals, pulses and flours, etc. put up in unit container and bearing a brand name

29.31. To ratify the notifications no.27/2017-Central Tax (Rate), 28/2017-Central Tax (Rate), 27/2017-Integrated Tax (Rate), 28/2017-Integrated Tax (Rate), 27/2017-Union Territory Tax (Rate), 28/2017-Union Territory Tax (Rate) including the drafting changes made therein while implementing the decision of the Council taken during its 21st Meeting held on 9 September 2017 relating to rate of tax on cereals, pulses and flours etc. put up in unit container and bearing a registered brand name.

29.32. Where the person having actionable claim or enforceable right on a brand name and the person undertaking packing of such goods in unit containers are two different persons, it shall be necessary for the person having actionable claim or enforceable right on such brand name to file an affidavit (as mentioned in paragraph 27.3 above) stating the following: (a) He is voluntarily foregoing his actionable claim or enforceable right on such brand name, and (b) He has authorised the person (undertaking packing of such goods in unit containers bearing said brand name) to print on such unit containers in indelible ink, both in English and the local language, that in respect of such brand name, he (the person owning the brand name) is voluntarily foregoing the actionable claim or enforceable right on such brand name.

(ix) Changes in GST rates on certain goods/clarifications to be issued

29.33. The Council approved the proposals regarding change in the rates of tax as proposed by the Fitment Committee in agenda item 7 (ix) with the following changes/additions:

(i) Along with *khakra* (Sl. No. 5), rate of tax on plain roti/*chapati* to be reduced from 12% to 5%;

(ii) To reduce tax on all items falling under Chapter Heading 8305 from 28% to 18%;

(iii) To reduce rate of tax on real *zari* from 12% to 5%.

Agenda item 8: Issues recommended by the Law Committee for consideration of the GST Council

30. The Commissioner (GST Policy), CBEC made a presentation on the issues covered under this agenda item and the same are discussed under individual Agenda Items below:

Agenda item 8(i): Extension of timelines for filing of FORM GSTR-5A and FORM GST ITC-01

30.1. Commissioner (GST Policy), CBEC stated that on the request of the GSTN, it was recommended by the Law Committee to extend the time limit for furnishing return in Form GSTR-5A for the month of July, August and September 2017 by persons supplying online information and database access or retrieval (OIDAR) services from a place outside India to an unregistered recipient referred to in Section 14 of the IGST Act 2017 and Rule 64 of the CGST Rules, 2017 was proposed to be extended up to 20 November 2017. He further stated that the Law Committee had also recommended at the request of GSTN to extend the time limit for filing Form GST ITC-01 [for the purpose of claiming input tax credit under Section 18(1) of the CGST Act, 2017] for the taxpayers who have got registered during the months of July, August and September 2017 to 31 October 2017. He stated that similar changes would be required under the SGST Rules. The Council approved the proposals.

Agenda item 8(ii): Amendment of some provisions of CGST Rules, 2017 [relating to invoice (rule 46, 54 (2), additional instruction in FORM GSTR 4)]

31. The Commissioner (GST Policy), CBEC stated that the Law Committee had recommended to amend rule 46 so as to provide that in case of B2C supplies, the cumulative value of goods or services or both liable to tax at a particular rate and total tax thereon on all such goods or services or both can be shown as a single entry instead of indicating rate of tax against each item. He stated that another proposal made by the Law Committee on the basis of representation from trade and industry was that a supplier may issue a single "tax invoice-cum-bill of supply" where the supplies to an unregistered recipient include both taxable as well as exempt goods or services. He stated that another recommendation of the Law Committee was that keeping in view the large number of invoices issued by banking and insurance companies, sub-rule (2) of Rule 54 of CGST Rules, 2017 could be amended to provide for issuance of a consolidated invoice or another document for supply of services in a particular month. He stated that another proposal was to amend instructions for filing return in FORM GSTR-4 so as to provide that serial No.4A of Table 4 shall not be furnished for July 2017 to December 2017.

31.1. The Hon'ble Minister from West Bengal in his written comments supported the proposal to allow issuance of 'invoice cum bill of supply' in order to facilitate the taxpayer to issue only one invoice instead of two. The Hon'ble Deputy Chief Minister of Delhi stated that the first proposal (relating to companies showing cumulative value of items liable to tax at a particular rate when goods and services are supplied to an unregistered person) should not be implemented as it would create problem for audit. The

Commissioner (GST Policy), CBEC stated that this was only meant for supplies made to unregistered persons. CCT, Gujarat clarified that the supplier would give total tax value and the rate for all items which had a common rate so that the size of the bill could be reduced by giving the details in a summary form. The Commissioner (GST Policy), CBEC stated that in big bazaar, etc. invoices for consumers were running into several pages. The Hon'ble Minister from Assam supported the proposal. The Hon'ble Deputy Chief Minister of Delhi reiterated that this was not desirable. The Principal Secretary (Finance), Odisha stated that the machines would have been programmed on the basis of the existing law. He added that the rates of tax would also need to be indicated as per the consumer law. Shri Somesh Kumar, Principal Secretary, Telangana supported the proposal and narrated his own personal experience on how the bills had become much longer because CGST and SGST rates had to be shown against each item individually. The Commissioner (GST Policy), CBEC stated that the supplier would write all the items but show the tax for the consolidated value for goods attracting the same rate. The Hon'ble Deputy Chief Minister of Delhi stated that such an arrangement could lead to problems in audit and it would not be clear as to what goods have been supplied at which rate. In view of difference of opinion, the Council decided to defer this issue. However, the Council approved the other three proposals made at paragraph 31 above.

Agenda item 8(iii): Inclusion of additional items in Notifications No. 32/2017-Central Tax and No. 8/2017-Integrated Tax

32. The Commissioner (GST Policy), CBEC stated that casual taxable persons making taxable supplies of specified handicraft goods and to persons making inter-State taxable supplies of specified handicraft goods had been given exemption from registration under Notification No. 32/2017-Central Tax dated 15.09.2017 and Notification No.08/2017-Integrated Tax dated 14.09.2017. He stated that in view of the request from the State of Jammu & Kashmir, the Law Committee recommended to add the following additional items in the abovementioned notifications: (i) Handmade shawls, stoles and scarves (may be added to Sl.no. 9 of the table in the notification, along with addition of Chapter 61); (ii) Chain stitch; (iii) Crewel, *namda, gabba*; (iv) Wicker willow products; (v) Toran; (vi) Articles made of shola.

32.1. The CCT, Gujarat stated that some more items, namely Terracotta figurines of the Gora Dev (tribal horse God); Plaques, inset with mirrors; Handmade blocks for fabric printing should also be added to the list. The Secretary stated that these additional items should first be discussed in the Fitment Committee. The Council approved the proposal made under this Agenda item.

Agenda item 8(iv): Clarification regarding the due dates for the generation of FORM GSTR-2A and FORM GSTR-1A for the month of July, 2017

33. The Commissioner (GST Policy), CBEC stated that under Notification No.30/2017 dated 11 September, 2017, dates for filing FORM GSTR-1, FORM GSTR-2 and FORM GSTR-3 for the month of July were extended and the queries were received regarding due date for generation of FORM GSTR-2A and FORM GSTR-1A in light of the said extension of date. He stated that it was proposed to issue a circular clarifying that (i) the due date with respect to **FORM GSTR-2A** stands automatically extended since the due dates for furnishing the details in **FORM GSTR-1** and **FORM GSTR-2** have been extended. The details filed in **FORM GSTR-1** will be made available to the recipient in **FORM GSTR-2A** not later than 11 October, 2017 while they are required to furnish the details of their inward supplies in **FORM GSTR-2** not later than 31 October 2017 and (ii) the due date for finalizing of **FORM GSTR-1A** also stands automatically extended when the dates for furnishing the details in **FORM GSTR-1** and **FORM GSTR-2** have been extended. Therefore, only after the details are communicated to the supplier in **FORM GSTR-1A,** the supplier is required to accept or reject the details communicated to him from 1 November to 2 November, 2017, and accordingly, his **FORM GSTR-1** shall stand modified.

33.1. He stated that a circular covering this aspect was proposed to be issued by the Central Government as well as the State Governments and that the draft of the circular was also part of the Agenda Note. The Council approved the proposal to issue a circular clarifying the above.

34. For **agenda item 8,** the Council approved the following:

(i) Extension of timelines for filing of FORM GSTR-5A and FORM GST ITC-01

34.1. To extend the time limit for furnishing return in Form GSTR-5A for the month of July, August and September 2017 by persons supplying online information and database access or retrieval (OIDAR) services from a place outside India to an unregistered recipient referred to in Section 14 of the IGST Act 2017 and Rule 64 of the CGST Rules, 2017 up to 20 November 2017.

34.2. To extend the time limit for filing Form GST ITC-01 (for the purpose of claiming input tax credit under Section 18(1) of the CGST/SGST Acts) for the taxpayers who have got registered during the months of July, August and September 2017 to 31 October 2017.

(ii) Amendment of some provisions of CGST Rules, 2017 [relating to invoice (rule 46, 54 (2), additional instruction in FORM GSTR 4)]

34.3. To permit a supplier to issue a single "tax invoice-cum-bill of supply" where the supplies to an unregistered recipient include both taxable as well as exempt goods or services.

34.4. To amend sub-rule (2) of Rule 54 of CGST Rules, 2017 to provide that banking and insurance companies to issue a consolidated invoice or another document for supply of services in a particular month.

34.5. To amend instructions for filing return in FORM GSTR-4 so as to provide that serial No.4A of Table 4 shall not be furnished for July 2017 to December 2017.

(iii) Inclusion of additional items in Notifications No. 32/2017-Central Tax and No. 8/2017-Integrated Tax

34.6. To add the following additional items in the Notifications No. 32/2017-Central Tax dated 15.09.2017 and No. 08/2017-Integrated Tax dated 14.09.2017: (i) Handmade shawls, stoles and scarves (to be added to Sl. No. 9 of the table in the notification, along with addition of Chapter 61); (ii) Chain stitch; (iii) Crewel, *namda, gabba*; (iv) Wicker willow products; (v) Toran; (vi) Articles made of shola.

iv. Clarification regarding the due dates for the generation of FORM GSTR-2A and FORM GSTR-1A for the month of July, 2017

34.7. A circular to be issued by the Central Government and the State Governments clarifying the following:

(i) the due date with respect to FORM GSTR-2A stands automatically extended since the due dates for furnishing the details in FORM GSTR-1 and FORM GSTR-2 have been extended. The details filed in FORM GSTR-1 will be made available to the recipient in FORM GSTR-2A not later than 11 October, 2017 while they are required to furnish the details of their inward supplies in FORM GSTR-2 not later than 31 October 2017;

(ii) the due date for finalizing of FORM GSTR-1A also stands automatically extended when the dates for furnishing the details in FORM GSTR-1 and FORM GSTR-2 have been extended. Therefore, only after the details are communicated to the supplier in FORM GSTR-1A, the supplier is required to accept or reject the details communicated to him from 1 November to 2 November, 2017, and accordingly, his FORM GSTR-1 shall stand modified.

Agenda item 9: Proposal for issuing notifications on cross-empowerment for ensuring single interface under GST

35. The Commissioner (GST Policy), CBEC stated that it was proposed to issue notification on cross-empowerment prepared in accordance with the decisions of the Council taken during its 9th Meeting (held on 16 January 2017) and 21st Meeting (held on 9 September 2017). He stated that while there was a broad agreement for cross-empowerment under the CGST and SGST Acts, there was disagreement on the issue of cross-empowerment under the IGST Act in relation to the Place of Supply Rules. The Secretary stated that notification of cross-empowerment was urgently required to enable refund to the taxpayers and this notification could be issued. He added that due to persistent differences on cross-empowerment for the Place of Supply Rules issues under IGST, notification regarding cross-empowerment in respect of other matters could be deferred. He stated that by cross-empowering States and Central tax officers for giving refund, it would be ensured that only one officer issued an order of refund for both CGST and SGST. The Council approved the proposal to issue a notification by the Central Government and the State Governments cross-empowering officers of the Central and State Government to sanction refund and that an order of refund passed by an officer of the Central or State Government shall cover both the central tax and the state tax and a similar notification to be issued under the IGST Act.

35.1. The CCT, Karnataka stated that the Council could also take a decision that till the division of taxpayers was effected between the Central administration and the State administrations, an officer of the Central and the State Government was authorised to process any refund claim filed by an applicant under his jurisdiction. The Secretary stated that division of taxpayers was likely to be done soon. The CCT, Karnataka stated that a lot of ground work was still required to be done and data such as turnover details of migrated taxpayers, removing from it the data of turnover of taxpayers with centralised registration, etc. would take time and for such period, a taxpayer should be given the freedom to approach any tax administration for claiming refund. The Secretary stated that this could be permitted subject to a declaration being given by the applicant that the same refund claim has not been claimed from the other administration having jurisdiction over the applicant. The Council agreed to this suggestion.

36. For **agenda item 9,** the Council approved the following:

(i) To issue notifications by the Central Government and the State Governments, cross-empowering officers of the Central and State Governments to sanction refund and that an order of refund passed by an officer of the Central or State Government shall cover both the Central tax and the State tax. Similar notification to be issued under the IGST Act by the Central Government;

(ii) Until the division of taxpayers is effected between the Central and State administration, an officer of the Central and the State Government was authorised to process any refund claim filed by an applicant under his jurisdiction subject to a declaration being given by the applicant that the same refund claim has not been claimed from the other administration having jurisdiction over the applicant.

Agenda item 10: Proposal for deemed ratification of notifications, circulars and orders by the GST Council

37. Introducing this Agenda item, the Commissioner (GST Policy), CBEC stated that the Hon'ble Delhi High Court in its order dated 14 September, 2017 had directed the Central Government and the Government of NCT (GNCT) Delhi to issue a corrigendum to Notification No.13/2017-Central Tax (Rate) dated 28.06.2017 and No.10/2017-Integrated Tax (Rate) dated 28.06.2017 so as to make them fully consistent with the decisions of the Council. It was contended in the Writ Petition that there was a difference in the press release issued immediately after the meeting of the Council and the actual notification. The Hon'ble High Court observed that the wording of the notification at Sl. No.2 of notification No.13/2017–Central Tax (Rate) dated 28.06.2017 went beyond the recommendations made by the Council and had directed the Central Government and the GNCT to issue a corrigendum. He stated that in order to avoid challenges to the legality of the notifications, circulars and orders issued by the Central Government, it shall be forwarded to the GST Council Secretariat through email for information and deemed ratification by the GST Council. He further informed that during the Officers' meeting held on 5 October 2017, it was suggested that circulars need not be ratified as they were not to be issued on the recommendations of the Council. Similarly, only those orders needed to be ratified by the Council which were issued on the recommendations of the Council. In view of this, he stated that it was proposed to place before the Council the notifications issued under the CGST Act, CGST Rules [Notification Nos. 1 to 37 for Central Tax and Notifications Nos. 1 to 30 for Central Tax (Rate)]; IGST Act [Notification Nos. 1 to 8 for Integrated Tax and Notification Nos. 1 to 31 for Integrated Tax (Rate)]; UT GST Act [Notification Nos. 1 to 3 for Union Territory Tax and Notification Nos. 1 to 30 for Union Territory Tax (Rate)]; GST (Compensation to States) Act [Notification No.1 for Compensation Cess Notification and Notification Nos. 1 to 5 for Compensation Cess (Rate)] and Order No. 3 dated 21.09.2017 of the Central Government for their ratification. The Council ratified these notifications and Order No. 3 dated 21.09.2017 as mentioned above on deemed basis.

38. For **agenda item 10,** the Council ratified Notification Nos. 1 to 37 for Central Tax and Notifications Nos. 1 to 30 for Central Tax (Rate); Notification Nos. 1 to 8 for Integrated Tax and Notification Nos. 1 to 31 for Integrated Tax (Rate); Notification Nos. 1 to 3 for Union Territory Tax and Notification Nos. 1 to 30 for Union Territory Tax (Rate); Notification No.1 for Compensation Cess Notification and Notification Nos. 1 to 5 for Compensation Cess (Rate) and Order No. 3 dated 21.09.2017 issued by the Central Government on deemed basis.

Agenda item 11: Procedure for implementing GIC decisions of urgent nature requiring immediate implementation

39. The Additional Secretary, GST Council explained that the GST Implementation Committee (GIC) was formed pursuant to the decision of the Council in its 14th Meeting held on 18-19 May 2017 and in the 17th Meeting held on 18 June 2017. The Council approved the proposal to delegate its powers to GIC on urgent matters. He stated that a working procedure for the functioning of the GIC was approved and as per this, the decisions taken in GIC shall be circulated amongst the Council Members and their views/comments sought within two days. After suitably incorporating comments/views of the Council members, the decision would be implemented after obtaining the approval of the Hon'ble Chairperson of the Council and the decisions taken by GIC would be put up for information of the Council in its next meeting. He explained that on many occasions, it became difficult to follow the procedure as decided above when important procedural issues were required to be implemented urgently. He, therefore, proposed that the Council could consider slightly modifying the procedure outlined above inasmuch as important and urgent procedural issues approved by GIC may be implemented with the approval of the Hon'ble Union Finance Minister and the Chairperson of the GST Council. The same shall be circulated

to the States for information and that decisions taken by the GIC would be put up for information of the Council in its next meeting. However, procedure laid down above shall be followed for normal GIC matters. He added that as decided by the Council in its 21st Meeting held on 9 September 2017, recommendations of the GIC, involving substantive policy issues shall be placed before the Council for approval before implementation.

39.1. The Hon'ble Minister from Punjab stated that the decisions of the GIC should be sent to the States for ratification. The Secretary stated that the GIC decisions were implemented immediately and if a ratification was required from States, then it would not be possible to implement GIC decisions urgently. He stated that the decisions of GIC were only procedural in nature and these could be placed before the Council in the next meeting. The Hon'ble Minister from Jammu & Kashmir suggested that the decisions of GIC should be placed before the Council for confirmation. The Secretary stated that the decisions of the GIC should come before the Council in its Meeting for information only as these would have been implemented by issuance of necessary notification, circular, etc. with the approval of the Hon'ble Union Finance Minister and the Chairperson of the Council. The Council approved this proposal.

40. For **agenda item 11,** the Council approved to modify the procedure of GIC for important and urgent procedural issues. In cases involving important and urgent procedural issues, approval accorded by the GIC shall be implemented with the approval of the Hon'ble Union Finance Minister and the Chairperson of the GST Council and it shall be circulated to the States for information and the decisions taken by the GIC would be put up for information of the Council in its next Meeting. However, procedure as originally approved by the Council in its 17th Meeting held on 18 June 2017 shall apply for normal GIC matters. Further, as decided by the Council in its 21st Meeting held on 9 September 2017, recommendations of the GIC, involving substantive policy issues, shall be placed before the Council for approval before implementation.

Agenda item 12: Issues carried forward from the 21st GST Council Meeting: -

Agenda item 12(i): Approach Paper on principles for Fitment post-implementation of GST

41. The Secretary stated that the Approach Paper along with the comments of the States and responses to the same had been approved by the Fitment Committee and was placed before the Council for approval. He suggested that the Council could approve the Approach Paper along with the comments of the States on the Approach Paper and the written responses to the same. He further suggested that the finalised Approach Paper could have a caveat that the Council may deviate from the principles laid down in the Approach Paper taking into account various considerations and circumstances. The Council approved this proposal.

Agenda item 12(ii): Issues listed in Annexure IIB of Agenda item 7 of 21st GST Council Meeting (List of goods discussed by the Fitment Committee where no change in rate of tax was proposed)

42. The Hon'ble Minister from West Bengal stated in his written comments that the rates of tax on following items should be reconsidered: bamboo and cane furniture from 18% to 5%; on basketry items made of bamboo from 12% to 5%; on bio-diesel from 18% to 5% or at least 12%; and multi-functional printers from 28% to 18%. The Hon'ble Minister from Jammu & Kashmir suggested that list of goods covered under this agenda item on which earlier no change in rates of tax was proposed should be reconsidered by the Fitment Committee on the basis of the principles approved by the Council in the Approach Paper. The Council agreed to this suggestion.

Agenda item 12(iii): Issues listed in Annexure III of Agenda item 7 of 21st GST Council Meeting (GST rates on services – Proposals found NOT acceptable by the Fitment Committee)

43. The Secretary suggested that as decided for Agenda item 12 (ii), the proposals relating to services listed in Annexure III which was earlier not found acceptable by the Fitment Committee could also be referred back to the Fitment Committee for reconsideration on the basis of the principles approved by the Council in the Approach Paper. The Council agreed to this suggestion.

Agenda item 12(iv): List of Acts from the Central and State Governments as per Section 5(4) of the GST (Compensation to States) Act, 2017

44. Introducing this agenda item, the Joint Secretary, Department of Revenue stated that in the 21st meeting of the Council held on 9 September, 2017, some States had mentioned that some Acts listed in the draft notification to be issued under Section 5(4) and 5(6) of the Goods and Services Tax (Compensation to States) Act 2017 had not been repealed entirely and also some Acts which were missing had to be added. He informed that the States were accordingly requested to send a formal request for suitably revising the said draft notification and that a total of 12 States viz., Andhra Pradesh, Delhi, Goa, Himachal Pradesh, Maharashtra, Odisha, Rajasthan, Telangana, Tripura, Uttar Pradesh, Uttarakhand and West Bengal sent requests for changes in their list of Acts under which taxes had been subsumed. He further mentioned that the proposed agenda was prepared as per Sections 173 and 174 of the SGST Acts of the concerned States and on the basis of inputs received from the States and was placed before the Council for approval. He further mentioned that a corrigendum to the agenda had been circulated wherein the United Provinces Sales of Motor Spirit Diesel and Alcohol Taxation Act, 1939 which was mentioned in the Uttar Pradesh SGST Act as taxes being subsumed but was left out inadvertently, was also proposed to be included in the list of Acts to be subsumed.

44.1. The Principal Secretary (Finance), Odisha stated that in addition to the Acts listed in serial no. 21 of the draft notification, one more Act needed to be added in the list of subsumed Acts for Odisha, namely, clause (e) of sub-section (1) of section 131 of Odisha Municipal Act, 1950 relating to Advertisement Tax. He requested to add the same to the list at serial number 21 of the draft notification. The CCT, Punjab stated that Water Act was a Central Act which was not shown to be subsumed and 80% of its revenue came to the States. The Joint Secretary, Department of Revenue stated that only two Central Government Acts had been subsumed. The Council approved the draft notification in the agenda note containing the list of Acts subsumed for different States as per Section 5(4) and Section 5(6) of the GST (Compensation to States) Act, 2017 along with the addition of clause (e) of sub-section (1) of section 131 of Odisha Municipal Act, 1950 relating to Advertisement Tax and the United Provinces Sales of Motor Spirit Diesel and Alcohol Taxation Act, 1939 of Uttar Pradesh.

45. For **agenda item 12,** the Council approved the following:

(i) Approach Paper on principles for Fitment post-implementation of GST

45.1. The Approach Paper along with the comments from the States on the Approach Paper and the written responses to the same with the caveat that the Council may deviate from the principles laid down in the Approach Paper taking into account various considerations and circumstances.

(ii) Issues listed in Annexure IIB of Agenda item 7 of 21st GST Council Meeting (List of goods discussed by the Fitment Committee where no change in rate of tax was proposed)

45.2. The list of goods in Annexure IIB on which earlier no change in rates of tax was proposed shall be reconsidered by the Fitment Committee on the basis of the principles approved by the Council in the Approach Paper.

(iii) Issues listed in Annexure III of Agenda item 7 of 21st GST Council Meeting (GST rates on services – Proposals found NOT acceptable by the Fitment Committee)

45.3. The proposals relating to services listed in Annexure III which was earlier not found acceptable by the Fitment Committee shall be reconsidered by it on the basis of the principles approved by the Council in the Approach Paper

(iv) List of Acts from the Central and State Governments as per Section 5(4) of the GST (Compensation to States) Act, 2017

45.4. The draft notification in the agenda note containing the list of Acts subsumed for different States as per Section 5(4) of the GST (Compensation to States) Act, 2017 along with the addition of clause (e) of sub-section (1) of Section 131 of Odisha Municipal Act, 1950 relating to Advertisement Tax and the United Provinces Sales of Motor Spirit Diesel and Alcohol Taxation Act, 1939 of Uttar Pradesh.

Agenda item 13: Any other agenda item with the permission of the Chairperson

46. After taking the approval of the Hon'ble Chairperson, some additional agenda items along with detailed agenda notes were circulated in hard copy and by email to the Members before the commencement of the Council Meeting. These are discussed in the subsequent paragraphs.

Agenda item 13(i): Exemption from obtaining registration for persons making inter-State supply of services whose aggregate turnover is below the threshold limit

47. The Commissioner (GST Policy), CBEC stated that the GST Law provided for a threshold limit of Rs.20 lakh for registration to give relief to small taxpayers. However, under Section 24, clause (i), registration was made mandatory for persons making inter-State supply irrespective of the turnover. He stated that due to this, small service providers such as persons teaching occasionally as a guest faculty in different institutions of the country, services of mutual fund agents, etc. had come under the ambit of GST. Keeping in view the difficulties of the small taxpayers, it was proposed to exempt from registration, small service providers, making inter-State supply of services, up to Rs.20 lakh and up to Rs.10 lakh for Special Category States other than the State of Jammu & Kashmir. He pointed out that such an exemption had already been provided to services of job workers.

47.1. The Hon'ble Deputy Chief Minister of Delhi supported this proposal. He further suggested to repeal the provision of Section 10(2)(c) of the CGST/SGST Act so that inter-State supplies could also get the benefit of Composition scheme. The Hon'ble Deputy Chief Minister of Gujarat and the Hon'ble Minister from Jammu & Kashmir also supported this proposal. The Council approved the proposal contained in this agenda item.

Agenda item 13(ii): Decision on effective date for starting Tax Deduction at Source and Tax Collection at Source

48. The Commissioner (GST Policy), CBEC informed that the facility for registration for Tax Deduction at Source (TDS) and Tax Collection at Source (TCS) was not available on the common portal till date and that the GSTN had informed the Group of Ministers (GoM) constituted to monitor and resolve IT challenges that the facility for TDS/TCS registration and processing shall be available on the GSTN

portal from 7 October, 2017. He informed that the trade and industry had been enquiring regarding the effective date from which deduction/collection of tax would start so that they could prepare themselves accordingly. He also informed that the amount of TDS/TCS was to be auto-populated in FORM GSTR-2 of the taxable person on whose account the amount had been deducted or collected. He added that the process of return filing had not stabilised so far and was likely to take some more time. He stated that the Council could decide regarding the date from which deduction/collection of tax should start in terms of section 51/52 of the CGST/SGST Acts. He further informed that in the Officers' meeting of 5 October 2017, it was suggested that the deduction/collection of tax could start from 1 April 2018. The Council agreed to this suggestion.

Agenda item 13(iii): Changes in GST rates on certain goods and exemption from IGST in certain cases

49. Introducing this agenda item, the Joint Secretary (TRU-I), CBEC stated that the Fitment Committee had met on 5 October 2017 and examined the proposals for change in the rate of tax on certain goods and exemption from IGST on imports of *bona fide* gifts up to a value limit of Rs.3000 through post or air and made recommendations to the Council. The record of discussion in respect of the issues raised in the Council is recorded as below:

A. Changes in GST rates on certain goods:

Serial No.1: IGST exemption on import of gold by nominated agencies (para 4.41 of the FTP)

50. The Secretary informed that the Ministry of Commerce had recommended for exemption from IGST on import of gold by nominated agencies. He stated that small exporters found it difficult to get gold for jewellery as nominated agencies needed to do a lot of paper work for exporters and they did not want to go through such hassles. He suggested to exempt IGST on gold imports made by 36 banks and 6 public sector undertakings mentioned as nominated agencies in Paragraph 4.41 of the Foreign Trade Policy but to exclude from its ambit nominated agencies like the Star Trading Houses which are also mentioned as Nominated Agencies under Paragraph 4.41 of the Foreign Trade Policy. He stated that with such an exemption, banks would not pay IGST at the time of import and the demand of IGST would be made at the stage when banks and PSUs supplied gold to any person, including exporters.

50.1. The CEA observed that the Council had addressed several procedural dimensions of export but it had not yet touched upon embedded taxes and duty inversion and that the Export Committee should continue to work on these issues.

50.2. The CCT, Karnataka suggested to charge IGST at the rate of 0.25% instead of exempting it so that such imports were reflected in the returns of the importers. The Secretary stated that the rate of gold fluctuated every day but the rate of gold for Customs purposes was fixed for 15 days and therefore it would be a financial burden on the banks and PSUs to pay IGST. He added that since the benefit was being extended only to banks and PSUs and not to Star Trading Houses, the chance of misuse of this exemption was minimal. The Senior Joint Commissioner (Commercial Taxes), West Bengal supported the proposal. The Council approved the proposal.

Serial No.2: To reduce GST on manmade filament yarn, Spun Yarn and sewing thread

51. The Secretary stated that due to the demand of the Textile sector it was proposed to reduce the rate of tax on manmade filament yarn, spun yarn and sewing thread from 18% to 12% though it entailed a loss of revenue of about Rs. 2500 crore. He pointed out that staple fibre was not covered under this rate reduction and that it would continue to attract tax at the rate of 18%. The Hon'ble Minister from Rajasthan

stated that the issue of inverted duty structure would continue even with this rate reduction and suggested that the rate of tax should be brought down to 5%. The Secretary responded that this would lead to a very large- scale revenue loss and pointed out that even the industry had only demanded reduction in rate to 12%. He added that this rate reduction would also address the dichotomy being faced between the integrated units and the power looms. After discussion, the Council agreed to reduce the rate of tax on manmade filament yarn, spun yarn and sewing thread from 18% to 12%.

Serial No.3: All types of Scrap (Plastic scrap; Paper scrap; Rubber scrap and Hard Rubber scrap; Glass scrap; Precious metal scrap and Wood scrap)

52. The Joint Secretary (TRU-I) stated that the Fitment Committee had recommended the rate of tax on various types of scrap which presently attracted tax rates of 18%, 12% and 28% to 5% for Plastic scrap, Paper scrap (Waste paper), Rubber scrap and Glass scrap. The Hon'ble Minister from Kerala stated that the municipalities were paying Rs. 10,000 to Rs. 20,000 per load for removing e-waste such as computers, etc. generated in schools, colleges, etc. and that this should also not be taxed. The Joint Secretary (TRU-I), CBEC, stated that municipal waste, sewage sludge and clinical waste were already exempt from tax and that the Council could take a view regarding rate of tax for e-waste. The Hon'ble Minister from Kerala suggested to tax it at the rate of 5%. The Council agreed to this suggestion.

Serial No.4: Clarification regarding Unstitched Salwar suits

53. The Joint Secretary (TRU-I), CBEC, stated that fabrics are classified under Chapters 50 to 55 and attract tax at the rate of 5% with no refund of unutilised input tax credit. Mere cutting and packing of fabrics into pieces of different lengths from bundles and *thans* would not change the nature of these goods and such pieces of fabrics would continue to be classified under respective chapter headings as fabrics and attract 5% tax. He stated that the proposal was to clarify that unstitched *salwar* suit is a fabric cut from lumps or *thans* on which value addition is done with embroidery, handwork, patchwork, etc. and that such pieces of fabrics would continue to be classified under Chapters 50 to 55 of the First Schedule to the Customs Tariff Act, 1975 and attract 5% rate of tax. The Council agreed to the suggestions.

Serial No.5: Reference from Finance Minister, Kerala

54. The Joint Secretary (TRU-I), CBEC recalled that in the 6th Meeting of the Council (held on 11 December 2016), it was decided to reduce the rate of tax on coir mats and floor coverings from 12% to 5%. He stated that classification of these products in the relevant entry of the concerned notification was Chapter heading 5705, though these goods were also covered under Chapter headings 5702 and 5703. He stated that it was proposed to suitably amend the relevant notification. The Council agreed to the proposal.

Serial No.6: To exempt IGST on imports of rigs imported for oil/gas exploration and production projects under lease

55. The Joint Secretary (TRU-I), CBEC stated that the proposal was to exempt IGST on imports of rigs and associated goods imported for oil/gas exploration and production projects under lease subject to certain conditions as listed in the Agenda note. The council agreed to reduce the IGST on imports of rigs and associated goods imported for oil/gas exploration and production projects under lease from 5% to Nil subject to the conditions mentioned in the Agenda note.

Serial No.7: Rate of GST on (a) unbranded Ayurvedic, Unani, Siddha, Homeopathy medicines, whether or not registered; (b) unbranded *namkeens* (definition of registered brand name/brand name definition to be the same as in the case of branded cereals, pulses and flours etc.)

56. The Joint Secretary (TRU-I), CBEC, stated that the rate of tax on unbranded Ayurvedic, Unani, Siddha, Homeopathy medicines and unbranded *namkeens* goods was proposed to be reduced from 12% to 5%. The Hon'ble Minister from Kerala stated that classic Ayurvedic preparations should be promoted and there should be no distinction between branded and unbranded ayurvedic medicines. He stated that the products of Kottakal Ayurved Shala, Coimbatore Ayurved Shala, etc. should also be charged to tax at the rate of 5%. The Hon'ble Chairperson stated that if no distinction was made between branded and unbranded Ayurvedic products, products of Dabur/Patanjali, etc. would also attract reduced rate of tax of 5%. The Finance Secretary, Odisha stated that there was a very large market for over the counter Ayurvedic products and tax rate of 5% only on unbranded Ayurvedic medicines was reasonable. The Council agreed to the proposal. The Joint Secretary (TRU-I), CBEC, stated that tax on unbranded *namkeen* was proposed to be reduced from 12% to 5%. The Council agreed to the proposal to reduce the rate of tax from 12% to 5% on unbranded Ayurvedic, Unani, Siddha, Homeopathy medicines and unbranded *namkeens*.

Serial No.8: To shift the time of supply on advances received against supply of goods to be made by a dealer whose aggregate turnover in a financial year does not exceed Rs.1.5 crore to issuance of invoice or actual supply of goods if invoice is not issued within stipulated time

57. The Commissioner (GST Policy), CBEC introduced this agenda item and stated that this was essentially proposed to ease the compliance burden on small taxpayers. The Hon'ble Minister from Jammu & Kashmir observed that for advances received by small taxpayers with turnover of less than Rs. 1.5 crore, there should be no distinction between the treatment for supply of goods or supply of services. The Secretary stated that in the services sector, there was an existing provision and it was required as supply of services was intangible in nature whereas supply of goods was tangible. After discussion, the Council agreed to this proposal.

Serial No.9: Exemption from IGST on medicines supplied free by international agencies like UNICEF, WHO, Red Cross etc.

58. The Joint Secretary (TRU-I), CBEC stated that the proposal was to exempt IGST on medicines supplied free by international agencies like UNICEF, WHO, Red Cross etc. which currently attract tax at the rate of 12% or 5% in order to make the import less costly for the international organisations. The Council agreed to the proposal.

Serial No.10: Reduction of tax on parts of Fixed Speed Diesel Engine of power not exceeding 15HP and parts of power driven pumps primarily designed for handling water – centrifugal pumps, deep tubewell turbine pumps, submersible pumps, axial flow and mixed flow vertical pumps

59. The Secretary stated that the proposal was to reduce tax on parts suitable for use solely or principally in Fixed Speed Diesel Engines of power not exceeding 15HP and parts suitable for use solely or principally in power driven pumps primarily designed for handling water, namely, centrifugal pumps (horizontal and vertical), deep tube-well turbine pumps, submersible pumps, axial flow and mixed flow vertical pumps from 28% to 18%. The Council agreed to the proposal.

B. Exemption from IGST on imports of *bona fide* gifts up to value limit of Rs.3000 through post or air

60. Introducing this agenda item, the Joint Secretary (TRU-I), CBEC stated that it was proposed to exempt from IGST import of *bona fide* gifts up to a value limit of Rs.3000 imported through post or air.

The Hon'ble Minister from Kerala stated that earlier the value limit was Rs. 20,000 and that this value limit should be maintained. The Secretary stated that such a high value limit had led to widespread misuse of this scheme leading to loss of revenue. He proposed that the value limit could be increased to Rs. 5,000. The Hon'ble Minister from Jharkhand stated that the value limit should be Rs. 1,000. The Hon'ble Minister from Goa stated that a large number of Non-Resident Indians were sending gifts and value threshold of Rs. 20,000 should be considered even at the risk of some misuse. He stated that genuine transactions should not be punished and that the limit of Rs. 5,000 was very low. The Hon'ble Minister from Kerala enquired as to what was the total amount of tax collected on imported gifts. The Joint Secretary (TRU-I), CBEC stated that field level data was not available as such imports were not yet computerised. He further added that a value limit of Rs. 20,000 would be very high and even mobile phones, high end shoes, etc. would get imported as gifts. The Hon'ble Minister from Andhra Pradesh supported the proposal to increase the threshold to Rs. 5,000 per parcel. The Council agreed to exempt IGST on import of *bona fide* gifts up to a value of Rs. 5,000 per parcel.

Agenda item 13(iv): Issue of Annuity being given in Place of Toll Charges to Developers of Public Infrastructure - exemption thereon

61. Introducing this Agenda item, the Joint Secretary (TRU-II), CBEC stated that while toll is a payment made by the users of road to concessionaires for usage of roads, annuity is an amount paid by the National Highways Authority of India (NHAI) to concessionaires for construction of roads in order that the concessionaire did not charge toll for access to a road or a bridge. In other words, annuity is a consideration for the service provided by concessionaires to NHAI. He stated that construction of roads was now subject to tax at the rate of 12% and due to this, there was free flow of input tax credit from EPC (Engineering, Procurement and Construction) contractor to the concessionaires and thereafter to NHAI. He stated that as a result, tax at the rate of 12% leviable on the service of road construction provided by concessionaire to NHAI would be paid partly from the input tax credit available with them. He stated that the Council may take a view for grant of exemption to annuity paid by NHAI/State Highways Construction Authority to concessionaires during construction of roads. He added that access to a road or bridge on payment of toll was already exempt from tax. The Hon'ble Minister from Haryana suggested to also cover under this provision annuity paid by State-owned Corporations. After discussion, the Council decided to treat annuity at par with toll and to exempt from tax, service by way of access to a road or bridge on payment of annuity.

Agenda item 13(v): Additional relief to Small Tax Payers - Composition Scheme

62. The Commissioner (GST Policy), CBEC, stated that this was an additional relief proposed to be given under the Composition Scheme. He explained that in the current Composition Scheme, if a person was engaged in any supply of services other than the supply of service specified in clause (b) of paragraph 6 of Schedule II (Restaurant Services), he could not opt for Composition Scheme. He stated that even interest on deposits made in banks is considered as service (though exempted) and therefore a person receiving interest would be ineligible for Composition Scheme. He stated that it was proposed to issue an Order under Section 172 of the CGST/SGST Act (providing for removal of difficulty) to exclude such services from Section 10 as per the following: (i) Section 10(2)(a) of the CGST/SGST Acts to be read so as to exclude the services by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount; (ii) Section 10(1) of CGST/SGST Acts to be read so as to exclude the interest earned from deposits, loans or advances from the aggregate turnover. He added that in the absence of such an exemption, Composition Scheme would be completely unavailable to manufacturers and dealers who were earning interest from deposits, etc. It was suggested that such dispensation could be provided for all exempt services and need not be restricted to interest or discount only. The Council agreed to the proposal. It was also decided by the Council to issue a removal of

difficulty order under Section 172 of the CGST/SGST/UTGST Acts to the effect that if a person supplies goods and/or services referred to in clause (b) of paragraph 6 of Schedule II of the said Acts and also supplies any exempt services including services by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount, the said person shall not be ineligible for the Composition scheme under Section 10 and in computing his aggregate turnover in order to determine his eligibility for Composition scheme, value of supply of any exempt services including services by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount, shall not be taken into account.

Agenda item 13(vi): GST on development charges collected by Gift City Company Limited for allotment of land on long term lease (of 30 years or more) to developers for development of commercial and residential spaces

63. Introducing this Agenda item, Joint Secretary (TRU-II), CBEC stated that presently the upfront amount charged by State Industrial Development Corporations/Undertakings (known as premium, salami, development charges, etc) for long term lease (of 30 years or more) of industrial plots to industrial units was exempt from GST. Gift City Company Limited which is developing international financial services centre (IFSC) in Gujarat has requested for a similar exemption for the amount charged by it for granting development rights to developers for construction of commercial and residential spaces in the Domestic Tariff Area. He stated that the present request was different from the existing exemption in as much as it covered long term lease of commercial and residential plots and that allotment of land by authorities such as Delhi Development Authority, Ghaziabad Development Authority, NOIDA, on long term lease for residential purpose was presently not exempt from tax. He stated that as Gift City Company was developing the first international financial services centre in India to attract international financial business to India which has a lot of potential, the development rights granted by Gift City Company to developers for construction of commercial and residential buildings on long term lease of 30 years or more could be exempted as this would reduce the initial cost of development and encourage them to invest in the project. He stated that the proposal before the Council was to exempt from tax upfront, amount (called as premium, salami, development charges or by any other name) payable in respect of service, by way of granting of long term lease (30 years or more) of industrial plots or plots for development of infrastructure for financial business, provided by the State Government Industrial Development Corporations/Undertakings or any other entity having 50% or more ownership of Central Government, State Government, Union Territory to industrial units or developers in any industrial or financial business area. The Council agreed to this proposal.

Agenda item 13(vii): Additional relief to Small Tax Payers – GTA to unregistered persons

64. Introducing this Agenda item, the Joint Secretary (TRU-II), CBEC, stated that services provided by a GTA attracted tax at the rate of 5% without input tax credit under Reverse Charge Mechanism or 12% with input tax credit under forward charge. He stated that for specified categories of persons, tax on services provided by a GTA operating under 5% GST rate scheme was payable by the recipient of the service under Reverse Charge Mechanism. However, when a GTA provided service to an unregistered person other than the specified recipients, the GTA is required to pay tax at the rate of 5% under forward charge. He informed that it had come to light that GTAs were not willing to provide services to an unregistered person in order to avoid taking registration. He stated that in order to remove hardship being faced by small unregistered businesses, it was proposed that services provided by a GTA to an unregistered person including an unregistered casual taxable person, other than to the following recipients, may be exempted, namely:

(a) Any factory registered under or governed by the Factories Act, 1948(63 of 1948); or

(b) any society registered under the Societies Registration Act, 1860 (21 of 1860) or under any other law for the time being in force in any part of India; or

(c) any co-operative society established by or under any law; or

(d) any person registered under the Central Goods and Services Tax Act or the Integrated Goods and Services Tax Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act; or

(e) any body corporate established, by or under any law; or

(f) any partnership firm whether registered or not under any law including association of persons; or

(g) any casual taxable person.

64.1. He stated that exemption may be provided in case of services by GTAs operating under 5% GST rate under Reverse Charge Mechanism and also those paying GST at the rate of 12% under forward charge as otherwise it would be disadvantageous for GTAs who choose to come under ITC chain at 12% rate.

65. For **agenda item 13,** the Council approved the following:

(i) **Exemption from obtaining registration for persons making inter-State supply of services whose aggregate turnover is below the threshold limit**

65.1. To exempt from registration, small service providers, providing inter-State supply of services, up to a turnover of Rs. 20 lakh per annum and up to Rs. 10 lakh per annum for Special Category States other than the State of Jammu & Kashmir for which the turnover limit for exemption shall be Rs.20 lakh per annum.

(ii) **Decision on effective date for starting Tax Deduction at Source and Tax Collection at Source**

65.2. Deduction/collection of tax in terms of the provisions of Tax Deduction at Source and Tax Collection at Source under section 51 and 52 of the CGST/SGST Acts respectively shall start from 1 April 2018.

(iii) **Changes in GST rates on certain goods and exemption from IGST in certain cases**

65.3. The rates of tax proposed under the agenda note with the following modification:

(i) rate of tax on e-waste (Sl. No. 3) shall also be 5%;

(ii) IGST on import of *bona fide* gifts of a value up to Rs. 5,000 per parcel shall be exempt instead of the originally proposed value of Rs. 3,000 per parcel.

(iv) **Issue of Annuity being given in place of Toll Charges to Developers of Public Infrastructure - exemption thereon**

65.4. To exempt from tax, service by way of access to a road or bridge on payment of annuity.

(v) **Additional relief to Small Tax Payers - Composition Scheme**

65.5. To issue an Order under Section 172 of the CGST/SGST/UTGST Acts to the effect that if a person supplies goods and/or services referred to in clause (b) of paragraph 6 of Schedule II of the said Acts and also supplies any exempt services including services by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount, the said person shall not be ineligible for the Composition scheme under Section 10 and that in computing his aggregate turnover in order to determine his eligibility for Composition scheme, value of supply of any exempt services including services by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount, shall not be taken into account.

(vi) **GST on development charges collected by Gift City Company Limited for allotment of land on long term lease (of 30 years or more) to developers for development of commercial and residential spaces**

65.6. To exempt from tax upfront, amount (called as premium, salami, development charges or by any other name) payable in respect of service, by way of granting of long term lease (30 years or more) of industrial plots or plots for development of infrastructure for financial business, provided by the State Government Industrial Development Corporations/Undertakings or any other entity having 50% or more ownership of Central Government, State Government, Union Territory to (a) industrial units or (b) developers in any industrial or financial business area.

(vii) **Additional relief to Small Tax Payers – GTA to unregistered persons**

65.7. To exempt services provided by a GTA to an unregistered person including unregistered casual taxable person, other than the following recipients, namely:

(a) Any factory registered under or governed by the Factories Act, 1948(63 of 1948); or

(b) any society registered under the Societies Registration Act, 1860 (21 of 1860) or under any other law for the time being in force in any part of India; or

(c) any co-operative society established by or under any law; or

(d) any person registered under the Central Goods and Services Tax Act or the Integrated Goods and Services Tax Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act; or

(e) any body corporate established, by or under any law; or

(f) any partnership firm whether registered or not under any law including association of persons; or

(g) any casual taxable person.

Other Issues:

66. The Hon'ble Minister from Tamil Nadu circulated a written speech which was taken on record. He requested that the working sheet for calculation of composition should be made available to the State. He also suggested that taxpayers should be subject to one single authority and that the single authority should either be the State or the Centre which should administer all the three laws i.e. CGST, SGST and IGST in respect of such taxpayer. He observed that such an arrangement was in consonance with the larger objective of the new tax regime. He did not support the proposal to place restriction on cross-

empowerment under the IGST Act in case where place of supply was under dispute. He stated that GIC had requested Tamil Nadu to prepare a draft note on the matter for detailed discussion in the Council and that a detailed note had been prepared and sent to the Council Secretariat for circulation amongst the Members. On the subject of manual refund till GSTN provided an online facility, he supported the proposal but suggested that a standard operating procedure should be put in place before actual implementation of this recommendation. On the subject of increasing the annual turnover threshold under Composition Scheme from Rs.75 lakh to Rs. one crore; to treat exempt supplies of the aggregate turnover under the Composition Scheme as Nil rated; to allow filing of returns quarterly in respect of taxpayers having turnover up to Rs.1.5 crore and to temporarily suspend the provision of reverse charge levy under section 9(4), he stated that while Tamil Nadu always championed the cause of small taxpayers, the legal basis of the proposal should be studied by the Law Committee and discussed by GIC before a final view is taken by the Council. He also expressed his apprehension that suspension of reverse charge mechanism would encourage taxpayers to purchase from unregistered sources thereby impacting revenue collection. He added that to curb tax evasion, there was a need to operationalise nation-wide e-way bill. He said that his government supported most of the proposals of the Fitment Committee but it had reservation in respect of the proposal of car leasing. He added that levy of GST at the rate of 65% of GST plus Cess would reduce the share of SGST from the sale of small and medium cars when compared to the earlier VAT at the rate of 14.5% which accrued to the States. On this account, he did not support this proposal. He further added that as regards the proposed amendment to expand the definition of brand name in respect of cereals, pulses and flours, etc. he had consistently advocated to exempt all food grains irrespective of whether put in unit container or whether branded or not. He pointed out that this had caused wide-spread resentment and the present proposal to mandate filing of affidavit by the person having an actionable claim or enforceable right on brand name would further aggravate the resentment amongst small retailers who pack and sell food grains. He stated that as regards the Approach Paper on principles of fitment post-implementation of GST, his State suggested that tax incidence should be based on the average of the tax rates actually specified in the various schedules and not to take maximum rate for residuary items at 14.5% as this artificial increase resulted in placing several goods under 28% rate slab though they were neither luxury nor sin goods. He stated that for the purpose of arriving at the weighted average, tax on residuary entries should not be reckoned.

67. The Hon’ble Minister from West Bengal circulated a written note where his views on various Agenda items were given. They have been incorporated suitably in relation to discussion under relevant Agenda items. In addition, he has also pointed out that the State share of Central taxes used to be devolved on the first day of every month but it has recently been changed to 15th day of every month. He had raised this issue during the 21st Meeting of the Council held on 9 September, 2017 and the Hon'ble Chairperson had stated that he would revert on this issue after discussing it with the Expenditure Secretary. He reiterated that the old time-tested system should be reintroduced; otherwise it would severely upset the cash management system of the States.

Agenda item 14: Date of the next meeting of the GST Council

68. The Hon’ble Chairperson observed that this was a very fruitful meeting and that a lot of ground had been covered. He suggested that the next meeting of the Council could be held on 10 November 2017 in Guwahati. The Council agreed to the suggestion.

69. The Meeting ended with a vote of thanks to the Chair.

Annexure 1

List of Hon'ble Ministers who attended the 22nd GST Council Meeting on 6 October, 2017

S No	State/Centre	Name of the Minister	Charge
1	Govt. of India	Shri Arun Jaitley	Finance Minister
2	Govt. of India	Shri S.P. Shukla	Minister of State (Finance)
3	Goa	Shri Manohar Parrikar	Chief Minister
4	Goa	Shri Mauvin Godinho	Minister – Panchayat
5	Puducherry	Shri V. Narayanasamy	Chief Minister
6	Bihar	Shri Sushil Kumar Modi	Deputy Chief Minister
7	Delhi	Shri Manish Sisodia	Deputy Chief Minister
8	Gujarat	Shri Nitinbhai Patel	Deputy Chief Minister
9	Manipur	Shri Y. Joy Kumar Singh	Deputy Chief Minister
10	Assam	Dr Himanta Biswa Sarma	Finance Minister
11	Chhattisgarh	Shri Amar Agrawal	Minister - Commercial Taxes
12	Haryana	Captain Abhimanyu	Minister - Excise and Taxation
13	Jammu & Kashmir	Dr. Haseeb Drabu	Finance Minister
14	Jharkhand	Shri C P Singh	Finance Minister
15	Karnataka	Shri Krishna Byre Gowda	Minister – Agriculture
16	Kerala	Dr. Thomas Issac	Finance Minister
17	Maharashtra	Shri Sudhir Mungantiwar	Finance Minister
18	Madhya Pradesh	Shri Jayant Malaiya	Finance Minister
19	Mizoram	Shri Lalsawta	Finance Minister
20	Odisha	Shri Shashi Bhusan Behera	Minister of Finance & Excise
21	Punjab	Manpreet Singh Badal	Finance Minister
22	Rajasthan	Shri Rajpal Singh Shekhawat	Minister – Industries
23	Tamil Nadu	Shri D Jayakumar	Minister for Fisheries and personnel & Administrative Reforms
24	Telangana	Shri Etela Rajender	Finance Minister

25	Uttar Pradesh	Shri Rajesh Agrawal	Finance Minister
26	Uttarakhand	Shri Prakash Pant	Finance Minister

Annexure 2

List of Officials who attended the 22nd GST Council Meeting on 6 October, 2017

S No	State/Centre	Name of the Officer	Charge
1	Govt. of India	Dr. HasmukhAdhia	Revenue Secretary
2	EAC- PM	Shri Ratan P.Watal	Economic Advisory Council
3	Govt. of India	Dr. Arvind Subramanian	Chief Economic Advisor
4	Govt. of India	Ms Vanaja Sarna	Chairman, CBEC
5	Govt. of India	Shri Mahender Singh	Member (GST), CBEC
6	Govt. of India	Shri R.K. Mahajan	Member (Budget), CBEC
7	Govt. of India	Shri P K Das	Member (Customs), CBEC
8	Govt. of India	Shri B N Sharma	Additional Secretary (Dept. of Revenue)
9	Govt. of India	Shri P K Mohanty	Advisor (GST), CBEC
10	Govt. of India	Shri P.K. Jain	DG, Audit, CBEC
11	Govt. of India	Shri Sandeep M. Bhatnagar	DG, DG-Safeguards, CBEC
12	Govt. of India	Shri Alok Vardhan Chaturvedi	DG, DGFT
13	Govt. of India	Shri Alok Shukla	Joint Secretary (TRU), Dept of Revenue
14	Govt. of India	Shri Upender Gupta	Commissioner (GST), CBEC
15	Govt. of India	Shri Udai Singh Kumawat	Joint Secretary, Dept of Revenue
16	Govt. of India	Shri Amitabh Kumar	Joint Secretary (TRU), Dept of Revenue
17	Govt. of India	Shri G.D. Lohani	Commissioner, CBEC
18	Govt. of India	Shri D.S.Malik	DG, Press, Ministry of Finance
19	Govt. of India	Ms. Sheyphali B. Sharan	ADG, Press, Ministry of Finance
20	Govt. of India	Shri S.K. Rai	Director (UT), Ministry of Home Affairs
21	Govt. of India	Shri Reyaz Ahmad	Director, TRU
22	Govt. of India	Ms. Aarti Saxena	Deputy Secretary, Dept of Revenue

23	Govt. of India	Shri Pramod Kumar	Deputy Secretary, TRU-II
24	Govt. of India	Shri Pramod Kumar Sharma	OSD, TRU-II
25	Govt. of India	Shri Paras Sankhla	OSD to FM
26	Govt. of India	Shri Nikhil Verma	OSD to MoS
27	Govt. of India	Shri N. Gandhi Kumar	OSD (DOR)
28	Govt. of India	Shri Arjun Raghavendra M	OSD (Rev. Sec)
29	Govt. of India	Ms Ruchi Bisht	Under Secretary
30	Govt. of India	Shri GeelaniBasha K.S.M	Technical Officer, TRU-I
31	Govt. of India	Ms Rachna	Technical Officer, TRU
32	Govt. of India	Shri Vishal Pratap Singh	Joint Commissioner, Policy wing
33	Govt. of India	Ms Himani Bhayana	Joint Commissioner, Policy wing
34	Govt. of India	Shri Ravneet Khurana	Joint Commissioner, Policy wing
35	Govt. of India	Ms Nisha Gupta	Dy. Commissioner, Policy wing
36	Govt. of India	Shri Siddharth Jain	Asst. Commissioner, GST Policy
37	Govt. of India	Shri Satvik Dev	Asst. Commissioner, GST Policy
38	Govt. of India	Shri Manjunath A N	Asst. Commissioner, GST Policy
39	Govt. of India	Shri Kumar Asim Anand	Asst. Commissioner, GST Policy
40	Govt. of India	Shri Sumit Bhatia	Asst. Commissioner, GST Policy
41	GST Council	Shri Arun Goyal	Additional Secretary
42	GST Council	Shri Shashank Priya	Joint Secretary
43	GST Council	Shri Dheeraj Rastogi	Joint Secretary
44	GST Council	Shri Rajesh Agarwal	Additional Commissioner
45	GST Council	Shri G.S. Sinha	Joint Commissioner
46	GST Council	Shri Jagmohan	Joint Commissioner
47	GST Council	Shri Rakesh Agarwal	Asst.Commissioner
48	GST Council	Shri Rahul Raja	Assistant Commissioner
49	GST Council	Shri Mahesh Kumar	Assistant Commissioner
50	GST Council	Shri Mukesh Gaur	Superintendent

51	GST Council	Shri Sandeep Bhutani	Superintendent
52	GST Council	Shri Shekhar P Khansili	Superintendent
53	GST Council	Shri Vipul Sharma	Superintendent
54	GST Council	Shri Umed Singh Rawat	Superintendent
55	GST Council	Shri Manoj Kumar	Superintendent
56	GST Council	Shri Amit Soni	Inspector
57	GST Council	Shri Anis Alam	Inspector
58	GSTN	Shri A B Pandey	Chairman
59	GSTN	Shri Prakash Kumar	CEO
60	GSTN	Shri Vashishta Chaudhary	SVP(Services)
61	GSTN	Shri Jagmal Singh	VP (Services)
62	Andhra Pradesh	Shri D Sambasiva Rao	Special Chief Secretary (Revenue)
63	Andhra Pradesh	Shri J.Syamala Rao	CCT
64	Andhra Pradesh	Shri T.RameshBabu	Additional Commissioner (CT)
65	Andhra Pradesh	Shri D.Venkateswara Rao	OSD to Special CS, Revenue
66	Assam	Dr Ravi Kota	Principal Secretary (Finance)
67	Assam	Shri Anurag Goel	CCT, Assam
68	Bihar	Smt Sujata Chaturvedi	Principal Secretary (CT)
69	Bihar	Shri Arun Kumar Mishra	Addl. Secretary (CT)
70	Chandigarh	Shri Parimal Rai	Advisor to Administrator
71	Chandigarh	Shri Sanjeev Madaan	ETO
72	Chhattisgarh	Shri Amitabh Jain	Principal Secretary (Finance)
73	Chhattisgarh	Ms. Sangeetha P	Commissioner, Commercial Taxes
74	Dadra & Nagar Haveli	Shri Kannan Gopinathan	MD, SC & ST/OBC, Finance and Development Corporation
75	Delhi	Shri S N Sahai	Principal Secretary (Finance)
76	Delhi	Shri H. Rajesh Prasad	Commissioner (State Tax)
77	Delhi	Shri Anand Kumar Tiwari	Additional Commissioner (GST)
78	Goa	Shri Dipak M.Bandekar	Commissioner, Commercial Taxes

79	Gujarat	Dr. P.D. Vaghela	Commissioner, Commercial Taxes
80	Gujarat	Shri Sanjeev Kumar	Secretary (Economic Affairs)
81	Haryana	Shri Sanjeev Kaushal	Additional Chief Secretary
82	Haryana	Ms. Ashima Brar	Commissioner (Excise & Taxation)
83	Haryana	Shri Rajeev Chaudhary	Dy. ETC
84	Himachal Pradesh	Shri R. Selvam	Excise & Taxation Commissioner
85	Himachal Pradesh	Shri Sanjay Bhardwaj	Addl. ETC
86	Himachal Pradesh	Shri Rakesh Sharma	Dy. ETC
87	Jammu & Kashmir	Shri Navin Choudhary	Principal Secretary (Finance)
88	Jammu & Kashmir	Shri P I Khateeb	Commissioner - Commercial Taxes
89	Jammu & Kashmir	Mrs Anoo Malhotra	ACCT
90	Jharkhand	Shri. K.K. Khandelwal	Principal Secretary
91	Jharkhand	Shri Sanjay Kumar Prasad	Joint Commissioner
92	Jharkhand	Shri Brajesh Kumar	STO
93	Karnataka	Shri Ritvik Pandey	Commissioner (Commercial Taxes)
94	Karnataka	Shri M.S. Srikar	OSD
95	Kerala	Dr. RajanKhobragade	Commissioner (State Tax)
96	Madhya Pradesh	Shri Raghawendra Kumar Singh	CCT
97	Madhya Pradesh	Shri Sudip Gupta	Joint Commissioner
98	Maharashtra	Shri Parag Jain Nainutia	Spcl Commissioner of Sales Tax
99	Maharashtra	Shri Dhananjay Akhade	Joint Commissioner(GST)
100	Manipur	Shri HrisheekeshModak	Commissioner (Commercial Taxes)
101	Mizoram	Shri VanlalChhuanga	Secretary, Taxation
102	Mizoram	Shri Hrangthamawia	Asst. Comm of State Taxes

103	Nagaland	Shri Y.Mhathung Murry	Commissioner of Taxes
104	Odisha	Shri TuhinKanta Pandey	Principal Secretary (Finance)
105	Odisha	Shri Saswat Mishra	Commissioner (Commercial Taxes)
106	Odisha	Shri Sahadev Sahoo	J.C (Commercial Taxes)
107	Puducherry	Dr. V. Candavelou	Secretary (Finance & Commercial Tax)
108	Puducherry	Shri G. Srinivas	Commissioner, Commercial Taxes
109	Punjab	Shri M P Singh	ACS (Taxation)
110	Punjab	Shri V K Garg	Advisor (Finance)
111	Punjab	Shri V P Singh	ETC
112	Punjab	Shri Pawan Garg	DETC
113	Rajasthan	Shri Praveen Gupta	Secretary (Finance)
114	Rajasthan	Shri Alok Gupta	Commissioner, Commercial Taxes
115	Rajasthan	Shri Ketan Sharma	Joint Commissioner
116	Sikkim	Ms Dipa Basnet	Secretary (Commercial Taxes)
117	Sikkim	Shri BikashDiyali	Assistant Director
118	Tamil Nadu	Dr C Chandra Mouli	ACS (Commercial Taxes)
119	Tamil Nadu	Shri Palani	J.C, Commercial Taxes
120	Telangana	Shri Somesh Kumar	Principal Secretary
121	Telangana	Shri Anil Kumar	Commissioner, Commercial Taxes
122	Telangana	Shri LaxminaraynJannu	Additional Commissioner
123	Telangana	Shri Kashi Visheshwarrao	Joint Commissioner
124	Tripura	Shri M Nagaraju	Principal Secretary (Finance)
125	Tripura	Shri Ashin Barman	Superintendent
126	Uttar Pradesh	Shri R.K. Tiwari	Additional Chief Secretary
127	Uttar Pradesh	Shri Mukesh Kumar Meshram	Commissioner (Commercial Tax)
128	Uttar Pradesh	Shri Vivek Kumar	Additional Commissioner (GST)
129	Uttar Pradesh	Shri Mukti Nath Verma	Joint Secretary
130	Uttar Pradesh	Shri Chandrika Prasad	Additional Commissioner (GST)

131	Uttar Pradesh	Shri J P Singh	Asst. Commissoner (CT)
132	Uttar Pradesh	Shri Niraj Kumar Maurya	Asst. Commissioner (CT)
133	Uttarakhand	Shri Piyush Kumar	Additional Commissioner, Commercial Taxes
134	Uttarakhand	Shri Vipin Chand	Additional Commissioner, Commercial Taxes
135	West Bengal	Shri Khalid A. Anwar	Senior Joint Commissioner

Annexure 3

Presentation on Decisions taken by GIC and Recommendations of Law Committee

Agenda

- Decisions made by GIC
- Agenda notes for approval of GST Council Meeting

Decisions of GIC by circulation

- Extension of time limit to file FORM GST TRAN-1 under Rule 120A and Rule 117 of CGST Rules
  - ✓ **Order No. 02/2017- GST dated 18.09.2017 and Order No. 3/2017-GST dated 21.09.2017 issued**

- Changes in Rates notification relating to services provided by Advocate
  - ✓ **Corrigendum dated 25.09.2017 to Notification No. 13/2017-Central Tax (Rate) dated 28.06.2017 issued**

3

Decisions of the 9th GIC Meeting (1/2)

- Allow for amendment of rule 24(4) of CGST Rules for extension of date of application for cancelation of migrated taxpayers
- Minor Changes in FORM GST REG – 29 prescribed for cancellation of registration of migrated person
  - ✓ **Notification No. 36/2017-Central Tax dated 29.09.2017 issued**

- Time limit for submitting the declaration in FORM GST TRAN-1 under section 141 and 142 of the CGST Act, 2017 should be the same as the time limit for submitting the declaration in FORM GST TRAN-1 under section 140 of the Act – Rule 118, 119 & 120 proposed to be amended
  - ✓ **Notification No. 36/2017-Central Tax dated 29.09.2017 issued**

4

Decisions of the 9th GIC Meeting (2/2)

- Extending the facility of supplying goods or services for export without payment of integrated tax under Letter of Undertaking in place of bond to all registered persons
  - ✓ **Notification No. 37/2017-Central Tax dated 04.10.2017 issued**

- Preparation of draft circular for Manual filing of Refund and advance ruling applications, documents and Forms by Gujarat
  - ✓ **Under preparation**

5

Decisions of the 10th GIC Meeting

- Extension of time limit for intimation of details of stock on the date preceding the date from which the option for Composition levy is exercised in FORM GST CMP-03
  - ✓ **Order No. 04/2017- GST dated 29.09.2017 issued**

- No extension of time limit for the submission of GSTR 3B for the month of August 2017
  - ✓ **No action required**

6

Agenda Note No. 6(i) (1/2)

Subject: Proposal for increasing the aggregate annual turnover threshold under Composition scheme

S. No.	Proposed Change	Rationale / Reason
1	Increasing the aggregate annual turnover threshold under composition scheme from existing Rs. 75 lakh to Rs. 1 Crore. The limit for the Special Category States may also be discussed by the Council.	The increase in the turnover threshold will make it possible for greater number of taxpayers to come within its fold and avail the facility of easy compliance. This is extremely important for the MSME sector.
2	Facility of availing of such increased limit is proposed to be extended up to 31.03.2018. This facility may be extended to both the migrated as well as new tax-payers and will become valid from the first day of the subsequent month in which the option to migrate to the composition scheme is exercised.	

7

Agenda Note No. 6(i) (2/2)

Subject: Nil Rating of Exempted Turnover for paying tax under Composition Scheme

Proposed Change	Rationale / Reason
• In the current composition scheme, if a person is supplying both taxable and exempted supplies under composition scheme, he will pay tax on both the supplies. • It is proposed that exempted turnover of such person be nil rated to ensure that tax is collected on taxable supplies only. • Such benefit will not be available to persons engaged in supply of services [restaurants]. • Benefit available only if separate accounts are maintained.	• By taxing exempted supplies through composition, the whole purpose of exemption and composition gets defeated. • Large number of traders deal in relatively large amounts of exempted items (e.g. unbranded wheat, rice, flour etc.) compared to taxable items. • In officer's meeting, it was felt that this may not be done as it may lead to harassment as it is difficult to maintain separate records.

8

Agenda Note No. 13(v)

Subject: Relief to Composition Service providers who are earning interest on deposits

Proposed Change	Rationale / Reason
• In the current composition scheme, if a person is engaged in any supply of services other than supply of clause (b) of paragraph 6 of Schedule II (restaurant services), then he cannot opt for composition scheme. • Even interest on deposits made in banks is considered as a service (though exempted). Therefore, person receiving even interest is ineligible for composition scheme. • It is proposed to issue removal of difficulty order u/s 172 so as to exclude such services from section 10.	• This is an extremely important step since with this provision, the composition scheme is completely unviable for all manufacturers and dealers who are earning interest from deposits, etc.

9

Agenda Note No. 13(i)

Subject: Exemption from registration for persons making inter-State supply of services upto Rs. 20 lakh to any person

Proposed Change	Rationale / Reason
• The GST law provides for a threshold limit of Rs. 20 lacs. This limit has been given to provide relief to small taxpayers from compliance and collection of GST. • But, under Section 24 clause (i) registration was made mandatory for persons making inter-State supplies irrespective of the turnover. • It is proposed that an exemption from registration be provided to small service providers, providing inter-State supply of services, upto Rs. 20 lacs and (Rs. 10 lakhs for special category States other than the State of Jammu and Kashmir).	• With the mandatory registration clause, the purpose of the threshold limit was defeated where the liability of compliance and collection of GST started with Rs. 1. • Small service providers such as guest faculty, services by mutual fund agents etc. have come under the ambit of GST. • Such exemption has been provided to services of job workers earlier by the Council.

10

Agenda Note No. 13(iii)(8)

Subject: To change time of supply in case of advances received by taxpayers having turnover upto Rs. 1.5 crore

Proposed Change	Rationale / Reason
• As per section 12, GST is payable at the time of receipt of advance or issue of invoice whichever is earlier. • Small taxpayers having turnover upto Rs. 1.5 crore have expressed difficulties in complying with this provision. • It is proposed that time of supply in case of receipt of advances from date of receipt of such advance to date of issuance of invoice or actual supply of goods if invoice is not issued within stipulated time.	• This change is important to ensure that compliance burden is reduced. This will also bring down the working capital requirement of smaller taxpayers.

11

Agenda Note No. 13(vii)

Subject: Exemption to services provided by GTA to unregistered persons

Proposed Change	Rationale / Reason
• Services provided by GTA attract GST @ 5% without ITC under Reverse Charge or 12% with ITC under forward charge. • But in case of supply to unregistered person the GTA is liable to collect tax (forward charge) and therefore obtain register under GST. • Many GTA are not taking consignments of unregistered persons / customers / small unregistered businesses. • It is proposed that such supply of services by GTA may be exempted both under RCM & forward charge.	• This exemption is important to ensure that transport agencies also transport consignments of unregistered small dealers. • There is minimal revenue loss since such GTA services taken by registered businesses is anyway under reverse charge.

12

Agenda Note No. 6(ii) (1/2)

Subject: Ease of payment and return filing for taxpayers with annual turnover up to Rs. 1.5 Crore

Proposed Change	Rationale / Reason
• Quarterly filing of returns (GSTR- 1, 2 & 3) along with quarterly payment of taxes by taxpayers having annual turnover up to Rs. 1.5 Crore in the previous year. • Taxpayers having annual turnover of more than Rs. 1.5 crore would continue to file monthly returns (GSTR- 1, 2 & 3) along with monthly payment of taxes. • GIC may be authorized to approve the changes in the CGST / SGST Rules required to implement this proposal as may be recommended by the Law Committee.	This step will help provide relief to large number of taxpayers **(around 85% contributing not more than 6% revenue)** from the onerous responsibility of filing monthly returns. This will also substantially reduce the stress on IT system.

13

Agenda Note No. 6(ii) (2/2)

Proposed Change	Rationale / Reason
▪ Discussions in officer's meeting ✓ Option may be given to small taxpayers to file monthly return. ✓ ITC on purchases from such taxpayers may be permitted monthly. ✓ GSTR-3B may continue to be filed by all till for the month of December as announced earlier. ✓ Cycle for July, 2017 returns may be completed by all taxpayers as announced earlier. ✓ Dates for August & September may be announced after seeing experience from July cycle. ✓ Quarterly returns for small taxpayers may start from quarter starting October, 2017. ✓ Last date for filing of GSTR-4 for first quarter may be 15.11.2017. ✓ Last date for filing of GSTR-6 for July, August & September may also be 15.11.2017.	▪ This will help GSTN and all other partners to make necessary changes in software. ▪ It has been informed by GSTN that FORM GSTR-4 & GSTR-6 would be available by 03.11.2017 and 23.10.2017 respectively.

14

Agenda Note No. 6(iii)

Subject: Proposal for suspension of application of provisions of sub-section (4) of section 9 till 31st March, 2018

Proposed Change	Rationale / Reason
▪ Proposal for suspension of application of provisions of sub-section (4) of section 9 till 31st March, 2018. ▪ In officer's meeting, it was felt that this will be required for section 5(4) of the IGST Act also.	• The provision has virtually eliminated the exemption limit provided to the small taxpayers and increased compliance for larger taxpayers. • Establishments making minor taxable but substantially exempted supplies (e.g. educational and religious institutions) adversely affected. • Brings huge compliance burden without commensurate benefits. • This will give trade and industry time to acclimatize itself with the GST system and allow its compliance matrix to get stabilized.

15

Agenda Note No. 6(iv)

Subject: Proposal for deciding the date for operationalization of provisions of nationwide E-way bill

Proposed Change	Rationale / Reason
▪ Council may decide about the date of operationalization of provisions of nationwide E-way bill. ▪ In officer's meeting, GSTN was requested to report about the dates from which software would be made available.	▪ Taxpayers are already facing challenges in complying with the existent compliances and overloading them with any such measure simultaneously might only increase their dissatisfaction with the system. ▪ Software is likely to take at least one more month to be ready and then needs to be tested subsequently.

16

Agenda Note No. 13(ii)

Subject: Finalization date for operationalizing of TDS / TCS provisions

Proposed Change	Rationale / Reason
• GST Council, in its 21st meeting had decided to notify Section 51 in order to enable registration of persons liable to deduct TDS. • It was also decided that registration for TCS / TDS will be opened by 18.09.2017 but actual deduction and collection will be enabled as a later date. • The registration for TDS / TCS could not be enabled due to non-availability of form by GSTN. The form will be available from 07.10.2017. • In officers meeting, it was felt that it may be extended to 31st March 2018.	• These provisions do not have any impact on the revenue collection and have been put in the law to create audit trail of transactions. • The success of these provisions depends on the back end systems, training of officers and integration with front end systems. • Under both these provisions, credit will be transferred on successful filing and linkage with GSTR-2. • Therefore, an appropriate date may be recommended after assessing the readiness of the trade, industry, Government Departments & IT Systems.

17

Agenda Note No. 8(i)

- Time limit for furnishing return in **FORM GSTR-5A** for the months of July, August and September, 2017 by a person supplying OIDAR services proposed to be extended to **20.11.2017** from **15.09.2017**
- Time limit for filing of FORM GST ITC-01 (for the purpose of claiming input tax credit under section 18(1) of the CGST Act) proposed to be extended to **31.10.2017**

18

Agenda Note No. 8(ii)

- Proposal to amend Rule 46 so as to provide that
  - ✓ in case of B2C supplies, cumulative value of goods or services or both liable to tax at a particular rate & total tax thereon on all such goods or services or both can be shown
  - ✓ a single "invoice-cum-bill of supply" where both taxable as well as exempted goods or services or both are supplied
- Proposal to amend Rule 54 so as to provide that a banking company or a financial institution, etc. shall issue a consolidated invoice or any other document for supply of services in a particular month
- Proposal to amend instructions for filing return in FORM GSTR-4 so as to provide that serial no. 4A of Table 4 shall not be furnished for July, 2017 to December, 2017

19

Agenda Note No. 8(iii)

- Exemption from registration to casual taxable persons making taxable supplies and persons making inter-State taxable supplies of **listed handicraft goods** was approved in 20th Meeting of GST Council and relevant notifications were issued
- Following items are proposed to be added:
  - ✓ Handmade shawls, stoles and scarves (may be added to Sl.no. 9 of the table in the notification, along with addition of chapter 61)
  - ✓ Chain stitch
  - ✓ Crewel, namda, gabba
  - ✓ Wicker willow products
  - ✓ Toran
  - ✓ Articles made of shola

20

Agenda Note No. 8(iv)

- Proposal to issue a circular so as to provide :
  - ✓ Details filed in **FORM GSTR-1** by the supplier would be made available to the recipient in **FORM GSTR-2A** not later than 11.10.2017 and the recipient shall furnish the details in **FORM GSTR-2** by 31.10.2017
  - ✓ Details filed in FORM GSTR-2 by the recipient would be made available to supplier in FORM GSTR-1A who will accept or reject such details from 01.11.2017 to 02.11.2017 and his FORM GSTR-1 would stand modified accordingly.

21

Agenda Note No. 9

Subject: Proposal for issuing notifications on cross – empowerment for ensuring single interface under GST

Proposal	Rationale / Reason
It is proposed that notifications on cross empowerment, which have been prepared in accordance with the recommendations of the Council, be approved.	There is a broad agreement on cross empowerment under the CGST and SGST Acts. If notifications on cross empowerment are kept in abeyance for want of agreement on IGST Act's cross empowerment, the effort to ensure single interface would be in vain. Taxpayers are increasingly feeling the heat of delay in grant of refund.

22

Agenda Note No. 10 (1/2)

- Vide its order dated 14.09.2017, the Hon'ble High Court directed the Central Government and the GNCT Delhi to issue corrigenda to Notification No.13/2017 – Central Tax (Rate) dated 28.06.2017 and No. 10/2017-Integrated Tax (Rate) dated 28.06.2017, so as to make them fully consistent with the decisions of the Council
  - ✓ It was contended that there was a difference in the press release issued immediately after the meeting of the Council and the actual notification
- In order to avoid challenges to the legality of the notifications it is proposed that all the notifications, circulars and orders issued by the Central Government shall be forwarded to the GST Council Secretariat, through email, for information and deemed ratification by the GST Council

23

Agenda Note No. 10 (2/2)

Act/Rules	Type	Notification Nos.
CGST Act/CGST Rules	Central Tax	1 to 36 (37 dt. 04.10.17)
	Central Tax (Rate)	1 to 29 (30 dt. 29.09.17)
IGST Act	Integrated Tax	1 to 8
	Integrated Tax (Rate)	1 to 30 (31 dt. 29.09.17)
UTGST Act	Union territory Tax	1 to 3
	Union territory Tax (Rate)	1 to 29 (30 dt. 29.09.17)
GST (Compensation to States) Act	Compensation Cess Notification	1
	Compensation Cess (Rate) Notification	1 to 5
~~Circulars~~	~~Under the CGST Act~~	1 to 7 (8 dt. 04.10.17)
	~~Under the IGST Act~~	1
	~~Under the GST (Compensation to States) Act~~	1
Orders (only that on reco	Under CGST Act (only order no.	1 to 3 (4 dt. 29.09.17)

Annexure 4

Presentation on GSTN Issues

GST System Project Current Status

Author : GSTN
Date : 6th Oct 2017

1

Services made available on GST Portal

Registrations	Payments	Returns	Transitional Forms
Application for New Registration for Normal Taxpayer	Online Payments through **Internet Banking and NEFT/ RTGS**	Creation and saving of Outward Supplies Return in Form **GSTR-1**	**Tran Form 1** - Transitional ITC / Stock Statement
Application for New Registration (ISD)	Offline Payments-**Over the Counter** (Authorised Bank) for amount upto Rs 10,000/-	Viewing of Invoices uploaded by Supplier in **GSTR-2A by Buyer**	**Tran Form 3** - Credit distribution
Application of Enrolment for GSTP	Creation and maintenance of **Electronic Cash Ledger**	Offline Utility for **GSTR-1** for upload of invoices	
Application to opt for Composition scheme		Creation, saving and filing of Return form **GSTR-3B**	
Application for Registration of casual dealer		Filing of Return Forms **GSTR-1** and **GSTR-2**	
Application for Amendment of Registration – for non-core fields			
Revocation of rejected application			
Processing of Registration of Migrated dealers			
Application for New Registration for TDS			
Opt out from composition scheme			

2

New Registration and Migration Stats (as on 4th Oct' 2017)

New Registration

Details	Center Count	State Count	Total Count
Number of Registration Filed and allocated	15,03,133	14,99,795	30,02,928
Number of Registrations – Approved	13,50,142	12,46,775	25,96,917
Number of Registrations – Rejected	85,845	1,92,743	2,78,588
Applications pending with Tax-officers	53,019	45,081	98,100
Application pending with Tax-payer (SCN raised)	14,131	15,196	29,327
Number of Tax-payers opted for Composition			15,42,143

Migrated from previous regime

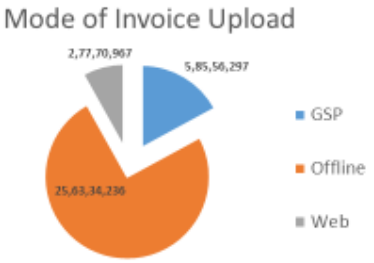
Details	Count
Total Provisional IDs (PIDs) Issued	85,73,268
Total PIDs Activated	72,83,902
Total Tax-payers Filled application part – B and fully migrated	64,20,689

3

Returns and Invoices (as on 5th Oct' 2017)

Return Filing Status

Return	Filed Return
GSTR-3B – July	53,36,481
GSTR-3B – August	45,14,242
GSTR-1 – July	34,90,407

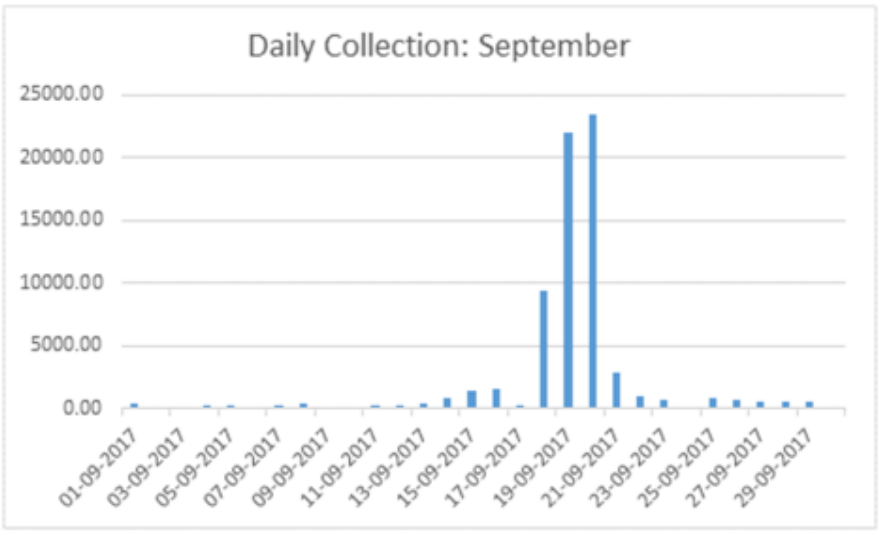


Invoice Upload Data (as on 5th Evening)

Return	Filing Mode	In-Process	Invoices Processed	Rejected	Grand Total
GSTR 1	GSP	358,054	4,14,38,692	1,67,59,551	5,85,56,297
	Offline	213,078	19,82,75,098	5,78,46,060	25,63,34,236
	Web	8	2,77,62,910	8,049	2,77,70,967
	Grand Total	5,71,140	26,74,76,700	7,46,13,660	34,26,61,500

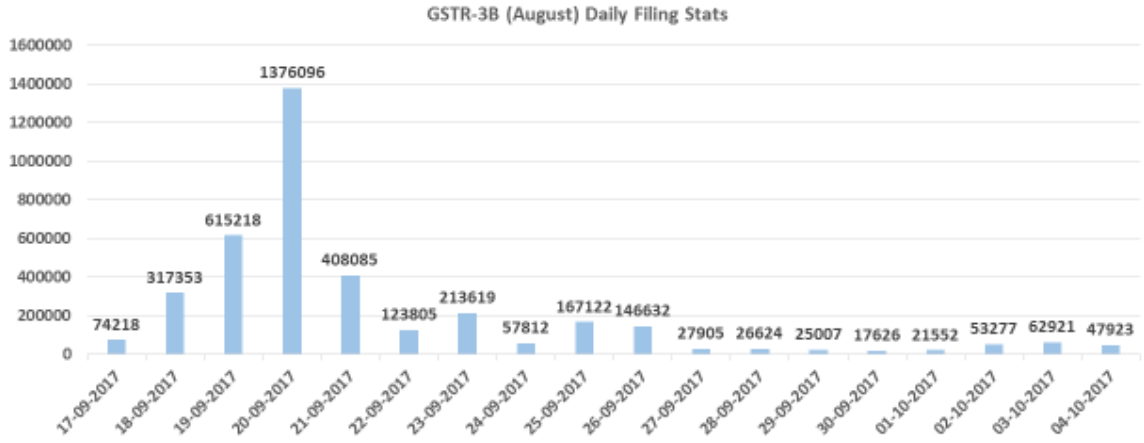
4

Daily Collection Stats



5

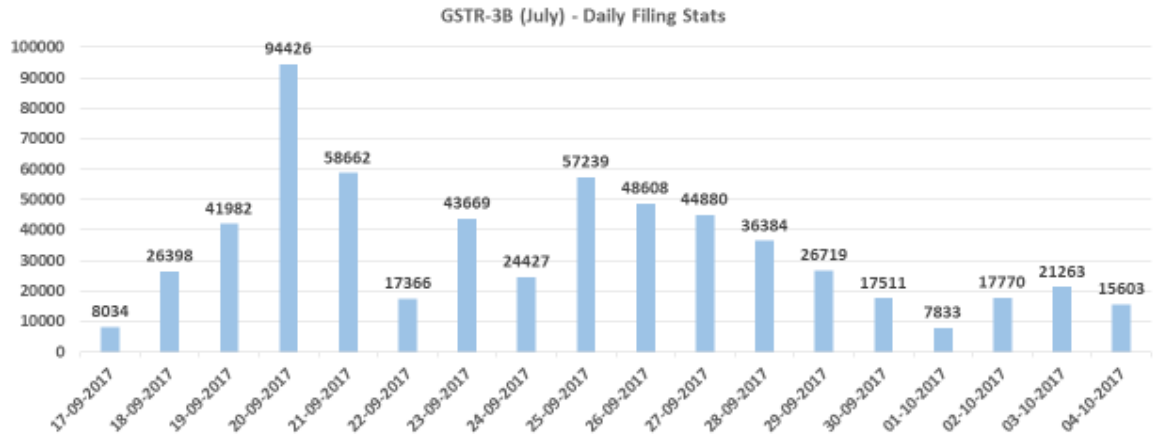
GSTR 3B (August) – Daily Filing Status



Total count of filed GSTR-3B (August): 44,66,995

6

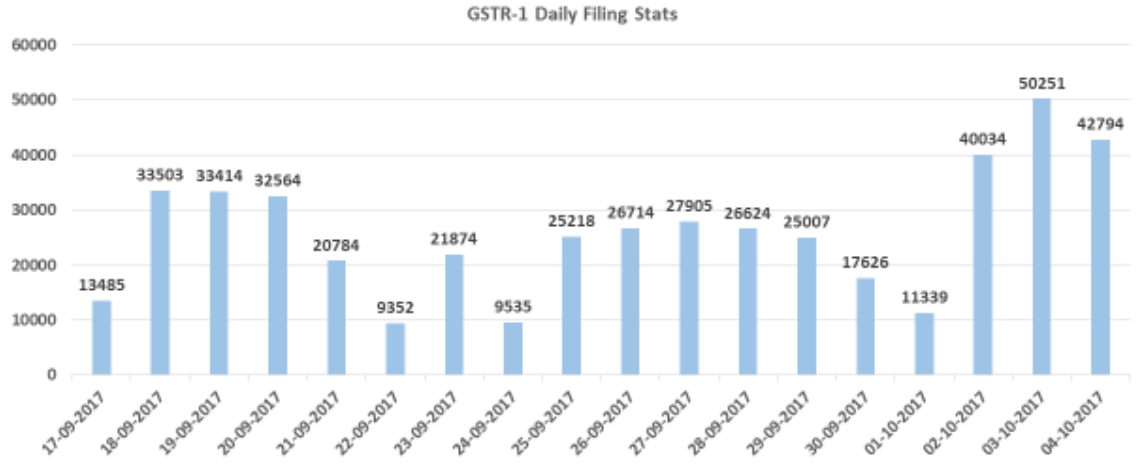
GSTR 3B (July) – Daily Filing Status



Total count of filed GSTR-3B (July): 53,20,651

7

GSTR 1 (July) – Daily Filing Status

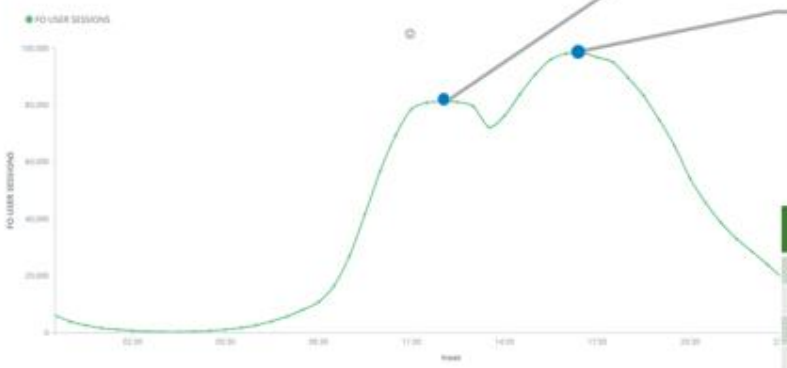


Total count of filed GSTR-1 (July): 34,34,796

8

System Stats – Resource Usage

GST System employs a "Circuit Breaker" as a precautionary measure to avoid crash due to overload



Around noon, user load reached the preset limit of **80K sessions**

After assessing the system metrics the limit was raised to **1 Lakh**

Even under 1 Lakh load the resource utilization was well under control

Category	Max Utilization
Bandwidth	35%
Application Servers	17%
Data Servers	21%
Network devices	66%

9

Some Statistics

GSTR3B - JULY 2017 SETOFF THROUGH CASH LEGER											
	SET OFF THROUGH CASH LEDGER (Rs. In Crores)										
	count	CGST	SGST	IGST	CESS	TOTAL TAX	FEE	INTEREST	PENALTY	OTHER	TOTAL
Upto 31/08	2005274	13583.11	20952.30	24365.33	6461.52	65362.26	7.47	0.60	0.00	0.00	65370.34
01/09 to 26/09	350247	912.35	1425.89	1303.71	71.53	3713.48	2.71	1.69	0.00	0.00	3717.87
TOTAL	2355521	14495.46	22378.19	25669.04	6533.05	69075.74	10.18	2.29	0.00	0.00	69088.21

4205.94

R3B JULY 2017 (26TH SEPTEMBER 2017)			
	NO. OF R3B FILED FOR JULY TILL 26/09/2017	Count of Returns where liability paid by ITC or by Cash or by both	NIL Liability Return Count
TOTAL	51,32,480	30,43,464	20,89,016

Paid by ITC/Cash	23.55	45.89%
Paid by ITC only	6.88	13.41%
Nil Liability Return	20.89	40.71%

10

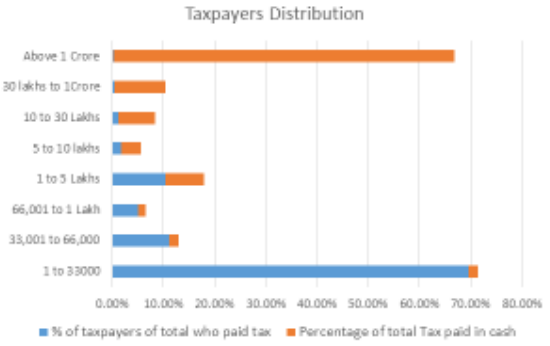
Some Statistics

Slab-wise summary of Taxpayers as per Tax Paid as per Return R3B - July 2017 (Excluding Cess)					
	Set of Through Cash Ledger			Total Credit Utilised (CGST+SGST+IGST)	
CGST + SGST + IGST (in rupees)	Count of 3B (Tax paid in Cash)	Total Cash Paid (Rs. In Crore)	Percentage of total Tax paid in cash	Count of 3B (Credit Utilized)	Total Credit Utilised (Rs. In Crore)
1 to 33000	1637769	**1344.01**	1.95%	1167540	1311.41
33,001 to 66,000	261831	**1227.51**	1.78%	332802	1583.8
66,001 to 1 Lakh	121029	**982.6**	1.42%	189396	1545.66
1 to 5 Lakhs	246359	**5205.87**	7.54%	505546	11280.92
5 to 10 lakhs	38986	**2721.88**	3.94%	102424	7154.85
10 to 30 Lakhs	29192	**4894.74**	7.08%	79053	13211.47
30 lakhs to 1Crore	12738	**6767.6**	9.80%	31784	16684.1
Above 1 Crore	7617	**45944.01**	66.50%	14939	73106.62
TOTAL	**2355521**	**69088.21**	100.0%	**2423493**	**125878.83**

11

Some Statistics

CGST + SGST + IGST (in rupees)	Count of Taxpayers	% of taxpayers of total who paid tax	Amount of Tax paid (Rs in Cr)	Percentage of total Tax paid in cash
1 to 33000	1637769	69.53%	**1344.01**	1.95%
33,001 to 66,000	261831	11.12%	**1227.51**	1.78%
66,001 to 1 Lakh	121029	5.138%	**982.6**	1.42%
1 to 5 Lakhs	246359	10.46%	**5205.87**	7.54%
5 to 10 lakhs	38986	1.66%	**2721.88**	3.94%
10 to 30 Lakhs	29192	1.24%	**4894.74**	7.08%
30 lakhs to 1Crore	12738	0.54%	**6767.6**	9.80%
Above 1 Crore	7617	0.32%	**45944.01**	66.50%
TOTAL	**2355521**	**100%**	**69088.21**	100.00%



12

Updates of GoM Review Meetings

1. In the first meeting, on 16th Sep '2017, the GoM had identified 48 items for time bound resolution.
2. Out of these 48 items, 8 were completed and status was presented to GoM on 4th Oct '2017. The list of completed items is given below:
   a) **Placement of Resident Engineers** (Interim/Permanent) at 37 locations (CBEC/States/UTs). Infosys was advised to replace interim personnel with permanent ones who are qualified to do this job, in next two weeks.
   b) **Sharing of data on the following items with Model 1 and 2** in csv format
      i. **Enrolment Report** (CBEC and States): Daily incremental is being shared after sharing of complete data dump
      ii. **New Registration Report** (CBEC and States): Daily incremental is being shared after sharing of complete data dump
      iii. **Return Filer** (CBEC and States) : Daily incremental is being shared after sharing of complete data dump
      iv. **Dealers complete Address list** (CBEC and States): Complete data dump (one time) shared for both, migrated as well as newly registered ones.
      v. **GSTR 3B filer** (CBEC and States): Complete data dump (one time)

Updates of GoM Review Meetings

c) **Sharing of data with Model 1 States**: The root cause for difference in data reported and records (registration form, returns etc.) pulled by CBEC/Model 1 states has been found and corrective action taken

d) Enabling tax payers stuck at submit stage to edit the same and file GSTR-3B (2.2 lacs tax payers)

e) **Amendment of core and non-core** items of Registration form rolled-out on the portal

f) **Tran-1 Filing (Negative Credit issue)** resolved for future use. Cases done in past are being dealt separately by data fix.

g) **Suo Moto Registration** rolled-out on the portal having functionalities given below:
   i. ID creation
   ii. Create Challan
   iii. Making Payment

h) **Opt-out from Composition scheme** rolled-out

Updates of GoM Review Meetings

3. **Out of these 48 items, 4 are in progress with some delay.** The list of such items is given below:
   a) GSTP Registration application Processing
   b) TDS/TCS Registration Application Processing
   c) Revised Tran1 (Reopening Tran 1 to enable submission of revised TRAN-1)
   d) Refund for Export - ICEGATE API
4. **For 4 items, release dates have been advanced based on directions of GoM**. The list of such items is given below:
   a) GST PMT-07: Application for intimating discrepancy relating to payment
   b) GSTR-3B: Enhancement to enable Preview and Print out/PDF Download
   c) Revocation of RC
   d) Change of Authorised signatory by tax official

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Updates of GoM Review Meetings

5. Other Items
   a) **Roll-out of TCS/TDS:** Keeping in view the status of development of TCS/TDS module and time taken to process the registration application by tax officers, it was felt that the roll-out of TCS/TDS should be done from 1st Dec '2017 so that filing of the return can be made available from 1st Jan '2018. Since the mismatch logic hasn't been fully finalized, GSTN was asked to go ahead and deploy the TCS/TDS registration processing and return fling without creation of mismatch report.GSTR-3B: Enhancement to enable Preview and Print out/PDF Download
   b) **Review of progress by IT committee before the meeting of GoM:** Keeping in view the technicalities involved and the fact the IT committee is meeting every week to review the IT issues, it was decided by GoM that the IT committee will meet a day or two before the GoM meeting and review the progress. Only items not resolved or requiring attention of GoM will be put up before it.

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Thanks

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Updates on Prioritized Functionalities

#	FORM	FORM Components/Details	Agreed Date of Deployment	Actual Date of Deployment	Status	Remarks
1	GSTR 3B	Solution for 3.5 lakh GSTR3B who have submitted but not filed	19-Sep-17	21-Sep-17	Complete	Closed for 95% cases, rest 5% needs a complex solution, under development
2	MIS	Reports Data Dump for Model-2 States	22-Sep-17	On-going	Complete	Registration, Migration, and Returns (GSTR3B) reports have been shared. Payment report is in progress.
3	Registration	Amendments of Core fields	22-Sep-17	27-Sep-17	Complete	
4	Registration	Opt out for Composition scheme	22-Sep-17	01-Oct-17	Complete	
5	Registration	Suo Moto Registration and Payment option by Govt. department 1) ID creation, 2) Create Challan, 3) Making Payment	29-Sep-17	27-Sep-17	Complete	
6	Registration	GSTP Registration Processing	29-Sep-17		In Progress	UAT in progress, target production deployment date is **18th Oct.**
7	Registration	TDS/TCS Registration and Processing	29-Sep-17		In Progress	UAT in progress, target production deployment date is **7th Oct.**
8	GSTR 1A	Generation & Submission/Filing of GSTR- 1A	30-Sep-17		In Progress	In UAT, there are filing issues and being addressed. Production deployment will be on **5th Oct.**
9	Refunds	Refund for Export - ICEGATE API (Part of RFD-01)	30-Sep-17		In Progress	Workaround (for exports) will be released by **4th Oct** to production.

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Updates on Prioritized Functionalities

#	FORM	FORM Components/Details	Agreed Date of Deployment	ETA	Status	Remarks
10	Offline	Creation and submission of Returns in Offline Utility for GSTR-2 without xls download from tool	06-Oct-17	06-Oct-17	In Progress	UAT in progress
11	GSTR 2A	GSTR-2A for ISD changes	11-Oct-17	20-Oct-17	In Progress	Development completed.
12	Offline	Creation and submission of Returns in Offline Utility for GSTR-2 with xls download from tool	11-Oct-17	11-Oct-17	In Progress	Release Testing in progress.
13	Tran 1	Revised Tran1 (Reopening Transition Form 1 to enable Multiple Submit)	13-Oct-17	24-Oct-17	In Progress	Development under progress. Expected deployment for Release Testing by 9th Oct
14	Tran 1	CSV Utility for 6a, 6b, 7b, 9a, 9b of TRAN-1	13-Oct-17	20-Oct-17	In Progress	6a, 6b - dev completed (RT:. 3rd Oct). 9a, 9b (RT: 6th Oct). 7b - Release Test release 20th Oct. UAT - one week post Release Test release
15	Payment	Grievance for Payment not reflecting in Cash Ledger - PMT07	16-Oct-17	13-Oct-17	In Progress	Development under progress
16	GSTR 5A	Creation & Submission of GSTR-5A (OIDAR supplies)	17-Oct-17	20-Oct-17	In Progress	In Release Test from 26th Sep. UAT to start from 12th Oct.
17	ITC01	Application for eligible ITC prior to registration / withdrawal from compounding scheme ITC 01	17-Oct-17	21-Oct-17	In Progress	In Release Testing. UAT to start from 13th Oct.
18	GSTR 3B	GSTR-3B - Feature Enhancement		TBD	Not Started	Note: This is a major design change and applicable for all Returns. Design change is in progress.

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Updates on Prioritized Functionalities

#	FORM	FORM Components/Details	Agreed Date of Deployment	ETA	Status	Remarks
19	GSTR 3B	GSTR-3B - Enhancement to enable Print out/PDF Download	18-Oct-17	14-Oct-17	In Progress	Development under progress
20	GSTR 1A	GSTR 1A Offline utility	18-Oct-17	21-Oct-17	In Progress	Development under progress. UAT to start from 13th Oct.
21	Registration	Change of authorized signatory by Tax Officer	18-Oct-17	14-Oct-17	In Progress	Release Testing in progress.
22	Registration	Registration of Non Resident Tax Payers	18-Oct-17	18-Oct-17	In Progress	In Release Test. UAT to start from 10th Oct.
23	Tran 1	G2G API's for Transition forms	20-Oct-17	20-Oct-17	In Progress	Development is in progress.
24	GSTR 1	GSTR 1 - Enhancement to enable Preview and Print out/PDF Download	20-Oct-17		Complete	
25	GSTR 2	GSTR-2 - Enhancement to enable Preview and Print out/PDF Download	20-Oct-17		Complete	Will be operational from 11th Oct.
27	MIS	MIS Reports for Model-2 States	20-Oct-17		In Progress	Development in progress. Will be shared in a staggered way – first set by 20th Oct
28	GSTR 6, GSTR 6A	Creation & Submission of Return for ISD GSTR-6 / View of GSTR-6A (ISD)	23-Oct-17	23-Oct-17	In Progress	Release Testing in progress.
29	GSTR 3	Creation and Submission Of Monthly Return GSTR-3	30-Oct-17		Complete	Under closed group testing.
30	Mismatch Report	Creation & Display of Mismatch Report	30-Oct-17	07-Nov-17	In Progress	Development in progress.

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Updates on Prioritized Functionalities

#	FORM	FORM Components/Details	Agreed Date of Deployment	ETA	Status	Remarks
31	Registration	Change of jurisdiction by Tax Officer before approval / rejection	30-Oct-17	30-Oct-17	In Progress	Under Release Testing. Will be delivering before the due date.
32	Registration	OIDAR Registration and Processing	30-Oct-17	30-Oct-17	In Progress	Workaround will be provided by this date.
33	Registration	Cancellation and Surrender of Registration Certificate	30-Oct-17	30-Oct-17	In Progress	Workaround will be provided for cancellation by 10th Oct.
34	Registration	Revocation of RC	30-Oct-17	30-Oct-17	Not Started	Development not started
35	Registration	Grievance Management	30-Oct-17	30-Oct-17	In Progress	Release Testing in progress.
36	Registration	GSTP Dashboard	30-Oct-17	30-Oct-17	In Progress	Development under progress.
37	Tran 2	Transition Form 2 Development	30-Oct-17	30-Oct-17	In Progress	Development under progress.
38	GSTR 4	Creation & Submission of Quarterly Return by Compounding Taxpayer GSTR-4	03-Nov-17	03-Nov-17	In Progress	To be released by 15th Oct however extension in timeline is required.
39	GSTR 11	Filing of Returns by UIN Holders for Inward Supplies GSTR-11	10-Nov-17	10-Nov-17	Not Started	Development not started
40	GSTR 4	View of GSTR-4A (composition supplies)	17-Nov-17	17-Nov-17	In Progress	To be released by 15th Oct however extension in timeline is required.

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Updates on Prioritized Functionalities

#	FORM	FORM Components/Details	Agreed Date of Deployment	ETA	Status	Remarks
41	GSTR 5	Return for non-resident taxable person	17-Nov-17	17-Nov-17	In Progress	Release testing is in progress
42	Refunds	Refunds - Exports WO payment of tax - part of RFD01	20-Nov-17	20-Nov-17	In Progress	Design is in progress.
43	Refunds	Refunds - BO Processing	20-Nov-17	20-Nov-17	In Progress	Design is in progress.
44	Refunds	Refunds - Excess Balance in Cash Ledger	01-Dec-17	01-Dec-17	Not Started	Development not started
45	GSTR 7	Creation and Submission of TDS Return GSTR-7	08-Dec-17	08-Dec-17	Not Started	Development not started
46	GSTR 7A	View of GSTR-7A (TDS)	08-Dec-17	08-Dec-17	Not Started	Development not started
47	GSTR 8	Creation & Submission of Return for e-Commerce GSTR-8	08-Dec-17	08-Dec-17	Not Started	Development not started
48	Refunds	Refunds - Exports of Services	08-Dec-17	08-Dec-17	Not Started	Development not started

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Action Taken Note on remaining items

Component	Activity	Status
Registration	When the reply to the notice issued on registration application is overdue, an alert should be raised by the system to the officer	Alert is generated when taxpayer does not respond within due-date. One more alert will be created as and when taxpayer responds within due date
Registration	Specific errors be given on rejection of registration due to some errors due to data validation	Completed
Payments	RBI figures and those shared by GSTN are not matching. Mechanism for reconciliation should be put in place immediately	Reconciliation partially resolved and the first time success rate with Banks has improved, however, the work is in progress with Banks and RBI to resolve the issue completely. The payment during August month return filing was much smoother. On 19th and 20th Sept 45,460 Crores was paid by the taxpayers and handled by the system
Payments	Tax payment before GST regime and tax payment after GST regime should be analysed. Data before GST regime should be pulled from VAT systems.	Request has been made to States but data is yet to be received from them.
Settlement	Settlement related issue needs to be fixed on priority	Settlement report was prepared on 26th Sept based on data as on midnight of 25th Sept and handed over to Department of Revenue for further processing

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Action Taken Note on remaining items

Component	Activity	Status
Returns	Enable editing after Submit button and before filing. The preview should be available to taxpayers. Preferably, the "submit" business process should be changed to "calculate" or "generate" business process.	Preview has been done for GSTR1, GSTR2, and GSTR3B, TRAN-1 is in progress. However, eliminating the Submit change is big design change and the entire solution has to be thought through holistically. Discussion in progress and timeline not estimated.
Returns	Filing of TRAN-1 has been made a pre-condition to filing of Return if the TRAN-1 has been opened and submitted but not filed by the taxpayer due to errors or zero data. This should be delinked.	Only if the TRAN-1 has been submitted as entries are made in the ITC Ledger and the same can be utilized even if TRAN-1 is not signed and filed and hence the restriction.
Returns	Beta testing of GSTR-1/2/3 should be done quickly. Preferable time will be during 21st to 30th of Sept, 2017. Beta version and access to the system should be provided to the officers for testing feedback.	In Progress
Back-Office	Functionality to change the authorized signatory by tax official to be made available at the earliest.	In UAT
Others	Dummy access to the portal in test environment will be given to states and CBEC so that tax officials can perform some quick test on the new functionalities	Completed access to Training environment. Access to Production can't be given

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Annexure 5

Report
of the
Committee on Exports

Placed Before the GST Council

22nd Meeting
Delhi
6th. October 2017

Background

- Taking cognizance of the reported difficulties being faced by exporters post-GST, the Council decided to set up a Committee on Exports in its 21st Meeting held on 09.09.2017 at Hyderabad.

Mandate

- To examine the issues troubling the export sector post-GST and to recommend a suitable strategy for helping this sector.

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Constitution of the Committee on Exports

- Hon'ble Finance Minister constituted the Committee on Exports on 12.09.2017 with Revenue Secretary as its Convenor and the following officers :

S. No.	Name, Designation & Organization	
1.	Ms. Vanaja N. Sarna, Chairperson, CBEC	Member
2.	Shri P.K. Das, Member Customs, CBEC	Member
3.	Shri Alok Chaturvedi, Director General, Director General of Foreign Trade	Member
4.	Shri Arun Goyal, Additional Secretary, GST Council Secretariat	Member
5.	Shri Sandeep M. Bhatnagar, Director General, Directorate General of Export Promotion, CBEC	Member-Secretary
6.	Dr. P.D. Vaghela, Commissioner of Commercial Taxes, Government of Gujarat	Member
7.	Shri Rajiv Jalota, Commissioner of Sales Tax, Government of Maharashtra	Member
8.	Shri Ritvik Ranjanam Pandey, Commissioner of Commercial Taxes, Government of Karnataka	Member
9.	Ms. Smaraki Mahapatra, Commissioner of Commercial Taxes, Government of West Bengal	Member
10.	Shri M. Balaji, Joint Commissioner of Commercial Taxes, Government of Tamil Nadu	Member
11.	Shri Upender Gupta, Commissioner (GST Policy), CBEC	Special Invitee
12.	Shri L. Satya Srinivas, Joint Secretary (Customs), CBEC	Special Invitee

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Stakeholder Consultations

- The Committee and its Sub-Groups met 6 times between 19.09.2017 and 29.09.2017.
- The Committee interacted with stakeholders from both within Government and outside. Views of Commerce Secretary, Chief Economic Advisor, CBEC, GSTN, CGA and Pr. CCA were taken on board.
- The Committee had in-depth discussion with major Export Promotion Councils (EPC):
  - Federation of Indian Export Organizations (FIEO)
  - Gem and Jewellery Export Promotion Council (GJEPC)
  - Engineering Export Promotion Council (EEPC)
  - Council for Leather Exports (CLE)
  - Basic Chemicals, Cosmetics & Dyes EPC (CHEMEXIL)
  - Apparel Export Promotion Council (AEPC)
  - Pharmaceuticals Export Promotion Council (PHARMEXCIL)
  - Handicrafts Export Promotion Council (HEPC)

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Major Problems of Exporters

1. Delays in grant of refunds of IGST and input taxes on exports.

2. Working capital blockage :

   (a) for manufacturer exporters including EOUs due to requirement of upfront payment of GST on inputs / capital goods, and

   (b) for merchant exporters due to requirement of upfront payment of GST on finished goods.

3. Increased transaction cost due to requirement of bond/letter of undertaking (LUT) and for bank guarantee in certain cases.

4. Reduced usability of duty credit scrips and levy of GST on their sale-purchase.

5. Levy of GST on bunker fuel supplies to foreign going vessels eroding competitiveness.

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Recommendations of the Committee

1. Delay in Refunds

- **Main reasons for the delay:**
  - Grant of refunds is linked to returns (GSTR-1 and GSTR-3/3B), which are held up for various reasons.
  - GSTR-1 which contains transaction level details of export supplies is available for July only. It cannot be filed for August and subsequent months till the cycle of filing GSTR-1, GSTR-2 and GSTR-3 is completed for previous month - a legal requirement and GSTN is designed so.
  - Refund module is not ready in GSTN.
- **Recommended Solution:**
  - Process refunds manually till such time the systems related issues are resolved.

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I - Refund of IGST paid on goods exported outside India

To be dealt with by Customs Officers

- **By 10.10.2017 - Refunds for July 2017 to begin** – Shipping Bill is the application for refund. GSTR-1 and GSTR-3B is with GSTN and the proof of export for goods (EGM) is with Customs - CBEC and GSTN in association with Principal CCA and Controller General of Accounts of India (CGA) are working out modalities to start payment of refunds.
- **By 18.10.2017 - Refunds for August 2017 to begin** - As GSTR-1 cannot be filed (because cycle of GSTR-1, GSTR-2 and GSTR-3 for previous month(s) is not complete), GSTN would make available only Table 6a of GSTR-1 of exporters with the details of zero rated supplies electronically to CBEC. Refunds would be processed using GSTR-3B data with the Table 6a data.
- **Refunds for subsequent months** - To be dealt in like manner of August 2017 till the time GSTR-1 is made available.

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II. (a) Refund of IGST paid on export of services / supplies to SEZs
(b) Refund of accumulated credit on export of goods / services / supplies to SEZs under Bond/LUT

To be dealt with by jurisdictional Central / State GST officers

- **By 06.10.2017:** GSTN and DG Systems, CBEC to finalize modalities for CBEC to receive all GSTR-1s and all GSTR-3Bs.
- **By 10.10.2017:** GSTN to make available a new utility form RFD 01A on website for refund claimant which would contain a request to debit the credit ledgers for ITC refund being claimed.
- **By 30.10.2017:** GSTN will make available facility in a new form RFD 01B for GST officers to order re-credit the amount of refund rejected.
- **Accounting**: Pr. CCA + CGA + CAG + Budget Division + Revenue Hqrs + State accounting authorities are finalizing the accounting procedure and settlement of funds.
- **Cross empowerment:** GIC is looking into the cross empowerment of State/ Central GST officers for grant of refunds.
- **SOP**: GIC is developing a SOP for the grant of refunds manually till such time the systems related issues are resolved.

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2. **Working capital blockage**

- Pre-GST, the major export promotion schemes viz. Advance Authorization (AA), EPCG and EOUs allowed duty free procurement of inputs / capital goods for export production.

  Under GST, such supplies are subject to IGST on imports and GST on domestic sourcing. Thus, funds are blocked for production-refund cycle of about 6 months.

- Pre-GST, merchant exporters procured export goods free of Central Excise duty (Rule 19 of Central Excise Rules) and VAT (Form-H).

  Under GST, tax is to be paid This has created need for additional working capital as taxes paid get blocked for entire procurement-export-refund cycle.

- **Recommended solution:**

The Committee examined two options to address the issue of blockage of working capital of exporters.

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- **OPTION-1 :**

For exporters availing Advance Authorization (AA) / Export Promotion Capital Goods (EPCG) / 100% Export Oriented Units (EOU) schemes

I. For imports – Grant exemption from IGST and Cess under Section 6 of IGST Act, 2017 read with Section 25 of Customs Act, 1962.

II- (i) For domestic supply –

a. Notify supplies as deemed exports u/s 147 of CGST/SGST Act and allow refund of tax paid to supplier.
b. Issue Advance Release Order (ARO) in the name of supplier identified by exporter having AA / EPCG or EOU status.
c. Existing monitoring mechanism for exports to continue.
d. For refund of IGST on inter-state deemed export supplies, settlement mechanism would be required.

- (ii) For Merchant Exporters (ME) -

a. Supplies of goods to a ME registered with EPC / Commodity Boards) shall be on payment of nominal 1% GST.
b. Adequate safeguards such as requiring export goods to be aggregated in export warehouses etc. to prevent misuse.

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- **OPTION-2 : e-Wallet**
  - Create an e-Wallet for exporters and give a notional credit in advance on the basis of the past export performance.
  - Exporter can use the balance in e-Wallet to pay tax liability and then adjust the credit against the refund paid to him.
  - Notional credit in e-Wallet is like an advance refund, with the restriction that this can only be used to pay taxes and will be adjusted against final payment of refunds.
  - **Payment of IGST on imports**: The credit in e-Wallet can be used for payment of IGST on imports to Government thus ensuring there is no additional burden of working capital.
  - **Payment of GST on domestic purchases**: GST has to be paid to the supplier. The e-Wallet system permits a transfer of balances from one account to other and the balances are allowed only to pay taxes. The working capital requirement in the eco-system gets reduced by the amount of the notional credit given in the e-Wallets.

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- **Comparison of Option-1 and Option-2**

Parameter	Option-1 Exemption cum Deemed Export	Option-2 e- Wallet
Eligibility and Procurement Limits	Fixed by DGFT	Fixed by DGFT
Import	Electronic debit against AA / EPCG/ EOU eligibility	Electronic debit against e-wallet
Domestic Procurement	Invalidation of AA / EPCG / EOU done by DGFT and Advance Release Order (ARO) issued by Exporter to Supplier Based on ARO Deemed Export done by Supplier to Exporter. Supplier pays duty first under deemed Export and claims refund later.	Exporter endorses e-wallet debit facility to supplier based on the limits fixed by DGFT – which is equivalent to ARO procedure. Supplier debits e-wallet for supplies made to exporter. Supplier is eligible to claim refund of accumulated credit .
IT Preparedness	Existing mechanism in customs system would suffice for Import. For Domestic procurement GSTR 1 can capture supplies under Deemed export. IT platform needs to be developed for ARO mechanism.	IT platform needs to be built and integrated with Customs system for import . GSTR1 has to be tweaked to include debits of e-wallet. IT platform need to be developed for ARO equivalent mechanism.
Implementation	Can be implemented immediately with manual verification of ARO process	Needs time to develop IT platform

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3. **Increased transaction cost due to requirement of bond/letter of undertaking (LUT) for all exports and bank guarantee in certain cases**

Pre-GST, service exporters as well as merchant exporters were not required to execute any bond/LUT except for the exporters registered with Central Excise. However, Section 16 of IGST Act, 2017 requires zero rated supplies to be made under bond or LUT, subject to such conditions, safeguards and procedure as may be prescribed, without payment of IGST. Thus, statutory requirement is either bond or LUT and a Bank guarantee is part of safeguards and conditions.

The Committee's recommendation was to dispense with the requirement of a bond as well as a Bank guarantee and prescribe only a LUT.

This recommendation was endorsed by the GIC and implemented vide Notification No.37/2017-Central Tax, dated 04.10.2017.

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4. **Reduced re-usability of duty credit scrips**

Pre-GST, duty credit scrips issued as incentives to exporters by DGFT could be used for debiting Customs duty as well as Additional Custom Duty on imports and Central Excise duty and Service Tax on domestic procurement. However, post GST, these scrips can be used only for Basic Customs Duty. This has reduced their utility and their sale value has come down. DGFT suggested that the scrips may be allowed to pay GST, but this is not found acceptable.

The Committee recommends that GST rate on sale-purchase of duty credit scrips be reduced from 5% to Nil. When the option of e-Wallet is adopted, even MEIS scrip can be deposited in e-Wallet in which case this concession may not be necessary.

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5. Denial of provisional refunds

On 09.09.2017 Council desired the Committee to examine the proposals vide Agenda Item 5(i) to disallow provisional refunds to (a) exporters who obtain registration within 6 months of applying for refunds and (b) exporters who do not furnish returns for 3 consecutive tax periods preceding the refund application.

(a) The Committee is of the view that the need of the hour is to encourage exports especially by new exporters. Further, refund is linked to the factum of export which is to be necessarily established. Thus, the Committee recommends that provisional refund should not be denied to new exporters

(b) The Committee noted that the grant of refund is incumbent on the completion of the return cycle. Thus, the Committee felt that the proposal is infructuous and need not be proceed with.

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6. GST on bunker fuel supplied to foreign going vessels

The Committee noted that high rate of GST on bunker fuel supplied to foreign going vessels is making India less competitive *viz a viz* neighbouring countries and oil marketing companies report that business is shifting to countries like Sri Lanka. The Committee was of the view that the GST rate on bunker fuel should be such that it encourages coastal shipping at par with foreign going vessels and also obviates the administrative problems of monitoring the end use.

The Committee recommends that GST rate on bunker fuel may be reduced to 5% for both foreign going vessels and those on coastal run.

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Agenda Item 2: Analysis of revenue collected in the month of August, September and October 2017 under Goods and Services Tax, including the revenue accruing to Centre and States through settlement of funds

In the GST Council meeting held on 7 October, 2017, revenue collection figures upto 28 September, 2017 were placed before the Council. Table 1 and Table 2 below give the details of revenue collected as Central goods and services tax (CGST), State goods and services tax (SGST) and Integrated goods and services tax (IGST) collected upto 30 September, 2017 and 31 October, 2017 including the details of funds transferred to the Centre and States on account of settlement of funds.

Table 1*: GST revenue for month of September, 2017 (Rs. crore)

	September receipts	**Funds transferred due to settlement**	**Net revenue after settlement**
CGST	15132	5081	20213
SGST	21980	10852	32832
IGST	48181	-15933	32248
Cess	7848		7848
Total			**93141**

Table 2*: GST revenue for month of October, 2017 (Rs. crore)

	October receipts	**Funds transferred due to settlement**	**Net revenue after settlement**
CGST	14963	7855	22818
SGST	22345	13289	35634
IGST	49810	-21144	28666
Cess	8013		8013
Total			**95131**

*Figures rounded to nearest whole number

2. **Revenue Trends**

The details of State wise revenue collection figures for the month of August, September and October, 2017 are given at Annexure 1. The following revenue trends can be noted from the details given at **Annexure 1**:

i. **Revenue shortfall comes down**: The average revenue shortfall of all the States for the month of August was 28.4%. This has come down to 17.6% in the month of October 2017. In Rupee terms, thus, revenue shortfall of all States has come down from Rs. 12208 crores in August 2017 to Rs. 7560 crores in October 2017.

ii. **States with maximum revenue shortfall**: States with revenue shortfall of more than 25% for the month of October, 2017 as compared to monthly revenue to be protected are as follows.

Sl. No.	Name of the State	Percentage shortfall in October 2017 revenue
1.	Puducherry	59.5
2.	Uttarakhand	50.0
3.	Himachal Pradesh	46.8
4.	Chattisgarh	43.3
5.	Bihar	41.5
6.	Goa	41.5
7.	Jammu & Kashmir	40.1
8.	Meghalaya	39.6
9.	Punjab	39.0
10.	Nagaland	35.4
11.	Jharkhand	31.8
12.	Odisha	27.9
13.	Arunachal Pradesh	27.8
14.	Assam	26.8
15.	Sikkim	26.7
16.	Madhya Pradesh	25.6
17.	Karnataka	25.3

iii. **States with least shortfall in October 2017 revenue:** The following States have least percentage shortfall in GST collections for the month of October 2017 as compared to monthly revenue to be protected:

Sl. No.	Name of the State	Percentage shortfall in October 2017 revenue
1.	Delhi	-0.2
2.	Maharashtra	2.6
3.	Andhra Pradesh	4.4
4.	Tamil Nadu	4.4
5.	Telangana	6.5
6.	Kerala	14.4
7.	Haryana	16.5
8.	Gujarat	16.6

Sl. No.	Name of the State	Percentage shortfall in October 2017 revenue
9.	Uttar Pradesh	17.2

iv. **States showing maximum improvement in 3 months:** The following States have shown the maximum improvement in October 2017 collections as compared to August 2017 collections:

Sl. No.	Name of the State	Percentage reduction in shortfall in October 2017 revenue as compared to August 2017 revenue
1.	Tripura	-37.3
2.	Manipur	-31.0
3.	Haryana	-23.8
4.	J & K	-23.7
5.	Andhra Pradesh	-23.5
6.	Mizoram	-23.3
7.	Telangana	-21.4
8.	Delhi	-17.7
9.	Madhya Pradesh	-17.7
10.	Odisha	-17.4
11.	Kerala	-16.9
12.	Nagaland	-15.1
13.	West Bengal	-15.1

3. **Trends in Settlement Distribution**

The following trends can be observed on the basis of the data relating to settlement of funds:

i. **States receiving maximum settlement funds:** The top 10 States in terms of the amount of funds received through settlement in months of August, September and October 2017 are as follows:

Sl. No.	Name of the State	Funds received through settlement in 3 months of August, September and October 2017 (in crore Rs.)
1.	Uttar Pradesh	4262.3
2.	Maharashtra	3708.8
3.	Karnataka	2474.0

Sl. No.	Name of the State	Funds received through settlement in 3 months of August, September and October 2017 (in crore Rs.)
4.	Tamil Nadu	2270.5
5.	Kerala	2037.8
6.	Telangana	1872.3
7.	Delhi	1841.8
8.	Rajasthan	1618.3
9.	Andhra Pradesh	1604.9
10.	Gujarat	1558.2

ii. **Settlement Revenue as percentage of total revenue:**

a. **Main consuming States**: The following 10 States have the largest percentage of revenue received through settlement as compared to their total revenue:

Sl. No.	Name of the State	Settlement revenue as percentage of total revenue
1.	Arunachal Pradesh	67.3
2.	Mizoram	64.5
3.	Nagaland	64.2
4.	Manipur	62.1
5.	J & K	54.4
6.	Bihar	54.0
7.	Meghalaya	53.6
8.	Tripura	52.5
9.	Uttar Pradesh	48.7
10.	Kerala	46.6

This implies that a large percentage of consumption in these states is from products which are imported from other States.

b. **Major exporting States**: The following States have the least share of settlement revenue as the percentage of total revenue which implies that these States either export a large proportion of products manufactured in the State or are not dependent on other States for consumption:

Sl. No.	Name of the State	Settlement revenue as percentage of total revenue
1.	Uttarakhand	-9.1
2.	Haryana	1.7
3.	Maharashtra	20.5
4.	Gujarat	21.7
5.	Jharkhand	24.8
6.	Tamil Nadu	25.0
7.	Chattisgarh	26.9
8.	Sikkim	28.6

Annexure 1

Rs. crore

Sl.No	State	Revenue to be protected every month	August			September			October			% Shortfall (Revenue collected vs revenue to be protected)				Settlement analysis		
			SGST	Settlement	SGST - total	SGST	Settlement	SGST Total	SGST	Settlement	SGST- Total	August	September	October	Change in % shortfall- Oct. vs August	Settlement revenue as percentage of total revenue	Total settlement revenue	Percentage share of ettlement to total revenue
1	Andhra Pradesh	1457	663	386	1050	635	528	1163	702	690	1392	27.9	20.2	4.4	-23.5	44.5	1604.9	5.1
2	Arunachal Pradesh	28	6	10	16	4	10	15	6	14	20	42.6	47.3	27.8	-14.8	67.3	34.0	0.1
3	Assam	648	271	121	392	251	166	417	238	237	474	39.5	35.6	26.8	-12.7	40.8	523.9	1.7
4	Bihar	1367	379	275	654	261	346	607	308	492	799	52.1	55.6	41.5	-10.6	54.0	1113.3	3.5
5	Chattisgarh	797	329	79	408	331	131	462	306	146	452	48.9	42.1	43.3	-5.6	26.9	355.6	1.1
6	Delhi	1818	1051	448	1500	1021	641	1662	1069	752	1821	17.5	8.6	-0.2	-17.7	37.0	1841.8	5.8
7	Goa*	271	106	36	142	109	48	157	106	53	158	47.5	41.9	41.5	-6.0	30.0	137.3	0.4
8	Gujarat	3125	1869	273	2142	1877	560	2437	1881	725	2606	31.5	22.0	16.6	-14.8	21.7	1558.2	4.9
9	Haryana	1649	1272	-287	985	1148	114	1262	1144	233	1377	40.3	23.5	16.5	-23.8	1.7	59.8	0.2
10	Himachal Pradesh	394	134	64	197	135	69	204	133	76	209	49.9	48.3	46.8	-3.1	34.1	208.1	0.7
11	J & K	516	103	83	187	137	143	279	113	196	309	63.9	45.9	40.1	-23.7	54.4	421.8	1.3
12	Jharkhand	694	334	127	461	295	70	365	347	126	473	33.6	47.4	31.8	-1.7	24.8	322.5	1.0
13	Karnataka	3914	2108	582	2690	1997	888	2885	1922	1004	2926	31.3	26.3	25.3	-6.0	29.1	2474.0	7.8
14	Kerala	1822	799	452	1251	803	763	1566	737	823	1560	31.3	14.0	14.4	-16.9	46.6	2037.8	6.4
15	Madhya Pradesh	1660	627	314	940	567	382	949	577	657	1234	43.4	42.8	25.6	-17.7	43.3	1352.9	4.3
16	Maharashtra	6553	4857	1001	5858	4558	1267	5825	4939	1441	6380	10.6	11.1	2.6	-8.0	20.5	3708.8	11.7
17	Manipur	38	9	11	20	8	17	25	12	19	32	46.6	33.2	15.6	-31.0	62.1	47.8	0.2
18	Meghalaya	69	21	12	33	14	22	36	17	25	42	52.2	47.6	39.6	-12.5	53.6	59.3	0.2
19	Mizoram	20	4	7	11	4	9	14	6	10	15	47.7	33.0	24.3	-23.3	64.5	25.7	0.1
20	Nagaland	28	6	8	14	6	10	16	6	12	18	50.5	43.7	35.4	-15.1	64.2	30.3	0.1
21	Odisha	1194	471	182	654	451	252	702	530	331	861	45.2	41.2	27.9	-17.4	34.5	765.3	2.4
22	Puducherry	119	36	21	57	33	25	57	32	16	48	52.3	51.5	59.5	7.3	38.5	62.5	0.2
23	Punjab	1567	578	277	855	492	450	941	478	479	956	45.4	39.9	39.0	-6.5	43.8	1205.4	3.8
24	Rajasthan	1858	807	403	1211	774	574	1348	809	641	1450	34.8	27.5	22.0	-12.9	40.4	1618.3	5.1
25	Sikkim	27	25	5	30	7	7	14	13	6	19	-13.2	47.6	26.7	39.9	28.6	18.1	0.1
26	Tamil Nadu	3226	2473	462	2936	2221	855	3076	2132	953	3085	9.0	4.6	4.4	-4.6	25.0	2270.5	7.2
27	Telangana	1745	841	419	1259	803	669	1473	848	784	1632	27.8	15.6	6.5	-21.4	42.9	1872.3	5.9
28	Tripura	85	19	16	35	19	24	43	31	36	67	59.4	50.1	22.1	-37.3	52.5	75.5	0.2
29	Uttar Pradesh	3613	1570	1554	3124	1439	1195	2634	1477	1513	2991	13.5	27.1	17.2	3.7	48.7	4262.3	13.5
30	Uttarakhand	537	286	-41	245	308	-22	286	279	-10	269	54.5	46.8	50.0	-4.5	-9.1	-72.4	-0.2
31	West Bengal	2176	1120	330	1450	1183	567	1750	1043	735	1777	33.4	19.6	18.3	-15.1	32.8	1631.1	5.2
	Total	43013	23172	7633	30805	21889	10779	32669	22239	13214	35453	28.4	24.0	17.6			31626.5	
			Revenue shortfall		12208			10345			7560							

Agenda Item 3: Deemed ratification by the GST Council of notifications, circulars and orders issued by the Central Government

In the 22nd meeting of the GST Council held at New Delhi on 06 October, 2017, it was decided that the notifications, circulars and orders which are being issued by the Central Government with the approval of the competent authority shall be forwarded to the GST Council Secretariat, through email, for information and deemed ratification by the GST Council. Accordingly, in the 22ndmeeting, GST Council had ratified all the notifications, circulars and orders issued before the date of the meeting.

2. In this respect, the following notifications, circulars and orders issued after the last GST Council meeting, till date, under the GST laws by the Central Government, as available on www.cbec.gov.in, are placed before the Council for information and deemed ratification: -

Act/Rules	Type	Notification Nos.
CGST Act/CGST Rules	Central Tax	38 to 54
	Central Tax (Rate)	31 to 40
IGST Act	Integrated Tax	9 to 11
	Integrated Tax (Rate)	32 to 42
UTGST Act	Union territory Tax	4 to 17
	Union territory Tax (Rate)	31 to 40
GST (Compensation to States) Act	Compensation Cess (Rate)	6 to 7
Circulars	Under the CGST Act	8, 11, 12, 13
Orders	Removal of Difficulty Order, to remove difficulties in implementing provisions of composition scheme.	Order-01/2017-Central Tax

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Agenda Item 4: Decisions of the GST Implementation Committee (GIC) for information of the GST Council

The 22nd GST Council meeting was held on 6th October, 2017. Post the meeting, whenever there were issues which required immediate resolution, the approval of the GST Implementation Committee was sought and consequential notifications/circulars/orders were issued. Due to the urgency involved, certain decisions were taken after obtaining approval by circulation from the Members of GIC. The details of the decisions taken from 10 October, 2017 to 02 November, 2017 are given below:

2. **Decisions by Circulation – 10 October 2017**

2.1. An email was sent to the members of GIC on 10 October 2017 containing a proposal for making amendment in **FORM GSTR-1**, **FORM GSTR-1A**, **FORM GST RFD-01** and **FORM GST CMP-02**.

2.2. An exporter is eligible for refund of cess paid on exports. Table 6 of the **FORM GSTR-1** and Table 4 of **FORM GSTR-1A** which detail Zero rated supplies and Deemed Exports respectively, to be reported by the supplier, did not have any field for declaration of compensation cess, if any, paid on exported goods. Similarly, Statement Nos. 2 and 4 in the application for refund in **FORM GST RFD-01** did not have any field for the declaration of compensation cess, if any, claimed as refund. Hence, it was proposed to add necessary entries in the said forms.

2.3. Further, reference in **FORM GST CMP-02** was to rule 3(2), instead of rule 3(3) and 3(3A). Hence, the reference was proposed to be corrected.

2.4. GIC members approved the above proposals by email. Accordingly, Notification No. 45/2017 – Central Tax dated 18 October 2017 was issued.

3. **Decisions by Circulation – 14 October 2017**

3.1. An email was sent to Members of the GIC on 14 October 2017 for approval on urgent matters relating to following two Agenda Items:

3.2. **Agenda Item 1** – Clarification on issues wherein the goods have been moved from place of business of supplier for supply before the goods are selected by buyers (e.g. in case of jewellers)

3.2.1. The following proposal was placed before the GIC Members for the situations covered by sub-rule (4) of rule 55 of the CGST Rules, 2017 wherein the goods have been moved from the place of business of the supplier for supply before the goods are selected by the buyers.

3.2.2. It was seen that on combined reading of clause (c) of sub-rule (1), sub-rule (3) and sub-rule (4) of the rule 55 of the CGST Rules, 2017, the goods which were taken for supply on approval basis can be moved from the place of business of the registered supplier to another place within the same State or to a place outside the State on a delivery challan along with the e-way bill wherever applicable and the invoice may be issued at the time of delivery of goods.

3.2.3. The approval from the Members of the GIC was received through email for the issuance of the Circular for the situations covered by sub-rule (4) of rule 55 of the CGST Rules, 2017 as follows:

a. For this purpose, the person carrying the goods for such supply can carry the invoice book with him so that he can issue the invoice once the supply is fructified.

b. all such supplies, where the supplier carries goods from one State to another and supplies them in a different State, will be inter-state supplies and attract integrated tax in terms of Section 5 of the Integrated Goods and Services Tax Act, 2017.

c. this clarification would be applicable to all goods supplied under similar situations.3.2.4. Accordingly, the decision of the GIC has been implemented by issuance of Circular No. 10/10/2017-GST dated 18 October 2017for the situations covered by sub-rule (4) of the rule 55 of the CGST Rules, 2017.

3.3. **Agenda Item 2** – To empower the Commissioner to provide for extension of time for export in Rule 96A (1) (a).

3.3.1 Rule 96 A of the Central goods and Services Tax Rules, 2017 (CGST Rules) provides for furnishing of a Letter of Undertaking (LUT) (bond in certain cases) by a registered person who intends to export goods or services without payment of integrated tax.

3.3.2. In view of certain commercial exigencies, shipments of exports of goods are deferred on the demand of the buyers. Therefore, it was required that in such circumstances, the exporter be given extended time for fulfilling export commitment.

3.3.3. The approval from the Members of the GIC was received through an email to insert in rule 96A, in sub-rule (1), in clause (a), after the words "after the expiry of three months", the words "*, or such further period as may be allowed by the Commissioner*,".

3.3.4. Decision of the GIC has been implemented vide Notification No. 47/2017 – Central Tax dated 18 October 2017.

4. **Decisions by Circulation – 24 October 2017**

4.1. An email was sent to the members of GIC on 24 October 2017 containing a proposal regarding waiver of late fee payable for delayed filing of the return in **FORM GSTR-3B** for the month of August and September, 2017.

4.2. Approval was sought for the following:

i. To waive late fee payable for delayed filing of the return in **FORM GSTR-3B** for the month of August and September, 2017;

ii. To allow the amount of late fee already paid for delayed filing of the return in **FORM GSTR-3B** for the months of July, August and September, 2017 to be credited to the electronic cash ledger of the taxpayer.

4.3. Approval from the Members of the GIC was received through email for the waiver of late fee payable for delayed filing of return in **FORM GSTR-3B** for the month of August and September, 2017 and to re-credit the late fee already paid for delayed filing of the return in **FORM GSTR-3B** for the months of July, August and September, 2017 to the electronic cash ledger of the taxpayer.

4.4. Decision of the GIC to waive late fee payable for delayed filing of the return in **FORM GSTR-3B** for the month of August and September, 2017 has been implemented vide Notification No. 50/2017 – Central Tax dated 24 October 2017.

5. **Decisions by Circulation – 26 October 2017**

5.1. An email was sent to Members of the GIC on 26 October 2017 for urgent approval relating to following two Agenda Items:

5.2. **Agenda Item 1:** Amendments to the CGST Rules, 2017.

5.2.1. Following amendments were proposed in the CGST Rules, 2017.

a. Amendment to Rule 24(4): Date for filing of application in **FORM GST REG-29** – Extension was required in the time limit for filing of application of cancelation of registration by migrated taxpayers.

b. Amendment to rule 45(3): Extension of time limit for furnishing delivery challans by job workers as specified under rule 45(3) – The **FORM GST ITC-04** was not yet available for furnishing delivery challans by job workers as specified under rule 45(3) and the due date for furnishing it for the quarter July to September 2017 was 25 October 2017. It was required to amend rule 45 (3) to vest the Commissioner with the power to extend the due date.

c. Amendment to rule 86: Order of utilization of CGST and SGST credit for payment of liabilities of IGST –

i. Section 49 (5) (a) of the CGST Act prescribes that a taxpayer seeking to utilize credit of Integrated Tax shall first use towards payment of integrated tax and the amount remaining, if any, may be utilised towards the payment of central tax and State tax, or as the case may be, Union territory tax, in that order. However, the Act or rules currently do not explicitly provide for an order or sequence between clauses (b), (c) and (d) of section 49 (5) of the Act to provide that a taxpayer must first fully exhaust the credit of central tax for payment of integrated tax liability before he can utilise the credit of State tax/UT tax for the same.

ii. Sub-section (4) section 49 of the Act provides for manner and conditions to be prescribed in rules for utilisation of credit available in credit ledger. However, no such conditions have been prescribed in the CGST Rules, 2017.

iii. On the recommendation of Law Committee, it was proposed that rule 86 of the CGST Rules, 2017 may be amended to insert sub-rules (2A), (2B) and (2C), to specify the order of utilization between credits of central tax and State tax/UT tax for payment of integrated tax.

d. Amendment to Rules 96 and 96A – For refund to exporters

i. The return cycle of GSTR-1, GSTR-2 and GSTR-3 was not completely functional and FORM GSTR-3B was the only return available, such information required for processing of refunds to exporters was not available with the Customs authorities or GST authorities who shall be processing such refunds under Rules 96 and 96A respectively of the CGST Rules, 2017.

ii. Accordingly, it is proposed that the supplier shall furnish the information relating to exports as specified in Table 6A of the FORM GSTR-1 (till regular cycle of filing of GSTR-1, GSTR-2 and GSTR-3 starts) after the return in FORM GSTR-3B has been furnished.

5.2.2. The Members of the GIC agreed to the proposal to carry out the said amendments in the CGST and SGST Rules, 2017 as follows:

a. Rule 24 (4) is to be amended for filing of application in FORM GST REG-29 so as to replace 31 October, 2017 with 31 December, 2017.

b. To carry out amendment to Rule 45 (3), and insert after the words "succeeding the said quarter" the words "*or within such further period as may be extended by the Commissioner by a notification in this behalf:*

Provided that any extension of the time limit notified by the Commissioner of State tax or the Commissioner of Union territory tax shall be deemed to be notified by the Commissioner".

c. To amend Rule 86 of the CGST Rules, 2017 and insert sub-rules (2A), (2B), (2C), to specify the order of utilization between credits of Central Tax and State Tax/Union Territory Tax for payment of Integrated Tax, subject to vetting and approval from the Legislative Department of the Union Law Ministry, as follows:

i. *"(2A) Any amount of credit of central tax that remains after discharge of liabilities towards payment of that tax may be utilized for payment of liabilities under integrated tax.*

ii. *(2B) Any amount of credit of State or Union Territory tax that remains after discharge of liabilities towards payment of that tax may be utilized for payment of liabilities under integrated tax only if credit of central tax has been completely utilized under sub-rule (2A) for payment of liabilities under integrated tax.*

iii. *(2C) Any amount available in the electronic cash ledger may be utilized for discharge of tax liabilities notwithstanding any amount of credit balance available in the electronic credit ledger."*

d. The supplier shall furnish the information relating to exports as specified in Table 6A of the **FORM GSTR-1** (till regular cycle of filing of GSTR-1, GSTR-2 and GSTR-3 starts) after the return in **FORM GSTR-3B** has been furnished, and also to:

i. amend rule 96(2) and add the following proviso in the end:

"*Provided that where the date for furnishing the details of outward supplies in FORM GSTR-1 for a tax period has been extended in exercise of the powers conferred under section 37 of the Act, the supplier shall furnish the information relating to exports as specified in Table 6A of FORM GSTR-1 after the return in FORM GSTR-3B has been furnished and the same shall be transmitted electronically by the common portal to the system designated by the Customs:*

*Provided further that the information in Table 6A furnished under the first proviso shall be auto-drafted in **FORM GSTR-1** for the said tax period."*

ii. amend rule 96A (2) and add the following proviso in the end:

*"Provided that where the date for furnishing the details of outward supplies in **FORM GSTR-1** for a tax period has been extended in exercise of the powers conferred under section 37 of the Act, the supplier shall furnish the information relating to exports as specified in Table 6A of **FORM GSTR-1** after the return in **FORM GSTR-3B** has been furnished and the same shall be transmitted electronically by the common portal to the system designated by the Customs:*

*Provided further that the information in Table 6A furnished under the first proviso shall be auto-drafted in **FORM GSTR-1** for the said tax period."*

5.2.3. Accordingly, except for the amendment to rule 86, the decision of the GIC have been implemented vide Notification No. 51/2017 – Central Tax dated 28 October 2017.

5.3. **Agenda Item 2:** Extension of due dates for filing/submitting certain GST FORMS.

5.3.1. A proposal, on the request of the GSTN, due to delayed availability or unavailability of certain FORMS on the common portal and on the recommendation of the Law Committee, was sent for approval to GIC Members for extending the due dates of the following FORMS.

a. **FORM GST CMP-03**
b. **FORM GST REG-26**
c. **FORM GST REG-29**
d. **FORM GST ITC-01**
e. **FORM GST ITC-04**
f. **FORM GST TRAN-1**

5.3.2. Members of the GIC approved the proposal for extension of the dates for filing/submitting the forms mentioned in paragraph 5.3.1. to be carried out under CGST Act as detailed below:

a. **FORM GST CMP-03 -** Due date for the intimation of details of stock on date of opting for composition levy has been extended till 30 November 2017 from the existing date of 31 October 2017.

b. **FORM GST REG-26 -** Due date for submission of the FORM that is required to be submitted by every person who has been granted provisional registration in order to obtain the registration certificate in **FORM GST REG-06** has been extended till 31 December 2017 from the earlier requirement of within three months from the appointed date i.e. 22 September 2017.

c. **FORM GST REG-29** – Due date for application for cancellation of registration by Migrated Taxpayers has been extended till 31 December 2017 from the earlier date 31 October 2017.

d. **FORM GST ITC-01** – Due date for the declaration for claim of input tax credit for the taxpayers who have got registered during the months of July, August and September, 2017 has been extended till 30 November 2017 from the existing date of 31 October 2017.

e. **FORM GST ITC-04** – Due date for submitting details of challans in respect of goods dispatched to a job worker or received from a job worker or sent from one job worker to another during the quarter July to September, 2017 has been extended till 30 November 2017 from the earlier provision of on or before the twenty-fifth day of the month succeeding the said quarter i.e., due date for the quarter July-Sept, 2017 is 25 October 2017.

f. **FORM GST TRAN-1**- Due date for the declaration of transition stock and Revision of **FORM GST TRAN-1** has been extended till 30 November 2017 from the earlier date of 31 October 2017.

5.3.3. The extensions propose for the FORMS at 5.3.2. (a), (b), (c) and (f) are to be carried out under the respective SGST Acts, 2017. Whereas, the extensions or the FORMS at 5.3.2. (d) and (e) are deemed to be carried out under the SGST Acts, 2017 if done under the CGST Act, 2017.

5.3.4. Accordingly, the decision of the GIC for the above said extensions have been implemented vide Order No. 05/2017-GST dated 28 October 2017, Order No. 06/2017 dated 28 October 2017, Notification No. 51/2017 – Central Tax dated 28 October 2017, Notification No. 52/2017 – Central Tax dated 28 October 2017, Notification No. 53/2017 – Central Tax dated 28 October 2017, Order No. 07/2017 dated 28 October 2017 and Order No. 08/2017 dated 28 October 2017.

6. Decisions by Circulation – 30 October 2017

6.1. An email was sent to the Members of the GIC on 30 October 2017 on an urgent matter regarding extension of due dates for filing of **FORM GSTR-2** and **FORM GSTR-3** for the month of July, 2017, till 30 November 2017 and 11 December 2017.

6.2. The due dates for filing of the FORMS mentioned above were extended earlier upto 31 October 2017 and 10 November 2017 respectively vide Notification No. 30/2017 – Central Tax, dated 11 September 2017.

6.3. As per the reports shared by GSTN on returns for the month of July, as against 46.84 lakhs **FORM GSTR-1** filed from 24.07.2017 till date, only 16.03 lakhs **FORM GSTR-2** have been filed so far. The matter came up for discussion at the meeting of the Group of Ministers on Composition, held on 29 October 2017, wherein it was felt that the due dates for the filing need to be extended.

6.4. Members of the GIC approved the extension of due dates for filing of **FORM GSTR-2** and **FORM GSTR-3** for the month of July, 2017, till 30 November 2017 and 11 December 2017.

6.5. Accordingly, the decision of the GIC have been implemented vide Notification No. 54/2017 – Central Tax dated 30 October 2017.

7. Decisions by Circulation – 1 November 2017

7.1 An email was sent to the Members of the GIC on 1 November 2017 seeking approval for issuance of circulars regarding –

a. Procedure for procurement of supplies from registered supplier by EOU/EHTP/STP/BTP units under deemed export benefits under section 147 of the CGST Act, 2017;
b. Manual filing and processing of refund claims in respect of zero rated supplies;
c. Due date for generation of **FORM GSTR-2A** and **FORM GSTR-1A** in accordance with the extension of due date of filing **FORM GSTR-1** and **FORM GSTR-2** respectively.

7.2 Members of GIC approved these circulars.

8. The decisions of GIC are placed are submitted for information of the Council.

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Agenda Item 5: Modification of Rules on Anti-profiteering

A proposal was sent to the Union Cabinet for creation of the posts of the Chairman and four Technical Members of the National Anti-profiteering Authority (NAA). The Cabinet Note, *inter alia*, contained the relevant statutory provisions pertaining to the eligibility and the terms and conditions of the appointment of the Chairman and Technical Members of the NAA.

2. During inter-Ministerial consultations regarding the existing provision that the appointment of the Chairman and Technical Members may be terminated by the Central Government on the recommendation of the Council, a view has emerged that considering that the Chairman of the NAA is an officer of the rank of Secretary to the Government of India and the Technical Members of the NAA are officers of the rank of Joint Secretary or above to the Government of India, the termination of such senior Government functionaries is a matter which should be handled with sensitivity within the well-established administrative framework of the Central Government.

3. As presently provided, the initial tenure of the NAA is for a period of 2 years only which suggests that it is highly unlikely that the provision of termination of the appointment of the Chairman and Technical Members of the NAA will ever be exercised. Notwithstanding this observation, the action of termination of the appointment of such senior officials of the Government after its consideration and recommendation by the Council would become a public exercise thereby diluting the importance of this important authority and demeaning the senior Government functionaries. This would also create a negative perception about the implementation of the historic reform i.e. GST, which must be avoided in the national interest. Needless to state, the experience so far also shows that the decisions of the Council are being referred to in judicial fora. Thus, in the event a termination on the recommendation of the Council is challenged, there is every possibility that this august body would be drawn into avoidable litigation. This would be most undesirable.

4. Thus, while the Council would have the important responsibility of monitoring the performance of the NAA, it is proposed on legal and administrative grounds as well as from the viewpoint of ensuring a positive public perception of GST that the power of termination of the appointment of the Chairman and Technical Members of the NAA shall be exercised by the Chairperson of the GST Council in his capacity as Finance Minister.

5. The above proposal would entail a change in Rule 124 of the CGST Rules, 2017, as proposed below:

(a) In principal rules, in rule 124, -

i. in sub-rule (4), the second proviso shall be substituted, namely: -

"*Provided further that the Central Government with the approval of the Chairperson of the Council may terminate the appointment of the Chairman at any time."*

ii. in sub-rule (5), the second proviso shall be substituted, namely: -

"*Provided further that the Central Government with the approval of the Chairperson of the Council may terminate the appointment of the Technical Member at any time*."

6. The proposal is placed before the Council for approval.

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Agenda Item 6: Issues recommended by the Fitment Committee for consideration of the GST Council

Agenda Item 6(i): Changes in GST/IGST rates on Goods (Annexures I, II, III, IV)

In the meeting held on 06.10.2017, the GST Council approved the Approach Paper, enunciating broad principles to be followed by the Fitment Committee for fitment of rates post implementation of GST. The GST Council also felt a need for holistic review of items at 28% rated goods. The Approach Paper, approved by the Council, inter-alia, contains specific guidelines for review of 28% rate.

2. Further, the Fitment Committee also constituted a Sub-Group to holistically review the GST rate structure for goods so as to identify the possible areas of classification disputes. Accordingly, this Sub-Group examined in detail the GST rate structure for goods, also taking into consideration references/suggestions received from various stakeholders, and recommended certain changes in the rate structure. In addition, recommendations were received by the Fitment Committee from States and Centre, largely based on the representations from various stake holders, including trade and industry.

3. The Fitment Committee met on 30 and 31 October, 2017 and had detailed discussions on review of 28% GST rated goods, recommendations of the Sub-Group on rate rationalisation and recommendations received from various States and Centre for changes in GST/IGST rates on certain goods. After detailed examination, the Fitment Committee recommended:

a) List of goods [under 62 broad classifications] which may be retained at 28%. **Annexure-I** gives details of these goods**.** The rate on all other goods, presently attracting 28% GST rate, may be reduced to 18%, except in case of 'Wet grinder with stone [8509]' and 'Tanks and other armoured fighting vehicles, motorised, whether or not fitted with weapons, and parts of such vehicles [8710]' on which the GST rate may be reduced to 12%. Revenue implication estimates, based on imports and central excise duty payment data with appropriate adjustment for post import and post manufacturing value addition, on account of these changes is likely to be Rs 15,750 crore per annum.
b) Changes in GST rate on certain goods, as summarised in **Annexure-II,** based on the recommendations of the Sub-Group on rate rationalisation (excluding the recommendations covered in Annexure-I). Some of these changes are for issuance of clarifications relating to rate structure; and
c) Changes in GST rate on certain goods, as summarised in **Annexure-III,** based on recommendations received from various States and the Centre.

The proposals are placed before the GST Council for consideration.

4. The Hon'ble Chief Minister of Karnataka has recommended for NIL GST on various handmade products produced and marketed by producer co-operative societies and their Federations. It has been stated that this would not only benefit a large segment of rural population but would also give a boost to rural employment and sustainability. The list of goods (hand made products) recommended for exemption are **at Annexure-IV.**

5. This was discussed in detail in the Fitment Committee. No final view could emerge. The Fitment Committee was of the view that this may be placed before the Council.

Annexure-I

Goods proposed to be retained at 28%

Sl. No	Chapter/ Heading/ Sub-heading/ Tariff item	Description
1.	1703	Molasses
2.	1704	Chewing gum / bubble gum and white chocolate, not containing cocoa [17041000, 17049090]
3.	1806	Chocolates and other food preparations containing cocoa
4.	1901 90 [other than 1901 10, 1901 20 00]	Malt extract; food preparations of flour, groats, meal, starch or malt extract, not containing cocoa or containing less than 40% by weight of cocoa calculated on a totally defatted basis, not elsewhere specified or included; food preparations of goods of heading 0401 to 0404, not containing cocoa or containing less than 5% by weight of cocoa calculated on a totally defatted basis not elsewhere specified or included [other than preparations for infants or young children, put up for retail sale and mixes and doughs for the preparation of bakers' wares of heading 1905]
5.	1905 32	Waffles and wafers coated with chocolate or containing chocolate
6.	2106 90 20	Pan masala
7.	2202 10	All goods [including aerated waters], containing added sugar or other sweetening matter or flavoured
8.	2401	Unmanufactured tobacco; tobacco refuse [other than tobacco leaves]
9.	2402	Cigars, cheroots, cigarillos and cigarettes, of tobacco or of tobacco substitutes
10.	2403	Other manufactured tobacco and manufactured tobacco substitutes; "homogenised" or "reconstituted" tobacco; tobacco extracts and essences [including biris]
11.	2523	Portland cement, aluminous cement, slag cement, super sulphate cement and similar hydraulic cements, whether or not coloured or in the form of clinkers
12.	3208	Paints and varnishes (including enamels and lacquers) based on synthetic polymers or chemically modified natural polymers, dispersed or dissolved in a non-aqueous medium; solutions as defined in Note 4 to this Chapter
13.	3209	Paints and varnishes (including enamels and lacquers) based on synthetic polymers or chemically modified natural polymers, dispersed or dissolved in an aqueous medium
14.	3210	Other paints and varnishes (including enamels, lacquers and distempers); prepared water pigments of a kind used for finishing leather
15.	3214	Glaziers' putty, grafting putty, resin cements, caulking compounds and other mastics; painters' fillings; non- refractory surfacing preparations for facades, indoor walls, floors, ceilings or the like
16.	3303	Perfumes and toilet waters
17.	3304	Beauty or make-up preparations and preparations for the care of the skin (other than medicaments), including sunscreen or sun tan preparations; manicure or pedicure preparations [other than kajal, Kumkum, Bindi, Sindur, Alta]
18.	3305 [other than 3305 9011, 3305 90 19]	All goods, i.e. preparations for use on the hair such as Shampoos; Preparations for permanent waving or straightening; Hair lacquers; Brilliantines (spirituous); Hair cream, Hair dyes (natural, herbal or synthetic) [other than Hair oil; henna powder or paste, not mixed with any other ingredient]
19.	3307	Pre-shave, shaving or after-shave preparations, personal deodorants, bath preparations, depilatories and other perfumery, cosmetic or toilet preparations, not elsewhere specified or included; prepared room deodorisers, whether or not perfumed or having disinfectant properties; such as Pre-shave, shaving or after-shave Preparations, Shaving cream, Personal deodorants and antiperspirants

20.	3401 30	Organic surface-active products and preparations for washing the skin, in the form of liquid or cream and put up for retail sale, whether or not containing soap; paper, wadding, felt and nonwovens, impregnated, coated or covered with soap or detergent
21.	3402	Organic surface-active agents (other than soap); surface-active preparations, washing preparations (including auxiliary washing preparations) and cleaning preparations, whether or not containing soap, other than those of heading 3401
22.	4011	New pneumatic tyres, of rubber [other than of a kind used on/in bicycles, cycle-rickshaws and three wheeled powered cycle rickshaws; and Rear Tractor tyres]
23.	4012	Retreaded or used tyres and flaps
24.	6802	All goods of marble and granite [other than Statues, statuettes, pedestals; high or low reliefs, crosses, figure of animal, bowls, vases, cups, cachou, boxes, writing sets, ashtrays, paper weights, artificial fruit and foliage etc., other ornamental goods essentially of stones;]
25.	6907	Ceramic flags and paving, hearth or wall tiles; ceramic mosaic cubes and the like, whether or not on a backing; finishing ceramics
26.	8407	Spark-ignition reciprocating or rotary internal combustion piston engine
27.	8408	Compression-ignition internal combustion piston engines (diesel or semi-diesel engines)
28.	8409	Parts suitable for use solely or principally with the engines of heading 8407 or 8408
29.	8413	Pumps for dispensing fuel or lubricants of the type used in filling stations or garages [8413 11], Fuel, lubricating or cooling medium pumps for internal combustion piston engines [8413 30]
30.	8415	Air-conditioning machines, comprising a motor-driven fan and elements for changing the temperature and humidity, including those machines in which the humidity cannot be separately regulated
31.	8418	Refrigerators, freezers and other refrigerating or freezing equipment, electric or other; heat pumps other than air conditioning machines of heading 8415
32.	8422	Dish washing machines, household [8422 11 00] and other [8422 19 00]
33.	8450	Household or laundry-type washing machines, including machines which both wash and dry
34.	8483	Transmission shafts (including cam shafts and crank shafts) and cranks (exclude crankshaft for sewing machine); gear boxes and other speed changers, including torque converters; flywheels and pulleys, including pulley blocks; clutches and shaft couplings (including universal joints)
35.	8507	Electric accumulators, including separators therefor, whether or not rectangular (including square)
36.	8508	Vacuum cleaners
37.	8509	Electro-mechanical domestic appliances, with self-contained electric motor, other than vacuum cleaners of heading 8508 [except wet grinder with stone]
38.	8510	Shavers, hair clippers and hair-removing appliances, with self-contained electric motor
39.	8511	Electrical ignition or starting equipment of a kind used for spark-ignition or compression-ignition internal combustion engines (for example, ignition magnetos, magneto-dynamos, ignition coils, sparking plugs and glow plugs, starter motors); generators (for example, dynamos, alternators) and cut-outs of a kind used in conjunction with such engines
40.	8516	Electric instantaneous or storage water heaters and immersion heaters; electric space heating apparatus and soil heating apparatus; electrothermic hair-dressing apparatus (for example, hair dryers, hair curlers, curling tong heaters) and hand dryers; electric smoothing irons; other electro-thermic appliances of a kind used for domestic purposes; electric heating resistors, other than those of heading 8545
41.	8525	Digital cameras and video cameras recorders [other than CCTV]
42.	8528	Monitors and projectors, not incorporating television reception apparatus; reception apparatus for television, whether or not incorporating radio-broadcast receiver or sound or video recording or reproducing apparatus [other than computer monitors not exceeding 20 inches and Set Top Box for television]

43.	8701	Road tractor for semi-trailers of engine capacity exceeding 1800 CC.
44.	8702	Motor vehicles for the transport of ten or more persons, including the driver
45.	8703	Motor cars and other motor vehicles principally designed for the transport of persons (other than those of heading 8702), including station wagons and racing cars [other than Cars for physically handicapped persons]
46.	8704	Motor vehicles for the transport of goods [other than Refrigerated motor vehicles]
47.	8705	Special purpose motor vehicles, other than those principally designed for the transport of persons or goods (for example, breakdown lorries, crane lorries, fire fighting vehicles, concrete-mixer lorries, road sweeper lorries, spraying lorries, mobile workshops, mobile radiological unit)
48.	8706	Chassis fitted with engines, for the motor vehicles of headings 8701 to 8705
49.	8707	Bodies (including cabs), for the motor vehicles of headings 8701 to 8705
50.	8708	Parts and accessories of the motor vehicles of headings 8701 to 8705 [other than specified parts of tractors]
51.	8709	Works trucks, self-propelled, not fitted with lifting or handling equipment, of the type used in factories, warehouses, dock areas or airports for short distance transport of goods; tractors of the type used on railway station platforms; parts of the foregoing vehicles
52.	8711	Motorcycles (including mopeds) and cycles fitted with an auxiliary motor, with or without side-cars; side-cars
53.	8714	Parts and accessories of vehicles of headings 8711 and 8713
54.	8716	Trailers and semi-trailers; other vehicles, not mechanically propelled; parts thereof [other than Self-loading or self-unloading trailers for agricultural purposes, and Hand propelled vehicles (e.g. hand carts, rickshaws and the like); animal drawn vehicles]
55.	8802	Aircrafts for personal use
56.	8903	Yachts and other vessels for pleasure or sports; rowing boats and canoes
57.	9302	Revolvers and pistols, other than those of heading 9303 or 9304
58.	9504	Video games consoles and Machines
59.	9614	Smoking pipes (including pipe bowls) and cigar or cigarette holders, and parts thereof
60.	9616	Scent sprays and similar toilet sprays, and mounts and heads therefor; powder-puffs and pads for the application of cosmetics or toilet preparations
61.	9804	All dutiable articles intended for personal use
62.	Any Chapter	Lottery-Authorised by State Governments

Annexure-II

A. Rationalisation of GST rates on goods [based on recommendations of the Sub-Group of Fitment Committee]

Sl. No.	Chapter/ Heading/ Sub-heading/ Tariff item	Description	Present GST Rate	GST Rate Recommended by the Fitment Committee	Justification
1.	0202/0203/ 0204/0205/ 0206/0207/ 0208/0209/ 0210/0504	Meat and edible offal, of animal and other product, falling under the headings mentioned in column (2), frozen and put up in unit container and, - (a) bearing a registered brand name; or (b) bearing a brand name on which an actionable claim or enforceable right in a court of law is available [other than those where any actionable claim or enforceable right in respect of such brand name has been foregone voluntarily], subject to the conditions as in the Foot Note	12%	5%	a) The GST rate structure prescribed for meat and fish is as follows: (i) Meat, fresh, frozen, dried put up in unit container and bearing a registered brand name or brand name with right to actionable claim etc…12% (ii) Meat other than (i)- Nil (iii) Fish fresh or chilled -Nil, (iv) Fish frozen or dried or smoked etc-5% b) It is proposed to rationalised this rate structure in the following manner: (i) Meat or fish put up in unit container and bearing a registered brand name with right to actionable claim etc…5% (ii) Meat or fish other than (i)…Nil
2.	0303/0304/ 0305/0306/ 0307/0308	Fish, frozen, excluding fish fillets and other fish meat of heading 0304 put up in unit container and, - (a) bearing a registered brand name; or (b) bearing a brand name on which an actionable claim or enforceable right in a court of law is available [other than those where any actionable claim or enforceable right in respect of such brand name has been foregone voluntarily, subject to the conditions as in the Foot Note	5%	5%	a) The GST rate structure prescribed for meat and fish is as follows: (i) Meat, fresh, frozen, dried put up in unit container and bearing a registered brand name or brand name with right to actionable claim etc…12% (ii) Meat other than (i)- Nil (iii) Fish fresh or chilled -Nil, (iv) Fish frozen or dried or smoked etc-5% b) It is proposed to rationalised this rate structure in the following manner: (i) Meat or fish put up in unit container and bearing a registered brand name with right to actionable claim etc…5% (ii) Meat or fish other than (i)…Nil
3.	0402 91 10, 0402 99 20	Condensed milk	18%	12%.	a) Butter, cheese and ghee are chargeable to GST at 12% only. b) As a measure of rationalization, the tax on condensed milk may be reduced from 18% to 12%.
4.	0710	Vegetables (uncooked or cooked by steaming or	5%	5%	a) Meat, fish and vegetables when sold fresh or chilled attract Nil GST.

		boiling in water), frozen and put up in unit container and, - (a) bearing a registered brand name; or (b) bearing a brand name on which an actionable claim or enforceable right in a court of law is available [other than those where any actionable claim or enforceable right in respect of such brand name has been foregone voluntarily], subject to the conditions as in the Foot Note			b) Frozen vegetables attract GST of 5%. c) It is proposed to levy 5% GST only if they are put up in unit container and bearing a registered brand name or brand name with right to actionable claim etc..
5.	0714	Manioc, arrowroot, salep, Jerusalem artichokes, sweet potatoes and similar roots and tubers with high starch or inulin content, **dried,** whether or not sliced or in the form of pellets	5%	Nil	a) Dried sweet potatoes, dried cassava etc. under heading 0714 needs to be exempted. b) To provide parity dried goods of heading 0714 may also be exempted from GST.
6.	0714	Manioc, arrowroot, salep, Jerusalem artichokes, sweet potatoes and similar roots and tubers with high starch or inulin content, **frozen,** whether or not sliced or in the form of pellets. put up in unit container and, - (a) bearing a registered brand name; or (b) bearing a brand name on which an actionable claim or enforceable right in a court of law is available [other than those where any actionable claim or enforceable right in respect of such brand name has been foregone voluntarily], subject to the conditions as in the Foot Note	5%	5%	a) Manioc, arrowroot, salep, Jerusalem artichokes, sweet potatoes and similar roots and tubers frozen and put up in unit container and bearing a brand name may only attract 5%.
7.	08	Dried makhana, whether or not shelled or peeled put up in unit container and, - (a) bearing a registered brand name; or (b) bearing a brand name on which an actionable claim or enforceable right	5%	5%	Dried makhana put up in unit container may be charged to 5% as discussed above.

		in a court of law is available [other than those where any actionable claim or enforceable right in respect of such brand name has been foregone voluntarily], subject to the conditions as in the Foot Note			
8.	1105	1. Flour of potatoes put up in unit container and, - (a) bearing a registered brand name; or (b) bearing a brand name on which an actionable claim or enforceable right in a court of law is available (other than those where any actionable claim or enforceable right in respect of such brand name has been foregone voluntarily), 2. Meals, powder, flakes, granules and pallets of potatoes no put up in unit container and, - (a) bearing a registered brand name; or (b) bearing a brand name on which an actionable claim or enforceable right in a court of law is available (other than those where any actionable claim or enforceable right in respect of such brand name has been foregone voluntarily),	18%	5%	1. Flour, meals, powder, flakes, granules and pallets of potatoes put up in unit container and, - a) bearing a registered brand name; or b) bearing a brand name on which an actionable claim or enforceable right in a court of law is available (other than those where any actionable claim or enforceable right in respect of such brand name has been foregone voluntarily], **may be at 5% GST.** 2. Flour, meals, powder, flakes, granules and pallets of potatoes other than put up in unit container and, - a) bearing a registered brand name; or b) bearing a brand name on which an actionable claim or enforceable right in a court of law is available (other than those where any actionable claim or enforceable right in respect of such brand name has been foregone voluntarily], **will be at Nil**.
9.	1106 10 10	Guar meal	5%	NIL	a) Guar Meal is a by-product after processing the Guar Seed. b) Processed guar meal can be used either in conjunction with other feed stuffs or by itself, as it is a complete nutritional feed for cattle and poultry industry. c) Cattle feed and poultry feed falling under Chapter 23 are at Nil GST.
10.	1203	Copra other than of seed quality	5%	5%	a) Copra cannot be of seed quality.

					b) Therefore, the phrase "other than of seed quality" may be deleted.
11.	1210 10 00	Hop cones, neither ground nor powdered nor in the form of pellets	5%	Nil	a) Hop cones, neither ground nor powdered nor in the form of pellets, may be at Nil GST.
12.	1210 10 00	Hop cones, ground, powdered or in the form of pellets; lupulin	5%	5%	b) Hop cones, ground, powdered or in the form of pellets; lupulin, may be kept at 5% GST. c) The two entries be aligned with HSN.
13.	1404 [other than 1404 90 10, 1404 90 40, 1404 90 50]	Coconut shell, un-worked.	5%	Nil	a) Coconuts whether fresh or dried do not attract GST. b) Same treatment be accorded to coconut shell, un-worked.
14.	1701 91, 1701 99	All goods, including refined sugar containing added flavouring or colouring matter, **sugar cubes** other those which attract are at 5% or Nil GST.	18%	12%	1. A rationalisation measure.
15.	1704	Puffed Rice Chikki, Peanut Chikki, Sesame Chikki murki, revdi, groundnut sweets, Khaja, Khajuli, Anarsa, sakar, khadi sakar, harda, sakariya, gatta, kuliya, elaichidana, lukumdana	18%	5%	a) There is no GST on "Murki". However, "Murki" when converted into slabs/bars and becomes a chikki attracts 18% GST as clarified through FAQs. b) These sweets are consumed by Common man. c) Chikkis like Puffed Rice Chikki, Peanut Chikki, Sesame Chikki / revdi / gajak/ groundnut sweets / Khaja / Kajai / Anarsa, sakar, khadi sakar, harda, sakariya, gatta, kuliya, elaichidana, lukumdana similar items of heading 1704 be reduced to 5%.
16.	1902	Pasta, whether or not cooked or stuffed (with meat or other substances) or otherwise prepared, such as spaghetti, macaroni, noodles, lasagne, gnocchi, ravioli, cannelloni; couscous, whether or not prepared	18%	12%	a) The rate differential between saviyan (5%) and pasta is too high. Both the products are produced from the same raw material and manufactured through same set of machines and equipment. b) Macaroni/pasta/noodles when eaten in a restaurant attract tax at 18%. The tax should be lower if these goods are procured from a Departmental Store. The rate should be reduced to 12%.
17.	2102	Other single cell micro-organisms, dead (but not including vaccines of heading 3002)	18%	12 %	a) Yeasts and prepared baking powders attract GST at 12% (S No 43, Schedule I, of notification No 1/2017-Central Tax). b) Other single cell micro-organisms, dead (but not including vaccines of heading 3002) may be included in the notification, if the intention is to charge GST at 12%.

18.	2103 90 10	Curry paste	18%	12%	a) Only these goods falling under 2103 are at 18% GST b) Other goods like soya sauces and preparations are at 12% GST. c) All these products are also preparations, generally of spiced character, used to flavour certain dishes, such as, meat, fish, salads, etc. d) These preparations are made from various ingredients, such as, eggs, meat, fruits, vegetables, flours, starches, oil, vinegar, sugar, spices, mustard, flavorings etc. Mixed condiments and mixed seasonings contain spices and also contain one or more flavoring or seasoning substances. e) In view of the above position, the rate differentiation between these products is not really needed, particularly when all the products/preparations fall under a single heading. f) The proposed reduction will bring all goods of heading 2103 at 12% GST.
19.	2103 90 30	Mayonnaise and salad dressings	18%	12%	
20.	2103 90 40	Mixed, condiments and mixed seasoning	18%	12%	
21.	2106	Idli dosa batter	12%	5%	Idly dosa batter may be reduced to 5%.
22.	2106 90 91	Diabetic foods	18%	12%	a) Diabetic food should be taxed at a lower rate than 18%. b) Medicine is at 12% GST c) The rate may be reduced to 12%.
23.	2106 90 99	Chutney Powder	18%	5%	Chutney powder falling under heading 2106 being in the nature of spices may be kept at 5% and align it with spices
24.	2503 00 10	Sulphur recovered as by-product in refining of crude oil	18%	5%	a) Sulphur of all kinds, other than sublimed sulphur, precipitated sulphur and colloidal sulphur are taxable at 5% vide entry 111 of Ist Schedule of GST. b) A uniform rate for all sulphur may be placed at 5% category. c) To avoid disputes in assessment.
25.	2621	Fly ash	18%	5%	a) Fly ash is also used in manufacture of Fly ash bricks.
26.	2804 40 10	Medicinal grade oxygen	18%	12%	Since, drugs and medicines are taxed at 12%, this may be reduced to 12%.
27.	3215 3215 3215	Fountain pen ink Ball pen ink Printing ink, writing or drawing ink and other inks, whether or not concentrated or solid [(other than Fountain pen ink and Ball pen ink)]	12% 12% 18%	12%	For ease of assessment and elimination of disputes, all inks under heading 3215 may be at 12%.
28.	4107	Leather further prepared after tanning or crusting,	12%	5%	a) Leather constitutes about 60%-75% of the material cost of finished

		including parchment-dressed leather, of bovine (including buffalo) or equine animals, without hair on, whether or not split, other than leather of heading 4114			products. Almost 95% of the leather manufactured in the country is used for export production. b) GST at 12% increases the capital requirement and interest cost. c) It is very difficult to differentiate crust leather (which is a form of semi-finished leather) from finished leather through physical examination. The classification can be determined only through testing in a laboratory. Such kind of testing and certification would create uncertainty besides increasing the cost of doing business. d) Prior to 1st July 2017, there was no excise duty on raw hides, skins and leather, and VAT rates varied between Nil to 5%. e) The GST rate on finished leather and composition leather should be reduced to 5% to avoid classification disputes and to provide relief to the export sector.
29.	4112	Leather further prepared after tanning or crusting, including parchment-dressed leather, of sheep or lamb, without wool on, whether or not split, other than leather of heading 4114	12%	5%	
30.	4113	Leather further prepared after tanning or crusting, including parchment-dressed leather, of other animals, without wool or hair on, whether or not split, other than leather of heading 4114	12%	5%	
31.	4114	Chamois (including combination chamois) leather; patent leather and patent laminated leather; metallised leather	12%	5%	
32.	4115	Composition leather with a basis of leather or leather fibre, in slabs, sheets or strip, whether or not in rolls; parings and other waste of leather or of composition leather, not suitable for the manufacture of leather articles; leather dust, powder and flour	12%	5%	
33.	4202 22 20	Hand bags and shopping bags, of cotton	18%	12%	a) It is an item of mass consumption; b) Generally manufactured by the MSME. c) There is no GST on raw jute. Jute yarn attracts 5% tax. d) Jute bags/made-ups and cotton made ups (bed linen, bed spread, table linen, curtains etc.) under Chapter 63 carry a rate of 5%/12% only. e) The rate prescribed for hand bags/shopping of jute and hand bags/shopping bags of cotton under Chapter 42 is not in line with the rates prescribed for similar items produced from same raw material under Chapter 63.
34.	4202 22 30	Hand bags and shopping bags, of jute	18%	12%	

					a) The rate on these items requires rationalization at 12% tax.
35.	5607	a) Coir, cordage and ropes b) Jute Twine	12%	5%	These goods are made in the cottage sector. Coir mats and floor coverings are already at 5%.
36.	5608	Knotted netting of twine, cordage or rope; made up fishing nets and other made up nets, of textile materials	12%	5% With no refund of unutilised input tax credit	GST rate on nylon yarn has been reduced from 18% to 12%.
37.	5609	Products of coir	12%	5%	These goods are made in the cottage sector. Coir mats and floor coverings are already at 5%.
38.	6309	Worn clothing and other worn articles; rags	5%/ 12% depending on value	5%	Assessment problem, these goods are generally sold on weight basis.
39.	6505	Hats (knitted /crocheted) or made up from lace or other textile fabrics.	18%	12%	a) Textile caps under HS Code 6501 are at 12%, w.e.f 22/09/17. b) Tax rate on articles under Chap 61, articles of apparel & clothing accessories, knitted or crocheted is 5% for sale value less than Rs. 1000/pc or 12% for sale value exceeding Rs. 1000/pc. c) Same treatment merited for these goods.
40.	6815	Fly ash bricks	12%	5%	a) GST rate on Fly ash bricks was discussed in detail in the 21st GST Council meeting b) Clay bricks attract 5% tax. Fly-ash is a pollutant. c) Clay bricks are made out of top fertile soil. As against that the fly ash bricks, use fly ash a pollutant.
41.	7113	Bangles of lac / shellac	3%	Nil	Plastic and glass bangles are at Nil GST.
42.	8432	Parts [falling under heading 8432] of agricultural, horticultural or forestry machinery for soil preparation or cultivation; lawn or sports-ground rollers falling under 8432	18%	12%	a) Agricultural, horticultural or forestry machinery for soil preparation or cultivation; lawn or sports-ground rollers are already at 12%. b) All goods falling under heading 8432 will be at 12%. c) Will simplify assessment.
43.	8433	Parts [falling under heading 8433] of harvesting or threshing machinery, including straw or fodder balers; grass or hay mowers; machines for cleaning, sorting or grading eggs, fruit or other agricultural produce falling under	18%	12%	a) Harvesting or threshing machinery, including straw or fodder balers; grass or hay mowers; machines for cleaning, sorting or grading eggs, fruit or other agricultural produce are already at 12%. b) All goods falling under heading 8433 will be at 12%. c) Will simplify assessment.

		heading 8433 [other than machinery of heading 8437]			
44.	8452	Parts [falling under heading 8452] of Sewing machines falling under heading 8452	18%	12%	a) Sewing machines falling under heading 8452. b) All goods falling under heading 8452 will be at 12%. c) Will simplify assessment.
45.	9003	Frames and mountings for spectacles, goggles or the like, and parts thereof	18%	12%	a) Spectacles, spectacle lenses, contact lenses are at 12%
46.	9507	Fishing hooks	12%	5%	a) Largely used by fisherman. b) This industry is labour intensive and input tax credit to the industry is not significant.

Foot Note:

I. The phrase "unit container" means a package, whether large or small (for example, tin, can, box, jar, bottle, bag, or carton, drum, barrel, or canister) designed to hold a pre-determined quantity or number, which is indicated on such package.

II.

a. The phrase "brand name" means brand name or trade name, that is to say, a name or a mark, such as symbol, monogram, label, signature or invented word or writing which is used in relation to such specified goods for the purpose of indicating, or so as to indicate a connection in the course of trade between such specified goods and some person using such name or mark with or without any indication of the identity of that person.

b. The phrase "registered brand name" means, -

i. a brand registered as on or after the 15th May 2017 under the Trade Marks Act, 1999 irrespective of whether or not the brand is subsequently deregistered;

ii. a brand registered as on or after the 15th May2017 under the Copyright Act, 1957(14 of 1957);

iii. a brand registered as on or after the 15th May2017 under any law for the time being in force in any other country.

III. For foregoing an actionable claim or enforceable right on a brand name, -

a. the person undertaking packing of such goods in unit containers which bears a brand name shall file an affidavit to that effect with the **jurisdictional commissioner of Central tax** that he is voluntarily foregoing his actionable claim or enforceable right on such brand name as defined in Explanation (ii)(a); and

b. the person undertaking packing of such goods in unit containers which bear a brand name shall, on each such unit containers, clearly print in indelible ink, both in English and the local language, that in respect of the brand name as defined in Explanation (ii)(a) printed on the unit containers, he has foregone his actionable claim or enforceable right voluntarily.

Provided that, if the person having an actionable claim or enforceable right on a brand name and the person undertaking packing of such goods in unit containers are two different persons, then the person having an actionable claim or enforceable right on a brand name shall file an affidavit to that effect with the jurisdictional Commissioner of Central tax of the person undertaking packing of such goods that he is voluntarily foregoing his actionable claim or enforceable right

on such brand name as defined in Explanation (ii)(a); and he has authorised the person [undertaking packing of such goods in unit containers bearing said brand name] to print on such unit containers in indelible ink, both in English and the local language, that in respect of such brand name, he [the person owning the brand name] is voluntarily foregoing the actionable claim or enforceable right voluntarily on such brand name.

Annexure-III

B. Other miscellaneous changes proposed in GST rates on goods

Sl. No	Chapter/ Heading/ Sub-heading/ Tariff item	Description	Present GST Rate	IGST Rate Recommended by the Fitment Committee	Justification
1.	7, 10, 11	Cereals, pulses, flours	Branded - 5% Unbranded -Nil	Branded - 5% Unbranded -Nil	a) Food grains, pulses and flours put up in unit containers and bearing a registered brand name or a brand name on which an actionable claim or enforceable right in court of law is available attract 5% rate. b) For this purpose, registered brand name means brand names registered as on 15th May 2017, irrespective of whether or not the brand is subsequently deregistered. c) This definition needs to be amended to provide 'brand name registered on or after 15th May 2017, irrespective of whether or not the brand is subsequently deregistered. Similar change will have to be made in other clauses of the definition. d) Further, it may be clarified that the condition of foregoing actionable claim of enforceable right [to be eligible for exemption] for being eligible to Nil GST rate applies to any brand [as defined in Notification], **whether registered or not.**
2.	0801	Desiccated Coconut	12%	5%	a) Desiccated coconut (0801 11 00) attracts GST at the rate of 12%. b) Pre-GST, desiccated coconut attracted Nil VAT Tamil Nadu and Kerala and 2% VAT in Karnataka.
3.	Any Chapter	(a) Scientific and technical instruments, apparatus, equipment (including computers); (b) Accessories, parts, consumables and live animals (for experimental purposes); (c) Computer software, Compact Disc-Read Only Memory (CD-ROM),	18%/28%	5%	a) Pre-GST, imports of specified scientific instruments by specified public funded institutions were exempt from basic customs duty, CV duty and SAD. [Notification No. 51/96-Customs] b) Similarly, such goods were exempt from excise duty when supplied to specified public funded research institutes. [Notification No. 10/97- CE] c) In GST, imports of such goods have been exempted from IGST [Notification No. 43/2017-Customs] d) While domestic goods are liable to GST. e) This puts domestic manufacturers in a disadvantageous position. f) 5% GST will to some extent restore level playing field for domestic manufacturers. g) Full exemption from GST will not be advisable, as it will break the input tax credit chain and add to cost of domestic manufacturers. h) The above 5% concessional GST rate would be subject to conditions as per existing notification No 51/96-Customs.

		recorded magnetic tapes, microfilms, microfiches; (d) Proto-types, the CIF value of which does not exceed Rs. 50000 in a financial year for import by Public funded research institution or a university or an Indian Institute of Technology or Indian Institute of Science, Bangalore or a Regional Engineering College, other than a hospital [as per existing customs notification]			
4.	40, 84, 94	Specified parts of aircraft, namely, a) aircraft engines [84071000, 8411]; b) aircraft tyres [40113000]; c) aircraft seats [94011000]	18% / 28%	5%	a) Prior to 1st July, aircraft parts for maintenance, repair and overhaul of scheduled /non-scheduled were exempt from excise/CV duty and SAD. b) Post GST, parts falling under heading 8803 attract 5% GST, while parts falling in other chapters attract applicable GST rates. c) For example, aircraft engines falling under heading 8411 attract 18% GST and aircraft tyres falling under heading 4011 attract 28% GST. d) 18% IGST on aircraft engines [sent abroad for repairs, on repair cost] is stated to have resulted in additional cost of about Rs. 2000 crore, whereas entire profit of the industry during 2016-17 reportedly was about Rs. 2000 crore.
5.	5806	Narrow Woven Fabrics including Newar Cotton	12%	5% With no refund of unutilised input tax credit	a) Such fabrics can be classified under heading 5806 [12% GST] or chapter 60 [5% GST]. b) Providing same rate will minimise disputes. c) Cotton Newar also merits same rate of 5%.

6.	50, 51, 52, 53, 54, 55, 5801, 60	Textile fabrics	5%/12%	To clarify that the exporters would get the refund of unutilized ITC of GST paid on inputs because of zero rating. As regards capital goods matter to be referred to law committee.	a) Doubts have been raised as to whether a manufacturer of fabrics will be eligible for refund of unutilised ITC in respect of exports of fabrics by him. b) The law on this issue is clear. Manufacturer of fabrics will be eligible for refund of unutilised ITC in respect of exports of fabrics by him. c) We may clarify this.
7.	9002	Intraocular Lens	12%	12%	a) Intraocular lens is correctly classified under heading 9021. b) However, in the Notification No. 1/2017-Central tax [Rate] the classification for intraocular lenses has been incorrectly mentioned as 9002. c) The classification may be corrected. d) For the past period it may be clarified that in the period upto this change, intra ocular lenses were eligible for 12% GST rate [under section 11(3) of the CGST/SGST Act].
8.	84 or 85	E-waste	5%	5%	a) E-waste attracts 5% GST. b) In this context, Notification No. 34/2017-Central Tax (Rate) dated 13.10.2017 defines E-waste as electrical and electronic equipment listed in Schedule I of the E-Waste (Management) Rules, 2016, which includes components, consumables, parts and spares which make these products operational. c) It has been reported that this definition is too wide and would be prone to misuse in imports. d) As against that Section 3(r) of the said Rules defines e-waste as 'electrical and electronic equipment whole or in part discarded as waste by the consumer or bulk consumer as well as rejects from manufacturing, refurbishment and repair processes'. e) It is proposed to restrict the definition of e-waste to electrical and electronic equipment, listed in Schedule I of the E-Waste (Management) Rules, whole or in part if discarded as waste by the consumer or bulk consumer.

C. Changes in IGST rate on certain goods

Sl. No	Chapter/ Heading/ Sub-heading/ Tariff item	Description	Present IGST Rate	IGST Rate Recommended by the Fitment Committee	Justification
1.	30	Lifesaving Imported Medicine supplied free of cost by overseas supplier	12%	Nil	a) Pre-GST, lifesaving drugs medicines [subject to specified conditions] were exempt from basic customs duty, CV duty and SAD. b) If drugs and medicines are supplied free, the same will not attract GST. However, drugs and medicines supplied free of cost on their import attract IGST. c) Drugs and medicines supplied free of cost on their import may be exempted from IGST, subject to certification by DGHS of Centre or State [or an equivalent officer of the State] that these medicines are lifesaving and other **specified conditions so as to ensure that the proposed exemption reaches to intended patients**.
2.		All goods, vessels, ships, rigs [other than motor vehicles] etc. **imported under lease**	Applicable IGST rate	Nil	a) At present, such exemption is available for i. Imported aircrafts and aircraft engines under lease; ii. Imported goods for temporary period under lease; iii. Imported Oils rigs and associated goods under lease b) Subject to condition that IGST is paid on lease amount. c) Generic exemption will do away the need for such sectoral exemptions.
3.	0402	Skimmed milk powder, or concentrated milk	Exempt from IGST, subject to certain conditions, under Notification No. 30/2017-Integrated Tax (Rate) dated 22nd September, 2017	To extend the benefit of Notification No. 30/2017-Integrated Tax (Rate) dated 22nd September, 2017 applicable for milk distributed through dairy co-operatives to milk distributed through companies registered under the companies Act.	a) Notification No. 30/2017 (Rate), exempts IGST on interstate movement of skimmed milk powder or concentrate milk, when supplied to distinct person as specified in section 25 of the CGST Act for use in production of milk for distribution through dairy cooperatives and not for further supply of skimmed milk powder or concentrated milk as such. b) The present exemption does not apply to Mother Diary, which is registered under the Companies' Act as a Private Limited company.
4.	All goods	ATA Carnet System	Temporary import is exempt	Expanding the scope of exemption from payment of IGST	a) At present, IGST exemption is available to temporary imports of goods for display of goods in fairs, exhibitions, demonstrations etc. under notifications 157/90-Customs dated 28.03.1990 and 8/2016 – Customs dated 05.2.2016. b) The recommendation is to expand scope of this exemption to temporary imports of, i. professional equipment by accredited press persons who visit India for covering national / international events ii. equipment for broadcasting of events (sound and television) iii. goods imported for sports purposes and

					iv. testing, measurement and calibration equipment. c) This exemption will also be subject to existing re-export condition and other condition.
5.	DAE	Uranium Ore Concentrate	5%	Exemption from IGST	a) Pre-GST, imports of Natural Uranium Ore Concentrate for generation of nuclear power was exempted from basic customs duty, CV duty and SAD [Notification No. 12/2012-Customs and Notification No. 12/2012-CE] b) Directorate of Purchase & Stores (DPS) is a service organisation under DAE and is responsible for procuring material required for atomic energy establishments in India c) Section 11A of Atomic Energy (Amendment) Act, 1986 stipulates that compulsory acquisition of prescribed substances by Central Government shall not be deemed to be sale for any purpose whatsoever read with section 5 and 10 of the Atomic Energy Act. d) Uranium has been declared as a prescribed substance and all the rights vests with the GoI (DAE) e) Nuclear fuel is produced from Uranium by the Nuclear Fuel Complex, a constituent of DAE and is delivered to nuclear power plants for electricity production f) IGST exemption may be extended to Uranium ore concentrate for generation of Nuclear power
6.	Any chapter	Specified goods, including rifles, pistols, bows imported by a sports person of outstanding eminence	12%,18%, 28%	NIL	a) Pre-GST such imports were exempt from BCD, CVD and SAD, subject to specified condition, including certification by the Department of Youth Affairs and Sports that the importer is a sports person of outstanding eminence. Notification no. 146/94-Customs b) These goods continue to be exempt from BCD.
7.		Rigs, tools and spares, and all goods on wheels [like cranes], removed from **one State to other State**	5%	Inclusion of Rigs, tools and spares, and all goods on wheels [like cranes] in the Circular 1/1/2017-IGST dated 07.07.17.	a) Circular 1/1/2017-IGST dated 07.07.17 clarifies that inter-state movement of goods like movement of various modes of conveyance, between distinct persons as specified in section 25(4) of the CGST Act, [except in cases where such movement is for further supply of the same conveyance] is to be treated 'neither as a supply of goods nor supply of service'. b) We may include Rigs, tools and spares, and all goods on wheels [like cranes], in the list of goods to which this circular applies. **c) However, GST will be liable to be paid on any services provided using such goods.** **d)** The Circular 1/1/2017-IGST dated 07.07.17 may be re-issued to include Rigs, tools and spares, and all goods on wheels [like cranes], within its purview.

D. Changes in GST rates based on representation made by States

Sl. No	Chapter/ Heading/ Sub-heading/ Tariff item	Description	Present GST Rate	GST Rate Recommended by the Fitment Committee	Justification
1.	6913	Terracotta figurines of the Gora Dev (tribal horse God)	12%	Nil	a) Idols made of clay are exempted. b) It may be clarified that terracotta idol are also idol of clay and are exempted from GST.
2.	5201	Raw Cotton	5%	**Reverse Charge [Notification under section 9(3)]**	a) Under the GST regime the following items attract 5% GST: - i. raw cotton, ii. cotton(rut), iii. cotton yarn and iv. cotton seeds. b) Cotton oil cake has been exempted from GST w.e.f. 22.9.2017. c) Prior to 13.10.2017, a registered dealer purchasing raw cotton from an agriculturist has to pay tax under reverse charge as per the provisions of section 9(4). d) Since then, section 9(4) has been kept in abeyance till 31.03.2018. e) As a result, while composite units, procuring cotton from farmer do not suffer any tax, oil millers who purchase cotton seeds [for manufacturing cotton seed oil and cotton oil cake] suffer GST on cotton seeds. f) Oil content in cotton seeds being about 25%, standalone oil millers are required to reverse the input tax credit [corresponding to the value of cotton oil seed cake] resulting in increased cost of cotton seed oil cake [by about Rs. 82 per quintal] vis-à-vis composite mills. g) Therefore, to eliminate this disparity, raw cotton may be included in the specified category of goods on which GST is to be paid under reverse charge.

Annexure-IV

List of handmade goods and certain Services forwarded by the Hon'ble Chief Minister of Karnataka:

Sl. No.	Name of the Commodity **Agricultural sector food products**	HSN/ HSC code	GST [As indicated in the list sent by Karnataka]	Present GST Rate	Change proposed
1	Handmade Butter and Other Fats	0405	**12%**	**12%**	**No**
2	Handmade Cheese	0406	**12%**	**12%**	**No**
3	Natural Birds eggs in Shell	0407	**0%**	**Nil**	**No**
4	Natural Edible Vegetables roots and tubers	2001	**0%**	**Nil** [Correct HS code is 0714]	**No**
5	Natural Edible fruits and nuts	1207	**0%**	**Nil** [Correct chapter is 08]	**No**
6	Natural Cereals	1008	**0%**	**Nil**	**No**
7	Handmade Cane Jaggery, Beet Sugar, Cane Sugar Khandsari Sugar	1701	**5%**	Nil Jaggery of all types including Cane Jaggery (gur) and Palmyra Jaggery are at Nil	**No**
8	Handmade Palmyra Sugar	1904	**5%**	**Nil** [Correct HS code is 1701]	**No**
9	Handmade Puffed Rice	1905	**0%**	**Nil**	**No**
10	Handmade Pappad	1905	**0%**	**Nil**	**No**
11	Handmade Bread	1905	**0%**	**Nil**	**No**
12	Natural Non-Alcoholic (Toddy & Neera)	2201	**0%**	**Nil**	**No**
13	Natural Tender Coconut Water	2202	**0%**	**Nil** for Tender coconut water other than those put up in unit container and, - (a) bearing a registered brand name; or (b) bearing a brand name on which an actionable claim	**No**

				or enforceable right in a court of law is available [other than those where any actionable claim or enforceable right in respect of such brand name has been foregone voluntarily, subject to the specified conditions.	
14	Natural Oil Seeds and oleaginous fruits	1207	**5%**	5% Seed quality oil seeds are at Nil.	**No**
15	Handmade Vegetable fats and oils	1514	**18%**	**5%**	**No**
16	Handmade Edible fats; animal or vegetable waxes	1521	**18%**	**18%**	**No**
17	Handmade vegetable & Fruit Jams, Pickles, Sauces	2005	**12%**	**12%**	**No**
18	Handmade Ice cream, Food Mixes including instant mixes	2105, 2106	**18%**	**18%**	**No**
19	Handmade Sweet Biscuits and other Biscuits	1905	**18%**	**18%**	**No**

Sl. No	**Name of the Commodity** **Agricultural Sector Non-Food Products**	**HSN/ HSC code**	**GST [As indicated in the list sent by Karnataka]**	**Present GST Rate**	**Change proposed**
1	Natural Live Trees and Other Plants	6	**0%**	**Nil**	**No**
2	Natural Bulbs, Roots and the Likes	714	**0%**	**Nil**	**No**
3	Natural Cut flowers and ornamental foliage	6	**0%**	**Nil**	**No**
4	Natural Vegetable Plaiting materials; Vegetable Products	1401	**5%**	**5%**	**No**
5	Natural Aquatic Feed, Poultry Feed, Cattle Feed	2302	**0%**	**Nil**	**No**
6	Natural Organic Manure	3101	**0%**	**Nil**	**No**
7	Raw hides, skins, tanned or crust hides and skins, not further prepared	4101	**5%**	**5%**	**No**
8	Light fishing vessels, factory boats and other vessels for processing or preserving	8902	**5%**	**5%**	**No**
9	Fishery products	5608 & 9507	**5%**	**Fish hook 18%** **Fish nets 5%**	**Fish hook 5%** **Fish nets 5%**

Sl. No	Name of the Commodity **Forest Sector**	HSN/ HSC code	GST [As indicated in the list sent by Karnataka]	Present GST Rate	Change proposed
1	Natural Honey	409	**0%**	**Nil**	**No**
2	Natural Lac; gums, resigns and other vegetable saps and extracts	130156	**5%**	**a)** Lac and Shellac at Nil **b)** Natural gums, resins, gum-resins and oleoresins (for example, balsams) [other than lac and shellac] **at 5%**	**No**
3	Cocoa and Cocoa preparations	1805, 1801, 1802			
	Cocoa beans whole or broken, raw or roasted	1801	**5%**	**5%**	**No**
	Cocoa paste whether or not de-fatted	1803	**5%**	**5%**	**No**
	Cocoa butter, fat and oil	1804	**28%**	**28%**	**18%**
	Cocoa powder, not containing added sugar or sweetening matter	1805	**28%**	**28%**	**18%**
	Cocoa shells, husks, skins and other cocoa waste	1802	**5%**	**5%**	**No**
4	Natural rubber, balata, gutta-percha, guayulevchicle and similar natural gums, in primary forms or in plates, sheets or strips	4001	**5%**	**5%**	**No**
Sl. No	**Name of the Commodity** **Handloom Sector**	**HSN/ HSC code**	**GST [As indicated in the list sent by Karnataka]**	**Present GST Rate**	**Change proposed**
1	Handmade Saree	60	**5%**	**5%**	**No**
2	Handmade Dress Material	60	**5%**	**5%**	**No**
3	Handmade Fabric	5407, 5408	**5%**	Nil on Khadi fabric, sold through Khadi and Village Industries Commission (KVIC) and KVIC certified institutions/ outlets.	**No**
4	Handmade Home Furnishings	5809	**12%**	**12%**	**No**
5	Handmade Shawl/Chadar	60	**5%**	**5%**	**No**
6	Handmade Bedsheet	60	**5%**	**5%**	**No**
7	Handmade Dhoti	60	**5%**	**5%**	**No**

8	Handmade Sacks &bags	4202 22 10	**18%**	**18%**	**12%**
9	Handmade Coir mats, matting and floor covering	5705	**5%**	**5%**	**No**
10	Natural Tanning or dyeing extracts, tannins and their derivatives	3203	**18%**	**18%**	**No**
11	Natural dyes, pigments and other clouring matter	3212	**18%**	**18%**	**No**
12	Handmade sanitary towels, tampons, sanitary napkins, clinical diapers	9619	**12%**	**12%**	**No**
13	Handmade silk yarn, cotton yarn. khadi yarn, wool, fine or Coarse animal hair, horsehair yarn and woven fabric	5004 to 5006	**5%**	**Khadi yarn is at NIL**	**No**
14	Handmade other vegetable textile fibres; paper yarn. woven fabrics of paper yarn	5305 to 5308	**5%**	**5%**	**No**
15	Handmade Man-made filaments; strip the like of man-made textile materials	5309 to 5311	**5%**	**5%**	**No**
16	Handmade Manmade staple fibres	5509, 5510, 5511	**18%**	**12%**	**No**
17	Handmade Wadding, felt and nonwovens; special yarns; twine, cordage, ropes and cables and articles thereof	5609	**12%**	**12%**	**Coir products - 5%**
18	Handmade Carpets and other textile floor coverings	5701 to 5704	**12%**	Coir mats, matting and floor covering -**5%.**	**No**
19	Handmade Hats and other Headgear	6504 00 00	**18%**	**18%**	**12%**
20	Handmade special woven fabrics; tufted textile fabrics, lace, tapestries, trimmings embroidery	5805	**12%**	**12%**	**No**
21	Handmade impregnated, coated, covered or laminated textile fabrics; textile articles of a kind suitable of industrial use	5911	**12%**	**12%**	**No**
22	Handmade Knitted or crocheted fabrics	5804	**12%**	**12%**	**No**
23	Handmade articles of apparel and clothing accessories knitted or crocheted or otherwise	4015	**18%**	5%/12% [Chapter 61]	**No**
24	Handmade Other made up textile articles, sets, worn clothing and worn textile articles rag	63	**12%**	**12%**	**5%**

Sl. No	**Name of the Commodity** **Handicraft Sector**	**HSN/ HSC code**	**Total GST [As indicated in the list sent by Karnataka]**	**Present GST Rate**	**Change proposed**

1	Handmade Metal Crafts	8306	12%	12%	No
2	Handmade wood craft	4421	12%	12%	No
3	Handmade Leather Crafts	4203	28%	Gloves specially designed for use in sports-12%	18%
4	Handmade Jewellery	71	3%	3%	No
5	Imitation Jewellery	7117	3%	3%	No
6	precious (Gold and silver) Jewellery	7113	3%	3%	No
7	Handmade Glass & Ceramics	6904	18%	a) Ceramic (6904)-28% b) Glass (70) 18%/28%	18%
8	Natural Fibre Crafts	44 or any Chapter	18%	18%	No
9	Handmade Stone Crafts	6815	28%	12% [HS Code 6802]	No
10	Handmade Terracotta (Pottery)	6912	0%	Earthen pots, clay lamps, idols made of clay at Nil Others at 12%	No
11	Handmade Dolls, toys and other crafts		12%	12%	No
12	Hand block printing	8443	18%	Printed fabrics is at 5% [Job work relating to textiles is at 5%]	No
13	Handmade Printing embroidery craft	5810	12%	Embroidery fabrics is at 5% Embroidery or zari articles, that is imi, zari, kasab, salma, dabka, chumki, gota, sitara, naqsi, kora, glass beads, badla, gizai are also at 5%	No
14	Handmade musical instruments	93	0%	Nil	No
15	Handmade Bamboo Crafts	4602	5%	5%	No
16	Handmade Safety Matches	3605 00 10	5%	5%	No
17	Handmade Agarbatti & Odoriferous	3307 41 00	5%	5%	No
18	Handmade Essential oils and resinoids	3301	18%	18%	No
19	Handmade toilet and washing preparations	3307	28%	28%	No
20	Handmade Candles and similar articles	5908	12%	12%	No
21	Handmade Soaps	3401 [except 340130]	18%	18%	No

22	Handmade Tableware, kitchenware, other household articles and Hygiene or toilet articles	7615	12%	12%	No
23	Manufactures of straw, Basketware and wickerwork	1401	5%	5%	No
24	Handmade Paper crafts		18%	18%	No
25	Handmade Carton boxes	4819	12%	12%	No
26	Handmade Kites	4823	5%	5%	No
27	Handmade Boxes, pouches, wallets	4817 [Except 4817 30]	18%	18%	No
28	Handmade Exercise book, graph book & laboratory note book	4820	12%	12%	No
29	Handmade Envelopes, letter cards, plain postcards	4817 [Except 4817 30]	18%	Postal items, like envelope, Post card etc., sold by Government Nil	No
30	Handmade Registers, account books, note books, order books, receipt books, letter pads, memorandum pads, diaries and similar articles	4820	18%	a) Exercise book, graph book, & laboratory note book and notebooks- 12% b) Other-18%	No
31	Handmade Paper	4804	12%	18% 48119011	No
32	Handmade Umbrellas, sun umbrellas, walking sticks, seat sticks, whips, riding-crops and parts thereof	6601	12%	12%	No
33	Handmade Prepared feathers and down and articles made of feather or of down artificial flowers, articles of human hair	6702	28%	28%	18%
34	Handmade Hand tools, such as spades, shovels, mattocks, picks, hoes, forks and rakes axes, bill hooks and similar tools, secateurs and pruners of any kind; scythes, sickles, hay knives, hedge shears, timber wedges and other tools of a kind used in agriculture, horticulture or forestry	8201	0%	Nil	No
35	Handmade Coir products	9404	12%	12%	No
36	Handmade Hurricane lanterns, Kerosene lamps/ lantern petromax, glass chimney, accessories & components thereof	7020	12%	12%	No
37	Handmade Broomsticks and Muddhas made of sarkanda, phool bahari jhadoo	9603 10 00	5%	Muddhas made of sarkanda, brooms or brushes, consisting of twigs or other vegetable	No

				materials, bound together, with or without handles are at Nil	
38	Muddhas made of sarkanda, phool bahari jhadoo	9603	0%	Nil	No
39	Handmade Pencils, crayons, pastels, drawing charcoals, writing or drawing chalks and tailor's chalk	9608, 9609	12%	12%	No
40	Handmade Footwear gaiters and the like; parts of such articles	6406	18%	a) Footwear having a retail sale price not exceeding Rs.500 per pair, provided that such retail sale price is indelibly marked or embossed on the footwear itself-**5%** b) Other-18%	No

Sl. No	**Name of the Commodity** **Service Sector**	**HSN/ HSC code**	**GST [As indicated in the list sent by Karnataka]**	**Present GST Rate**	**Change proposed**
1	Services by way of job work in relation to:				
	1) Printing of newspapers:	998	5%	5%	No
	2) Textile Yarns (other than of man-made fibres) and textiles fabrics.	5303	5%	5%	No
	3) Cut and polished diamonds precious and semi-precious stones; or plain and studded jewellery of gold and other precious metals falling under chapter of HSN	7102	3%	5%	No
	4) Printing of books (Including Braille books). Journals and periodicals;	998	5%	5%	No
	5) Processing of hides, skins and leather falling under Chapter 41 HSN	4101	5%	5%	No
2	Services by way of admission to exhibition of cinematograph films where price of admission ticket is one hundred rupees or less	99	18%	18%	No
3	Job work in relation to manufacture of umbrella	6601	12%	12%	No
4	Job work in relation to manufacture of clay bricks falling under CTH 69010010	6901 0010	5%	5%	No

5	Construction of a complex, building. Civil Structure or a part thereof intended for sale to a buyer, wholly or partly	995	18%	12%	No
6	Supply of food/drinks in restaurant not having facility of air conditioning or central heating at any time during the year and not having licence to serve liquor	99	12%	12%	No
7	Composite supply of works contract as defined in clause 119 of section 2 of CGST Act.	995	18%		
Sl. No	**Name of the Commodity** **Cultural Performance Sector**	**HSN/HSC code**	**GST [As indicated in the list sent by Karnataka]**	**Present GST Rate**	**Proposed GST Rate**
1	Services by way of admission or access to circus, Indian classical dance, theatrical performance drama including folk dance	99	18%	Nil	No
2	Services by an artist by way of a performance in folk or classical art forms of (a) Music or (B) dance, or (c) theatre, if the consideration charged for such performance is not more than one lakh and fifty thousand rupees provided that the exemption shall not apply to service provided by such artist as a brand ambassador.	99	Hand loom goods	Nil	No

Agenda Item 6(ii): Dual levy of IGST on the royalty paid for import of pictures on a tangible media where the rights have been granted for a temporary period (Temporary transfer or permitting the use or enjoyment of any intellectual property right).

Issue	Examination	Proposal
Prior to GST, on import of motion pictures, music and gaming software for use on gaming consoles when printed or recorded on media falling under chapter heading 3706 or 8523, the following duties, were levied- • Countervailing Duty (CVD) u/s 3(1) of CTA • Special Additional Duty (SAD) u/s 3(5) of the CTA The said duties were to be computed on the value to be determined in accordance with valuation rules prescribed under the Customs Act. In accordance with Section 14 of the Customs Act, value of the imported goods was deemed to be the transaction value of the goods. Further, under Rule 10(1)(C) of the Customs Valuation Rules, for the purpose of determination of transaction value, any amount paid as royalties or license fees related to the imported goods, was to be added to the transaction value of the imported goods for the purpose of computation of customs duty. CBEC vide notification no 27/2010 – Cus [dt.27.2.2010] had exempted the levy of CVD and SAD on the royalty payable by the importer for the import of motion pictures, music and gaming software on media falling under chapter heading 3706 or 8523. Service tax was applicable on import of copyrights in cinematographic films for a temporary period for the purpose of non-theatrical distribution [Section 66E(c) of the Finance Act, 1994 refers].	Though, the two levies of IGST on import of motion pictures, music and gaming software for use on gaming consoles when printed or recorded on media falling under chapter heading 3706 or 8523 would be on different aspects of the same transaction, the former on import of goods in India and the latter on import of service into India, and thus lawful, such high tax incidence would be unjustified and cast unintended financial burden. There are two options to resolve this issue – (a) No IGST be charged on import of motion pictures, music and gaming software for use on gaming consoles when printed or recorded on media falling under chapter heading 3706 or 8523. (b) No IGST be charged on import of service by way of temporary transfer or permitting the use or enjoyment of any intellectual property right Explanation to Article 269A of the Constitution as amended by the 101st Constitutional Amendment Act, states that supply of goods, or of services, or both in the course of import into the territory of India shall be deemed to be	Import of motion pictures, music and gaming software for use on gaming consoles when printed or recorded on media falling under chapter heading 3706 or 8523 may be exempted from as much of IGST as is in excess of the IGST applicable on the cost of the media (including freight and insurance) on which such motion picture is imported under section 3(7) of the Customs Tariff Act, 1975 subject to the condition that the importer pays integrated tax leviable under section 5(1) of the IGST Act, 2017on supply of service covered by item 5(c) of Schedule II of the Central Goods and Services Tax Act, 2017.

Temporary transfer of copyrights for theatrical distribution were exempted from service tax by virtue of mega exemption notification 25/2012 dated 20 June 2012, entry 15. Given this, the importer was liable to discharge service tax @ 15% on the royalty value payable towards such import. In GST, BCD on royalty is exempt vide notification 30/2017-Customs date 30/06/2017 However, the said notification does not exempt IGST under Section 3(7) of the CTA on the royalty payable by the importer as a condition of sale of such goods. Further, IGST is payable under Section 5 of the IGST Act on the import of copyrights in cinematographic films for a temporary period (classified as import of service by virtue of entry 5(c) of Schedule II to the CGST Act). Thus, under GST, IGST is to be computed and discharged twice on the royalty value paid by the importer, which is as follows: • 18% under Section 3(7) of CTA • 12% under Section 5(1) of IGST Act	supply of goods, or of services, or both in the course of inter-State trade or commerce. Secondly, supply of service by way of temporary transfer or permitting the use or enjoyment of any intellectual property right has been treated as supply of service under entry 5(c) of Schedule II of the CGST Act. It would be in harmony with these provisions if we tax royalty/ license fee or copyright part of such transactions as import of service into India under section 5(1) of the IGST Act and exempt such transactions from levy of integrated tax under section 3(7) of the Customs Tariff Act, 1975.	

Agenda Item 6(iii): GST rate on job work in relation to manufacture of handicrafts

Requests have been received from Moradabad Handicrafts Exporters Association and Brass Artisans Society, Moradabad for reduction in rate of GST on job work services involved in manufacture of handicrafts from 18% to Nil. The request has been forwarded by the Department of Commerce.

2. Earlier Ministry of Textiles had requested for reducing rate of GST on handicrafts.

3. As part of providing relief to small businesses, causal taxable persons making interstate supplies of handicrafts have been exempted from taking registration vide notification No. 32/2017-CT dated 15 September 2017 as amended vide notification No. 38/2017-CT dated 13 October 2017. The said Notification specifies the list of goods which would be considered as handicraft goods. Further, the Notification restricts meaning of "handicrafts" to those goods which are made by the craftsmen predominantly by hand even though some machinery may also be used in the process.

4. GST rates on supply of handicraft goods have also been reduced to 6%/12% vide Notification No. 27/2012 – CT (Rate) dated 22 September 2017.

5. In keeping with the above measures taken for the handicraft sector, it is proposed that the rate of GST on services provided by way of job work in relation to manufacture of those handicraft goods in respect of which the casual taxable person has been exempted from obtaining registration may be prescribed at 5% with full ITC. The expression "handicraft goods" may be given the same meaning as given in Notification No. 32/2017 – CT dated 15th September 2017.

Agenda Item 6(iv): Amendment in notification No. 21/2017-CT(R) dated 22.8.2017 regarding Public Distribution System (PDS) and Far Price Shops (FPS).

Vide notification No. 12/2017-CT(R) as amended by notification No. 21/2017-CT(R), *inter-alia*, GST rate on following services was reduced to Nil –

i. Service provided by Fair Price Shops to Central Government by way of sale of wheat, rice and coarse grains under Public Distribution System(PDS) against consideration in the form of commission or margin. [Entry 11A]
ii. Service provided by Fair Price Shops to State Governments or Union territories by way of sale of kerosene, sugar, edible oil, etc. under Public Distribution System (PDS) against consideration in the form of commission or margin. [Entry 11B]

2. It has been stated by the Ministry of Consumer Affairs, Food and Public Distribution that under the National Food Security Act (NFSA) , rice, wheat and coarse grains are distributed under PDS through Fair Price Shops (FPS). Certain other commodities such as kerosene and sugar are also distributed under PDS. State Governments/ UT Administrations also distribute additional commodities through PDS out of their own resources. Entire responsibility for distribution of food grains under NFSA and other commodities through FPS lies with the States/ UTs and they are also the licensing authority for FPS. Commission or margin for services rendered by FPS is also paid by States/ UTs. The Central Government only provides some assistance to States/ UTs (50% in the case of 23 general category State/ UTs using the norm of Rs. 87 per quintal and 75% in the case of special category Stated/ UTs, using the norm of Rs. 160 per quintal) for meeting the expenditure. The balance expenditure is to be met by States/ UTs. Under the above circumstances, the recipient of services rendered by the FPS dealers are State Governments/ UT Administrations, for which they pay margin/ commission to FPS dealers, and not the Central Government. In view of the State Governments being the sole recipient of services of FPS, Ministry of Consumer Affairs, Food and Public Distribution has stated that having a separate entry of services by the FPS to the Central Government for distribution of rice, wheat and coarse grains is not required and likely to create confusion at the field level. They have further requested that it would be sufficient to have one single entry for "Services provided by Fair Price Shops to Central/ State Governments/ Union territories by way of sale of food grains, kerosene, sugar, edible oil, etc. under Public Distribution System (PDS) against consideration in the form of commission or margin" with Nil GST.

3. **Proposal** – In view of the above, it is proposed to amend notification No. 12/2017-CT(R) and corresponding IGST/ UTGST and SGST notifications so as to remove entries against Serial No. 11A in the Table and to change entry in column (3) of serial No. 11B to read, "Service provided by Fair Price Shops to Central Government/ State Governments or Union territories by way of sale of food grains, kerosene, sugar, edible oil, etc. under Public Distribution System (PDS) against consideration in the form of commission or margin."

Agenda Item 6(v): Alignment of the entry at item (vi) of Sl. No.3 of notification No. 11/2017-CT(R) with the entries at items (ii), (iii), (iv) and (v) of Sl.No.3

It has been pointed out that entry (vi) has been inserted at Sl. No.3 of notification No. 11/2017-CT(R) dated 28.06.2017 [vide Notification No. 24/2017-CT(R) dated 21.9.2017] specifying 12% GST on **"Services"** provided to the Central Government, State Government, Union Territory, etc.

2. Other entries inserted vide notification No. 24/2017-CT(Rate) at (iii), (iv) and (v) against Sl.No.3 of the said notification dated 28.06.2017 are for **"Composite supply of works contract as defined in clause (119) of section 2 of Central Goods and Services Tax Act, 2017".** However, the entry at (vi) is only for "Services".

3. It has been discussed in the Fitment Committee by circulation. It is proposed to align entry at item (vi) of Sl. No.3 of notification No. 11/2017-CT(R) with the entries at items (iii), (iv) and (v) of SI.No.3 to maintain consistency. The word “services” in entry (vi) may be replaced with "Composite supply of works contract as defined in clause (119) of section 2 of Central Goods and Services Tax Act, 2017".

Agenda Item 6(vi): GST on Tour Operators services, request for allowing input tax credit of services in the same line of business at the existing rate of 5% without ITC

Several representations have been received from Indian Association of Tour Operators and others requesting that input tax credit of services procured by the tour operators from service providers in the same line of business may be allowed at the existing GST rate of 5%, at which presently no ITC is allowed. It has been stated that GST rate of 5% without ITC is leading to cascading of taxes. In the service tax regime, prior to 22-01-2017, service tax was levied at the rate of 4.5% with CENVAT credit of input services procured from a tour operator. Later, w.e.f. 22-01-2017, the rate on services by tour operator was revised to 9% with credit of input services. It has been requested that either GST may be only on the Mark up charges (margin) of the tour operator or at the rate of 1.8% of the total value of services provided by the tour operator. It has also been requested that input tax credit of services procured by a tour operator from another tour operator may be allowed as was the case in service Tax regime.

2. As stated above, during the pre-GST period from 22-01-2017 to 30-06-2017, service tax was leviable on tour operator services at the rate of 9% with ITC on all input services including accommodation and transport etc. During the period prior to 22-01-2017, service tax was leviable at the rate of 4.5% with credit of input services in the same line of business. The tour operator hardly consumed any goods for providing the tour operator services and therefore the incidence of VAT was insignificant. Under GST, the rate has been reduced from 9% to 5% without ITC of goods and services. This rate primarily benefits those tour operators who organize tours outside India and thus have no input tax credit to avail of (the place of providing of accommodation and transport services provided in the foreign territories outside India and thus not taxable). However, tour operators who organize tours in India suffer GST on their input services of accommodation and transport. The taxes paid on the input services add to the headline GST rate of 5% on tour operator services. Further it is a common practice in this industry that tour is booked by one operator but the services are provided by another operator to whom the business is transferred by the tour operator who books the business. The GST rate of 5% without ITC leads to cascading of taxes is such cases too.

3. In view of the service tax rates existing during the period 22-01-2017 to 30-06-2017 and during the period prior to 22-01-2017 and the broad principle of carrying forward the same incidence of taxes under GST as existed in the pre-GST era, it is proposed that

i. Credit of input services in the same line of business may be allowed at the GST rate of 5% (this would correspond to service tax rate of 4.5% with CENVAT credit of input services of a tour operator used for providing the tour operator services during the period prior to 22-1-2017).
ii. Option of GST rate of 12% with input tax credit of all input services may be provided (this would correspond to the service tax rate of 9% with credit of all input services during the period from 22-01-2017 to 30-06-2017).

4. Needless to say, that tour operator will continue to have the option of paying GST at the rate of 18% with ITC of all goods and services.

5. The matter was discussed in the Fitment Committee meeting held on 30.10.2017 and 31.10.2017. The Fitment Committee agreed to the above proposal.

6. The recommendation of the Fitment Committee is placed before the Council for approval.

Agenda Item 6(vii): Clarification regarding warehousing of Agricultural produce in GST regime

Representations have been received in the Finance Ministry from Calcutta Tea Traders Association (CTTA), Navi Mumbai Merchant Chamber etc. seeking advice on whether loading, unloading, and packing or warehousing of Tea/ Jaggery etc. is exempt from GST.

2. It has been stated that as per order No. 1/2002-Service Tax dated 1 August 2002, tea, coffee, rubber, jaggery, pulses, rice etc. were included in the definition of agricultural produce. Further, as per Circular/ D.O. Letter No. 334/1/2012-TRU dated 16 March 2012 issued by the Joint Secretary (TRU) plantation crops like tea and coffee were also covered under agricultural produce. The same clarification was carried forward in the "Taxation of Services: An Education Guide" released on 20 June 2012. However, the guide did not give any specific reason or justification for the said clarification.

3. As per GST notification No. 11/2017-Central Tax (Rate), Sl.No. 24 and notification No. 12/2017-Central Tax (Rate), Sl.No.54, dated 28 June 2017, the GST rate on loading, unloading packing, storage or warehousing of agricultural produce is Nil. Similarly, services by any Agricultural Produce Marketing Committee or Board or services provided by a commission agent for sale or purchase of agricultural produce are also exempt.

4. Agricultural produce in the notification has been defined to mean any produce out of cultivation of plants and rearing of all life forms of animals, except the rearing of horses, for food, fibre, fuel, raw material or other similar products, on which either no further processing is done or such processing is done as is usually done by a cultivator or producer which does not alter its essential characteristics but makes it marketable for primary market"

5. Tea used for making the beverage, such as black tea, green tea, white tea is a processed product made in tea factories after carrying out several processes, such as drying, rolling, shaping, refining, oxidation, packing etc. on green leaf and is the processed output of the same. This processing is not usually done by cultivators.

6. The tea industry consists of –

i. **planters** who manufacture tea from their own crop and primarily sell their produce at auctions such as Mcleod Russel, Rossel Tea and Warren Tea etc.
ii. **planters-cum-brand owners** who have diversified into the packaged tea segment while selling significant part of their production at the auctions. Ex. Duncans Industries, Harrisons Malayalam Ltd., Goodricke group Ltd., Jay Shree Tea etc.
iii. **brand owners** who do not own tea plantations but purchase bulk tea either at tea auctions or directly from planters. They blend, package and market the tea procured from the domestic retail market. This category includes Hindustan Lever Ltd. (Taj Mahal, Yellow Label, Red Label, Taaza etc.), Tata Global Beverages Ltd. (Tata Tea Premium/Gold, Tetley, Good Earth etc.), Wagh Bakri etc.

6.1 Other entities in the industry include Green Leaf Growers (GLGs) who undertake plantation activities and sell their crop of green leaf to Bought Leaf Factories (BLFs), planters-cum-brand owners as well as standalone brand owners. BLFs do not own tea estates but produce saleable tea from green leaf purchases. The green leaf is currently selling at Rs. 10 to 15 per kg as against processed black tea, which is auctioned at an upward of Rs. 100 per kg. Though, there are Estate Tea Factories which have captive tea estates as source of green leaves, majority of tea factories in India are Bought Leaf Factories, i.e., they buy green tea leaf from green leaf growers. As reported in Business Line dated 18 September 2017, there

are 246 large Estates and 333 Tea Factories (of which 185 have been categories as bought leaf factories and the remaining 148 as Estate Factories).

7. Thus, green tea leaves and not tea is the "agricultural produce" eligible for exemption available for loading, unloading, packing, storage or warehousing of agricultural produce. Clarification issued in 2002 was in the context of positive list regime of Service Tax, which did not have the same definition of "agricultural produce". The clarification contained in Education Guide in the context of the Negative List of the services which had the same definition of "agricultural produce" as under Notification No. 12/2017-CT (Rate), has no rational basis.

8. Seen from the view point of tea planters who manufacture tea from their own crop and sell not green leaf but processed tea in market, it would appear that processed tea in the form it is consumed is an agricultural produce. However, to treat such processed tea as agricultural produce would be the same as treating jam or other processed fruit products manufactured by an owner of fruit orchards as agricultural produce. It has also to be kept in view that there is a primary market for green leaf also. Further, tea produced and sold by bought leaf factories, which buy green leaves and process them, cannot be considered as agricultural produce by any stretch of imagination. Same is the case with coffee obtained after processing of coffee beans.

9. Jaggery is not an agricultural produce. Processing of sugarcane into jaggery changes its essential characteristics. Pulses commonly known as dal are obtained after dehusking or splitting or both. The process of dehusking or splitting is usually not carried out by farmers or at farm level but by the pulse millers. Therefore pulses (dehusked or split) are also not agricultural produce. However whole pulse grains such as whole gram, rajma etc. are covered in the definition of agricultural produce.

10. In view of the above, it may be clarified by way of a circular that processed products such as processed tea (i.e. black tea, green tea, white tea etc.), processed coffee beans or powder, pulses (dehusked or split), jaggery etc. fall outside the definition of agricultural produce as given in notification No. 11/2017-CT(R) and 12/2017-CT(R) dated 28.6.2017 and corresponding notifications issued under IGST and UTGST Acts and that any clarification issued in the past to the contrary in the context of Service Tax or VAT/ Sales Tax is no more relevant.

Agenda Item 6(viii): GST Rate on permanent transfer of Intellectual Property (IP)

<table>
<tr><th>Sl.No.</th><th>Issue</th><th>Background</th><th>Examination</th><th>Proposal</th></tr>
<tr>
<td>1</td>
<td>GST rate on permanent transfer of Intellectual Property in respect of goods other than information technology software</td>
<td>Presently, activities relating to temporary or permanent transfer or permitting the use or enjoyment of intellectual property (IP) are covered in the list of services notified under notification No. 11/2017-Central Tax (Rate) (Sl. No. 17 clause (ii) refers). Whereas, as per various court pronouncements in pre-GST era, permanent transfer of IP was a deemed sale of goods as it entailed transfer of right to use goods under Article 366(29A) (d) of the Constitution. Therefore, it was subjected to VAT. Under GST, transfer of right to use any goods for any purpose is a supply of service [para 5(f) of Schedule II of CGST Act]. Further, under para 5(c) of Schedule II of the CGST Act, temporary transfer or permitting the use or enjoyment of any intellectual property right has been treated as</td>
<td>In the CGST Act, while temporary transfer of any intellectual property right is treated as a supply of service (entry 5(c) in schedule II refers), it is argued that permanent transfer of Intellectual Property is a supply of goods owing to transfer of title in goods [entry 1(a) of Schedule II refers]. It is, therefore, argued that permanent transfer of Intellectual Property will be covered by the residuary entry in schedule of rates of GST in respect of goods [Sl.No. 453 of schedule III of the notification No. 1/2017-CT(R) refers]. Therefore, GST rate of 18% would be applicable on the said supply. This position emanating from the judicial pronouncements is leading to an anomalous situation with regard to the rate of GST applicable on supply of permanent transfer</td>
<td>GST Council in its 14th Meeting held in Srinagar on 18.05.2017 has approved a rate of 12% on permanent or temporary transfer of Intellectual Property (IP) right in respect of goods other than Information Technology software. In order to remove the anomaly w.r.t. rate of GST on permanent transfer of Intellectual Property (IP) in respect of goods other than Information Technology software, it is proposed that:

(i) Permanent transfer of Intellectual Property in respect of goods other than Information Technology software may be placed in the 6% rate list of goods and an entry may be inserted as Sl.No. 243 in Schedule II of the notification No. 1/2017-CT(R) to read as:

<table>
<tr><td>Sr. No.</td><td>Chapter / Heading/ Sub-heading / Tariff Item</td><td>Description of the Goods</td></tr>
<tr><td>(1)</td><td>(2)</td><td>(3)</td></tr>
<tr><td>243</td><td>Any Chapter</td><td>Permanent transfer of Intellectual Property (IP) in respect of goods other than Information Technology software.</td></tr>
</table>
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<tr><td></td><td></td><td>supply of service. It is therefore being argued that permanent transfer of Intellectual Property is supply of goods and leviable to GST at the rate of 18% [sr.no. 453 of Schedule III of notification no. 1/2017-CT(R)].</td><td>of Intellectual Property (IP) in respect of goods other than information technology software i.e. whether GST rate of 12% under Sl.No. 17(i) of the notification No. 11/2017-CT(R) or GST rate of 18% under Sr. No. 453 of Schedule III of notification no. 1/2017-CT(R) is applicable.</td><td></td></tr>
<tr><td>2</td><td>GST rate on permanent transfer of Intellectual Property (IP) right in respect of Information Technology software.</td><td></td><td>There is merit in the argument that permanent transfer of Intellectual Property (IP) is a supply of goods, possibly, permanent transfer of Information Technology software may also be treated as supply of goods. Necessary amendment in the schedule of rate for goods is proposed so that the arbitrage arising on account of treatment of permanent transfer of Intellectual Property in relation to information technology software either as supply of good or service w.r.t. the rate of GST maybe removed.</td><td>GST Council in its 18th Meeting held in New Delhi on 30.06.2017 has approved a rate of 18% on permanent or temporary transfer of Intellectual Property (IP) right in respect of Information Technology software. In order to remove the anomaly w.r.t. rate of GST on permanent transfer of Intellectual Property (IP) in respect of Information Technology software, it is proposed that:

(i) Permanent transfer of Intellectual Property in respect of Information Technology software may be placed in the 9% rate list of goods and an entry may be inserted at Sr. No. 454 in Schedule III of the notification No. 1/2017-CT(R) to read as:

<table>
<tr><td>Sr. No.</td><td>Chapter / Heading/ Sub-heading / Tariff Item</td><td>Description of the Goods</td></tr>
<tr><td>(1)</td><td>(2)</td><td>(3)</td></tr>
<tr><td>454</td><td>Any Chapter</td><td>Permanent transfer of Intellectual Property (IP) right in respect of Information Technology software.</td></tr>
</table>
</td></tr>
</table>

2. As a result of this amendment, (i) temporary or permanent transfer of Intellectual Property(other than Information Technology software) would attract 12% GST (irrespective of whether permanent transfer of Intellectual Property is a supply of goods or services) and (ii) temporary or permanent transfer of Intellectual Property in respect of Information Technology software would attract 18% GST (irrespective of whether permanent transfer of Intellectual Property in respect of supply of Information Technology software is a supply of goods or services). This amendment is proposed as a dispute / litigation avoidance measure.

Agenda Item 6(ix): Inter-State transfer of aircraft engines, parts and accessories

The domestic civil aviation industry has raised the issue of levy of GST multiple times on inter-state transfer of aircraft engines, parts and accessories for use by their own airlines. This is because credit of GST paid on them is not allowed to be availed for payment of GST on passenger transportation services in economy class, which attracts 5% GST subject to the condition that credit of input tax charged on goods used in supplying the service has not been taken. The GST paid engines, parts and accessories are stored by the airlines in one State. When these are supplied to another State for use by the same airlines in their aeroplanes, IGST is levied on such inter-state supplies. Under Schedule I of the GST Act, supply of goods or services or both between related persons or between distinct persons as specified in Section 25, when made in the course or furtherance of business, even if, without consideration, attracts GST. Therefore, if air-craft engines, parts and accessories move across States, then they suffer taxes more than once. The tax paid on supply of these inputs is not available as credit, as transport of passengers by air in economy class attracts GST of 5% subject to the fulfilment of the aforesaid condition.

2. The mater was discussed in Fitment Committee. Economy class air travel attracts 5% GST with ITC of input services while other than economy class is subjected to 12% GST with full credit of inputs and input services. Ideally, air travel of passengers by economy class, may also be subjected to 12% GST with full input tax credit like passenger transport by air in other than economy class. However, it was felt that the GST rate on economy class air travel may not be changed for the present. However, it is proposed to clarify as under so as to remove any additional burden of tax on inter-State movement of such engines, parts and accessories.

"It is hereby clarified that credit of GST paid on aircraft engines, parts and accessories will be available for discharging GST on inter–State supply of such aircraft engines, parts and accessories by way of inter-State stock transfers between distinct persons as specified in section 25 of the CGST Act, notwithstanding that credit of input tax charged on consumption of such goods is not allowed for supply of service of transport of passengers by air in economy class at GST rate of 5%."

Agenda Item 6(x): Issues related to rate of tax on certain Services

S. No	Description of Services	Present GST rate	Requested GST rate	Justification	Comments
1.	State Insurance & Provident Fund Department (chapter 99)	18%	Nil	**A. General Insurance Policy where premium and service tax is paid by State Government:** These schemes should be exempted from GST because premium and service tax regarding this scheme is paid by the State Government. **B. General Insurance Policy where premium and service tax is paid by Employee:** The above said insurance policies are related to the welfare of employees of the State Government / Police personnel, employees of Electricity Department therefore, it is proposed that these insurance policies should be exempted from GST. **C. General Insurance Policy where**	Services provided to the Central Government, State Government, Union territory under any insurance scheme for which total premium is paid by the Central Government, State Government, Union territory are exempt from GST. [Refer Sl. No. 40 of Table in notification No. 12/2017-Central Tax(Rate)] Further, services provided by State Government by way of general insurance to employees of the State government/ Police personnel, employees of Electricity Department or students are exempt vide entry 6 of notification No. 12/2017-CT(R) which exempts Services by Central Government, State Government, Union territory or local authority to individuals. We may clarify accordingly.

				premium and service tax is paid by Students of Colleges/ private schools: These insurance policies are related to student safety and welfare. Therefore, it is proposed that the above said insurance policies should be exempted from GST.	
2.	Services by way of admission to "monuments" may also be added to the list of exempted services at serial no. 79, heading 9996 in Notification No. 12/2017 Central Tax (Rate) dated 28-07-2017.	18%	NIL	Services by way of admission to "monuments" may also be added to the list of exempted services at S. No. 79, heading 9996 in Notification No. 12/2017 Central Tax (Rate) dated 28-07-2017.	This was discussed in the Fitment Committee. Services by way of admission to museum, national park, zoo, tiger reserve, wildlife sanctuary, are exempt. We may exempt admission to **protected monuments** from GST. [Protected monuments have been defined in the Central Act and various State Acts and have been declared as such.]

Agenda Item 7: Issues recommended by the Law Committee for consideration of the GST Council

Agenda Item 7(i): Draft rule to be framed under section 107 of the CGST Act

The appeal provisions are contained under section 107 of the CGST Act, 2017. Sub-section (1) of section 107 deals with appeals to the Appellate Authority by tax payers, while sub-sections (2) and (3) of section 107 of the CGST Act provide for appeals to be filed by the department. The relevant provisions read as follows:

> *"107. (1) Any person aggrieved by any decision or order passed under this Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act by an adjudicating authority may appeal to such Appellate Authority as may be prescribed within three months from the date on which the said decision or order is communicated to such person.*
>
> *(2) The Commissioner may, on his own motion, or upon request from the Commissioner of State tax or the Commissioner of Union territory tax, call for and examine the record of any proceedings in which an adjudicating authority has passed any decision or order under this Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act, for the purpose of satisfying himself as to the legality or propriety of the said decision or order and may, by order, direct any officer subordinate to him to apply to the Appellate Authority within six months from the date of communication of the said decision or order for the determination of such points arising out of the said decision or order as may be specified by the Commissioner in his order.*
>
> *(3) Where, in pursuance of an order under sub-section (2), the authorised officer makes an application to the Appellate Authority, such application shall be dealt with by the Appellate Authority as if it were an appeal made against the decision or order of the adjudicating authority and such authorised officer were an appellant and the provisions of this Act relating to appeals shall apply to such application."*

2. It has been envisaged to have a two-tier appellate structure as detailed below:

i. Appeals against the orders of Additional/Joint Commissioner would lie with the Commissioner (Appeals);
ii. Appeals against orders of Deputy/Assistant Commissioner and Superintendents would like with the Additional Commissioner (Appeals).

3. Accordingly, since section 107 of the CGST Act provides for prescribing the appellate authorities, it is proposed to insert a new rule in the CGST Rules, 2017 to specify the appellate authority as detailed above. The opinion of the Department of Legal Affairs, Union Ministry of Law and Justice was sought on whether there should be separate rule relating to appeals to be filed by the department. It has been opined by the Law Ministry that the provisions for department appeals may be specified separately for the sake of avoiding any ambiguity in the future.

4. The draft rule proposed to be inserted as rule 109A reads as below:

> *"109A. Appointment of Appellate Authority-*
>
> *(1) Any person aggrieved by any decision or order passed under this Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act may appeal to -*
>
> *(a) the Commissioner (Appeals) where such decision or order is passed by the Additional/Joint Commissioner*

(b) the Additional Commissioner (Appeals) where such decision or order is passed by the Deputy/Assistant Commissioner or Superintendent

within three months from the date on which the said decision or order is communicated to such person.

(2) An officer directed under sub-section (2) of section 107 to appeal against any decision or order passed under this Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act may appeal to –

(a) the Commissioner (Appeals) where such decision or order is passed by the Additional/Joint Commissioner

(b) the Additional Commissioner (Appeals) where such decision or order is passed by the Deputy/Assistant Commissioner or the Superintendent

within six months from the date of communication of the said decision or order."

5. The Council may approve the proposal to insert the above rule relating to appellate authority in the CGST Rules, 2017.

Agenda Item 7(ii): Amendment in Central Goods and Services Tax Rules, 2017 recommended by Law Committee Meeting on 01.11.2017

In the Law Committee meeting held on 01.11.2017, the following recommendations have been made for amendments in the CGST Rules, 2017:

Sl. no.	Challenge / Issue	Suggested Amendment
1	**Enabling Manual Filing of applications for Refund and Advance Ruling.** In CGST Rules, 2017, there is no option for filing of application for refund or Advance ruling, manually. However, there is an urgent need to enable refund of accumulated input tax credit for exporters and provide opportunity to taxpayers to apply for advance rulings. Moreover, a Writ Petition has been filed in the High Court of Delhi to enable facility of filing manual application for Advance Ruling. The relevant forms – FORM RFD – 01 (under Rule 89 of the CGST Rules) and FORM GST – ARA -01 (under Rule 104) and other associated forms are still not available on the common portal. Therefore, on account of the urgency of the matter, it was decided in the Law Committee, that a Rule may be inserted in Chapter X (Refund) and Chapter XII (Advance Ruling) to enable manual filing of applications.	The following rule may be inserted at the end of Chapter X (Refund) of the CGST Rules, 2017: *"**97A. Manual filing.** – Notwithstanding anything contained in this chapter, in respect of any process or procedure prescribed herein, any reference to electronic filing of an application, intimation, reply, declaration, statement or electronic issuance of a notice, order or certificate on the common portal shall, in respect of that process or procedure, include manual filing of the said application, intimation, reply, declaration, statement or issuance of the said notice, order or certificate, in such Forms as appended to these rules."* Forms GST RFD-01A and GST RFD-01B are appended below. Identical provisions may be inserted in the Chapter relating to Advance Ruling
2	**Non-Reversal of Credit for Supply of services to Nepal and Bhutan and payment received in Indian rupees** The Bilateral Treaties signed by India with Nepal and Bhutan provide for payment against exports from India to Nepal and Bhutan to be received in Indian Rupees. However, section 2(6) of the IGST Act, 2017 defines supply of any service as "export of services" subject to certain conditions. One of the conditions is that the payment for such service has been received by the supplier of service in convertible foreign exchange. Thus, in cases of supply of services to Nepal and Bhutan where the payment for such supply is received in Indian	The following Explanation be added at the end of rule 42 and 43 of the CGST Rules, 2017: *Explanation: For the purposes of this rule, it is hereby clarified that the supply of services having place of supply in Nepal or Bhutan against which payment is received in Indian Rupees, in accordance with Reserve Bank of India guidelines, shall be treated as taxable supply.*

	rupees, integrated tax would be leviable in accordance with section 5(1) of the IGST Act, 2017 being inter-State supplies. Such services were not subject to service tax as place of provision of such services is out of India. It was proposed to continue the same practice namely, not to levy GST if services are supplied to Nepal and Bhutan, but payment thereof is received in Indian rupees. Such supplies would continue to be zero rated if payment is received in convertible foreign exchange. This was also approved in the 21st GST Council Meeting. Accordingly, Notification No. 42/2017 – Integrated Tax (Rate) dated 27.10.2017 has been issued to provide such exemption. It was also decided that for such supplies, there will be no reversal of Input Tax Credit. Accordingly, changes in ITC Rules (Chapter V) are suggested.	

2. *Pari-materia* changes would be carried out in SGST Rules also.

3. The amendments as proposed by the Law Committee are placed before the Council for approval.

FORM-GST-RFD-01 A

[See Rule 89(1) r/w 97A]

Application for Refund (Manual)

(Applicable for casual or non-resident taxable person, tax deductor, tax collector and other registered taxable person)

<table>
<tr><td>1.</td><td>GSTIN / Temporary ID</td><td colspan="8"></td></tr>
<tr><td>2.</td><td>Legal Name</td><td colspan="8"></td></tr>
<tr><td>3.</td><td>Trade Name, if any</td><td colspan="8"></td></tr>
<tr><td>4.</td><td>Address</td><td colspan="8"></td></tr>
<tr><td>5.</td><td>Tax period (if applicable)</td><td colspan="8">From <Year><Month> To <Year><Month></td></tr>
<tr><td rowspan="6">6.</td><td rowspan="6">Amount of Refund Claimed(Rs.)</td><td colspan="2">Act</td><td>Tax</td><td>Interest</td><td>Penalty</td><td>Fees</td><td>Others</td><td>Total</td></tr>
<tr><td colspan="2">Central tax</td><td></td><td></td><td></td><td></td><td></td><td></td></tr>
<tr><td colspan="2">State / UT tax</td><td></td><td></td><td></td><td></td><td></td><td></td></tr>
<tr><td colspan="2">Integrated tax</td><td></td><td></td><td></td><td></td><td></td><td></td></tr>
<tr><td colspan="2">Cess</td><td></td><td></td><td></td><td></td><td></td><td></td></tr>
<tr><td colspan="2">Total</td><td></td><td></td><td></td><td></td><td></td><td></td></tr>
<tr><td rowspan="7">7.</td><td rowspan="7">Grounds of refund claim (select from drop down)</td><td>(a)</td><td colspan="7">Excess balance in Electronic Cash Ledger</td></tr>
<tr><td>(b)</td><td colspan="7">Exports of services- with payment of tax</td></tr>
<tr><td>(c)</td><td colspan="7">Exports of goods / services- without payment of tax (accumulated ITC)</td></tr>
<tr><td>(d)</td><td colspan="7">ITC accumulated due to inverted tax structure [under clause (ii) of first proviso to section 54(3)]</td></tr>
<tr><td>(e)</td><td colspan="7">On account of supplies made to SEZ unit/ SEZ developer (with payment of tax)</td></tr>
<tr><td>(f)</td><td colspan="7">On account of supplies made to SEZ unit/ SEZ developer (without payment of tax)</td></tr>
<tr><td>(g)</td><td colspan="7">Recipient of deemed export</td></tr>
</table>

DECLARATION [second proviso to section 54(3)]

I hereby declare that the goods exported are not subject to any export duty. I also declare that I have not availed any drawback on goods or services or both and that I have not claimed refund of the integrated tax paid on supplies in respect of which refund is claimed.

Signature
Name –
Designation / Status

DECLARATION [section 54(3)(ii)]

I hereby declare that the refund of ITC claimed in the application does not include ITC availed on goods or services used for making 'nil' rated or fully exempt supplies.

Signature

Name –
Designation / Status

DECLARATION [rule 89(2)(f)]

I hereby declare that the Special Economic Zone unit /the Special Economic Zone developer has not availed of the input tax credit of the tax paid by the applicant, covered under this refund claim.

Signature
Name –
Designation / Status

SELF- DECLARATION [rule 89(2)(l)]

I/We _____ (Applicant) having GSTIN/ temporary Id -------, solemnly affirm and certify that in respect of the refund amounting to Rs. ---/ with respect to the tax, interest, or any other amount for the period from----to----, claimed in the refund application, the incidence of such tax and interest has not been passed on to any other person.

Signature
Name –
Designation / Status

(This Declaration is not required to be furnished by applicants, who are claiming refund under clause (a) or clause (b) or clause (c) or clause (d) or clause (f) of sub-section (8) of section 54.)

8. Verification

I/We<*Taxpayer Name*> hereby solemnly affirm and declare that the information given herein above is true and correct to the best of my/our knowledge and belief and nothing has been concealed therefrom.

I/We declare that no refund on this account has been received by me/us earlier.

Place
Date

Signature of Authorised Signatory
(Name)
Designation/ Status

Annexure-1

Statement -1 [rule 89(5)]

Refund Type: ITC accumulated due to inverted tax structure [clause (ii) of first proviso to section 54(3)]

(Amount in Rs.)

Turnover of inverted rated supply of goods	Tax payable on such inverted rated supply of goods	Adjusted total turnover	Net input tax credit	Maximum refund amount to be claimed [(1×4÷3)-2]
1	2	3	4	5

Statement- 3A [rule 89(4)]

Refund Type: Export without payment of tax (accumulated ITC) – calculation of refund amount

(Amount in Rs.)

Turnover of zero rated supply of goods and services	Net input tax credit	Adjusted total turnover	Refund amount (1×2÷3)
1	2	3	4

Statement-5A [rule 89(4)]

Refund Type: On account of supplies made to SEZ unit / SEZ developer without payment of tax (accumulated ITC) – calculation of refund amount

(Amount in Rs.)

Turnover of zero rated supply of goods and services	Net input tax credit	Adjusted total turnover	Refund amount (1×2÷3)
1	2	3	4

FORM-GST-RFD-01 B

[See Rule 91(2), 92(1), 92(3), 92(4) & 92(5) r/w 97A]

Refund Order details

1.	ARN	
2.	GSTIN / Temporary ID	
3.	Legal Name	
4.	Filing Date	
5.	Reason of Refund	
6.	Financial Year	
7.	Month	
8.	Order No.:	
9.	Order issuance Date:	
10.	Payment Advice No..:	
11.	Payment Advice Date:	
12.	Refund Issued To :	Drop down: Taxpayer / Consumer Welfare Fund
13.	Issued by:	
14.	Remarks:	
15.	Type of Order	Drop Down: RFD- 04/ 06/ 07 (Part A)
16.	Details of Refund Amount (As per the manually issued Order):	

Description	Integrated Tax						Central Tax						State/ UT tax						Cess					
	Tax	Interest	Penalty	Fees	Others	Total	Tax	Interest	Penalty	Fees	Others	Total	Tax	Interest	Penalty	Fees	Others	Total	Tax	Interest	Penalty	Fees	Others	Total
a. Refund amount claimed																								
b. Refund Sanctioned on provisional basis																								
c. Remaining Amount																								
d. Refund amount in-admissible																								
e. Gross amount to be paid																								
f. Interest (if any)																								

g. Amount adjusted against outstanding demand under the existing law or under the Act																									
h. Net amount to be paid																									

17.	Attachments (Orders)	RFD-04; RFD- 06; RFD 07 (Part A)
Date: Place:		Signature (DSC): Name: Designation: Office Address:

Agenda Item 7(iii): Centralised UIN for Foreign Diplomatic Missions / UN Organizations

GST Act and rules made thereunder provides for a special status to Foreign Diplomatic Missions / UN Organizations, whereby they are granted a Unique Identity Number (UIN) which is different from a GSTIN provided to a registered person. Through such UIN, there is minimal compliance for such Foreign Diplomatic Missions / UN Organizations and a facility to provide easy refunds is ensured.

2. As per the IGST Act, 2017 where the place of supply and the supplier of service is in the same State, then for such transaction, CGST / SGST will be charged. However, as per the current dispensation of law, the refund of such tax will not be available to the respective Foreign Diplomatic Missions / UN Organizations which is not registered in that State and CGST /SGST has been charged on such supply. One of the key concerns was the ineligibility of refund on CGST / SGST tax paid on hotel bills. Many Diplomats / embassy officials travel extensively throughout the country for many projects and their organisation may not be registered in every State to which they travel. Therefore, these organisations have requested that adequate changes may be made in the GST Act or rules to allow for refund of CGST / SGST paid in a particular State where the Diplomatic Mission / UN Organization is not registered.

3. It is submitted that the refund for the Foreign Diplomatic Missions / UN Organizations is not refund of input tax credit but a refund of the tax paid by them on their purchases. The same is being provided on the basis of a statement of invoices being declared by such Foreign Diplomatic Missions / UN Organizations in their **FORM GSTR-11**. This statement is to be reconciled with the return in **FORM GSTR-1** of the suppliers of goods and services before grant of refund.

4. Further, it was reported that many of the suppliers / vendors to Foreign Diplomatic Missions / UN Organizations have been declining supply of goods or services to Foreign Diplomatic Missions / UN Organizations on the premise that such UIN is not a valid GSTIN and therefore cannot be recorded in their invoices. It is submitted that due to such non-compliance of recording of UIN, Foreign Diplomatic Missions / UN Organizations will not be eligible for refund, as these vendors may not file such transactions in their **FORM GSTR-1**. Since, refunds are linked with filing of **FORM GSTR-1** of the suppliers / vendors of Foreign Diplomatic Missions / UN Organizations, the refund is now dependent on the compliance by the vendor / supplier.

5. In order to facilitate Foreign Diplomatic Missions / UN Organizations, the following proposals have been recommended by the Law Committee in its meeting held on 24th – 25th October 2017:

i. A centralized UIN may be issued to every Foreign Diplomatic Mission / UN Organization by Central Government and all compliance for such agencies may be done by the Central Government in coordination with MEA.

ii. The mechanism for refund proposed in the existent Central Goods and Services Tax Rules, 2017 may be revisited. Matching of supplies stated by the UIN holder in their **FORM GSTR-11** with **FORM GSTR-1** may be done away with for the time being till filing of FORM GSTR-1 stabilises. Instead refund may be given to Foreign Diplomatic Missions / UN Organizations of all the invoices containing their UINs which have been declared by them in their **FORM GSTR-11**, subject to verification.

iii. Refund of CGST/SGST/UTGST / IGST may be given by the Central Government and the refund amount maybe settled through the settlement mechanism.

6. The Council may give in principle approval for the proposal contained in Para 5 above. Further the GIC may be authorised to approve the changes in the CGST/SGST /UTGST Rules, as recommended by the Law Committee, in order to implement this proposal.

Agenda Item 7(iv): Reversal of Late Fee paid by registered persons who failed to furnish the return in FORM GSTR 3B for July, August and September 2017 within due date

A number of taxpayers were unable to file their **FORM GSTR-3B** within due date for the months of July, August and September, 2017 due to systemic issues and glitches. In order to facilitate such taxpayers, a waiver of late fee for the month of July, 2017 was granted vide Notification No. 28/2017 – Central Tax dated 1 September, 2017. Further, a waiver of late fee for the months of August and September, 2017 was granted by the GIC by circulation on 24th October, 2017. Accordingly, Notification No. 50/2017 – Central Tax dated 24 October, 2017 was issued.

2. For those taxpayers, who had already furnished this late fee, such late fee needs to be re-credited to their Electronic Cash Ledgers. This late fee is to be re-credited in the Electronic Cash Ledger under **FORM GST PMT – 05** under Rule 87(1) of the CGST Rules, 2017.The late fee, if re-credited under the "Fee" head of the Electronic Cash Ledger will be infructuous for taxpayers, since they will not be able to use such amount to offset any of the tax liability. Therefore, the Law Committee in its meeting held on 1 November, 2017 had recommended that the amount of late fee already paid by the taxpayers and now being reversed may be transferred from the "Fee" minor head to the tax head (separately in CGST and SGST) and credited to the respective "Tax" head of the Electronic Cash Ledger of the taxpayer. The Accounting Authorities of Centre and States would be advised accordingly.

3. In-principle approval of the GST Council is sought for the proposal in Para 2 above. Further the GIC may be authorised to approve the changes in the CGST/SGST/UTGST Rules, as recommended by the Law Committee, in order to implement this proposal.

Agenda Item 7(v): Apportionment of IGST Act in the case of supply of advertisement services to Central/State Government, statutory body or a local authority

1. Background

Section 12 of the IGST Act deals with the place of supply of services where the location of supplier of services and the location of the recipient of services is in India. Subsection (14) deals with advertisement services. The net position that emerges from the existing legal provisions is that, in the case of advertisement services to the Central Government, a State Government, a statutory body or a local authority, which involve interstate supplies, the contract should indicate the value of the supply in each State which should be proportional to the dissemination in each State. In the absence of the contract, the rules will indicate the manner in which value of the supply in each State (which should be proportional to the dissemination in each State) is to be determined. The problem of apportionment will arise in the case of supply of advertisement services to Central Government, a State Government and a statutory body. The advertisement by a local authority will usually be confined to a State and hence will not involve payment of IGST. The issue to be decided is the manner in which the IGST is to be allocated to different States/UTs. Directorate of Advertising and Visual Publicity(DAVP) carries out advertisement for Central / State Governments. This issue was discussed by the Law committee in its meeting held on 1-11-2017 and the following has been recommended.

2. Guiding Principles

2.1. Simplicity will be preferred to arithmetical accuracy.

2.2. Ease of understanding for the taxpayer and implementation for the administrator will be preferred to theoretical methods.

3. Operational Plan

The publicity carried out by the DAVP covers the following media. (They have to be analysed separately owing to the differences relating to them.)

3.1 Newspapers and publications

3.2 Printed publicity (Publications, novelty items, diaries and calendars)

3.3. Outdoor publicity (Hoardings, mass mailing, exhibitions)

3.4. Personal media (advertising on railway tickets, electricity and fuel bills etc)

3.5. Audio visual (Radio, Television)

3.6. New media (digital, websites, SMS)

4. Guidelines for apportionment

4.1. Newspapers

4.1.1The amount actually paid for placing an advertisement in all the editions of a newspaper in a State can be considered to be the closest, rational approximation of the value of advertisement service in that State and is therefore recommended. **This will be readily available at the time of the placing of the Release Order (RO) by DAVP.**

4.2. Publications

4.2.1 The rationale indicated for newspapers is equally applicable to publications, and can be applied, *mutatis mutandis*, for publications also. **This will be readily available at the time of the placing of the Release Order (RO) by DAVP.**

4.3. Printed material (Pamphlets, leaflets, diaries, calendars, T-shirts etc.)

4.3.1**. DAVP should ascertain and indicate the proposed distribution breakup of the leaflets at the time of placing the RO so that the State-wise breakup is known at the time of printing.(This will require that DAVP ascertains this breakup in advance from the Department concerned).**It is recommended to take that break up as the basis of apportionment in the case of printed material like pamphlets, leaflets, diaries, calendars etc or even for items like T shirts for a particular event (i.e Yoga Day) etc.

4.4. Outdoor

4.4.1. As regards hoardings (other than those on trains of Indian Railways) are concerned, the State-wise breakup of the amount actually paid can be considered to be the closest, rational approximation of the value of advertisement service in that state. **This will be readily available at the time of the placing of the Release Order (RO) by DAVP.**

4.4.2. For hoardings placed on trains, it is recommended that the ratio of the length of the track in each State be the basis for determining the extent of supply in each State. **This information is readily available train wise on the websites.**

4.5. Personal media

4.5.1. This refers to advertisements on the back of railway tickets, utility bills of oil and gas companies etc. It is recommended that for advertisements other than those on Indian Railways, the State wise breakup of the amount actually paid can be considered to be the closest, rational approximation of the value of advertisement service in that state. **This will be readily available at the time of the placing of the Release Order (RO) by DAVP.**

4.5.2. For advertisements with Indian Railways, these are on the tickets. Tickets are printed on a specific type of stationery and printouts of these tickets can be obtained from the various railway station booking counters. In other words, these tickets are sold from all stations all over the country. **The ratio of the railway stations in each state, can be used to know the extent of supply in each state. The total number of railway stations in the country and the state wise breakup is readily available on websites. This can be indicated in the RO when placing the print order.**

4.6. Audio visual (Radio, Television)

4.6.1. Radio

In order to ensure consistency, it is recommended that in the case of advertisements over radio stations the amount actually paid to stations in a state may be taken as the portion of the service dissemination in that state. **This will be readily available at the time of the placing of the Release Order (RO) by DAVP.**

4.6.2. Television

In the case of television channels, it is recommended that the Broadcast Audience Research Council (BARC) figures, adjusted in the ratio of the population of the States can be used to determine the extent of dissemination of advertisement of a channel in a state. (BARC data clubs' States into regions when publishing figures). That is since the amount paid to a channel is known, it will have to be split up State wise (in the ratio of the population) in terms of the viewership figures of a channel as per BARC data for March of the preceding financial year. Thus, the March 2017 viewership figures, channel-wise and adjusted region wise, State wise in the ratio of their population will form the basis for determining State-wise place of supply. These BARC viewership figures can either be calculated on an annual basis or be calculated at the end of each quarter and can serve as the guide for the succeeding quarter. Thus, they will be calculated in June, September, December and March and will serve as the guide for the succeeding quarter. In fact, over a period of time, in response to the legal provisions of GST, BARC may itself find it more convenient to start computing State wise figures instead of region wise figures.

4.7. New media (digital cinema, websites, SMS)

4.7.1. Digital Cinema

It is recommended that in the case of advertisements at cinema halls, the amount actually paid to a cinema hall/screens in a multiplex in a State may be taken as the portion of the service dissemination in that state. **This breakup will be available at the time of the RO.**

4.7.2. Websites

It is recommended that in the case of advertisements over internet, internet penetration figures released by the Telecom Regulatory Authority of India(TRAI) for the quarter ending with March of a financial year may be taken into consideration. The service provider may be asked to make apportionment on the basis of census figures in the case of clubbed States in a telecom circle (i.e a circle consisting of more than one state).

4.7.3. SMS

In the case of advertisements through SMSs it is suggested that the amount actually paid to the various telecom circles in a state may be taken as the portion of the service dissemination in that State. This breakup will be available at the time of the RO.

5. Mechanism for apportionment

5.1. In terms of rule 46(n) of the CGST Rules 2017, the tax invoice issued by a registered person should contain particulars about "place of supply along with the name of the State, in the case of a supply in the course of interstate trade or commerce". Thus, the invoice should be the basic document on which the place/s of supply, state wise will have to be indicated. Thus, the supplier's invoice will have to be more detailed and lengthy. As long as all these details are present in the invoice, there should not be any problem for fund settlement etc.

6. Approval sought

6.1. The principles for apportionment and mechanism of apportionment as contained in paragraphs 2 to 5 above may be approved by the Council. The rules will be notified under the provisions of section 12(14) of the IGST Act, 2017.

Agenda Item 7(vi): To restrict the maximum amount of late fee payable to the extent of output tax liability in a return by exercising powers under section 128 of the CGST Act, 2017

As per section 47(1) of the CGST Act, 2017, any registered person who fails to furnish the details of outward or inward supplies required under section 37 or section 38 or returns required under section 39 or section 45 by the due date shall pay a late fee of one hundred rupees for every day during which such failure continues subject to a maximum amount of five thousand rupees. However, in effect, late fee of two hundred rupees per day is payable by the taxpayer for delayed filing of the return including the return in **FORM GSTR-3B,** subject to a maximum amount of ten thousand rupees.

2. Whereas, vide notification No. 28/2017-Central Tax dated 01.09.2017 and notification No. 50/2017-Central Tax dated 24.10.2017, the late fee payable under section 47 of the CGST Act was waived off for all registered persons who failed to furnish the return in **FORM GSTR-3B** for the month of July, 2017 and August, 2017; September, 2017 respectively by the due date.

3. It has been represented that in certain cases, the late fee payable for delayed filing of the return is exceeding the principal amount of tax and interest payable in the return by a huge amount. This is deterring the small and medium businesses from filing the returns. This issue was discussed in Law Committee in its meeting held on 24 and 25 October, 2017 and it has recommended that this demand may be accepted.

4. Therefore, it is proposed that the maximum amount of late fee payable by a taxpayer be restricted to the amount of tax payable in a return in case the said amount is less than five thousand rupees. It is proposed to do so by exercising the powers conferred by section 128 of the CGST Act.

5. Similar notification would be required to be issued under the respective SGST Acts.

6. Thus, in principle approval of the Council is sought for implementing the proposal at Para 4 *supra.*

Agenda Item 8: Other issues requiring urgent action

Agenda item 8(i): Extension of due dates for furnishing of certain FORMs on the common portal

A review of the extended deadlines of various FORMS to be furnished under GST has been undertaken. Based on the deadlines provided by GSTN in the 3rd meeting of the GoM on IT issues held on 28.10.2017 and on further discussion with GSTN, it is felt that the due dates for furnishing the following FORMS might require further extension due to their late availability or unavailability on the common portal: -

TABLE

S No.	FORM and DETAILS	RULE	Original due date	First Revision	Second Revision	Third Revision	Expected date of availability (As indicated by GSTN with their comments)	Rationale for extension proposal, if any	Proposed due date
1	2	3	4	5	6	7	8	9	10
1	**GST ITC-04** Details of goods/capital goods sent to job worker and received back	45(3)	**25.10.2017** Quarterly. 25th day of the month succeeding the quarter	Extended to **30.11.2017** vide Notn. No. 53/2017 – Central Tax dated 28.10.2017	-	-	**Available from 27.10.2017** (Extension not required)	Since the taxpayer would ideally have had an entire quarter to furnish these details, it is felt that a period of at least two months can be provided.	**31.12.2017 (This can be considered as it is not affecting revenue)**
2	**GSTR-4** Creation & Submission of Quarterly Return by Compounding Taxpayer	62	**18.10.2017** Quarterly. On or before 18th day of the month succeeding the quarter	Extended to **15.11.2017** vide Notification No. 41/2017 – Central Tax dated 13.10.2017	-	-	**03.11.2017** (Tool already made available on Portal. Since the taxpayers will be working on GSTR-4 for the first time, we may extend the last date to 25th Nov 2017)	Since the form has been made available only from first week of November, one month may be given to taxpayers. Keeping in view the fact that the last date for GSTR-2 and GSTR-3 for July, 2017 is 30.11.2017 and 11.12.2017 respectively, due date may be kept after 11.12.2017.	**15.12.2017**
3	**GSTR-5**	63	Within twenty days after the end	-	-	-	**17.11.2017**	Since the form would be available only	**11.12.2017**

S No.	FORM and DETAILS	RULE	Original due date	First Revision	Second Revision	Third Revision	Expected date of availability (As indicated by GSTN with their comments)	Rationale for extension proposal, if any	Proposed due date
	Return for non-resident taxable person		of a tax period or within seven days after the last day of the validity period of registration, whichever is earlier.				(Suggested due date is 28.11.2017)	from 17th November, 20 days may be given to taxpayers.	
4	**GSTR-5A** Details of supplies of online information and database access or retrieval services by a person located outside India made to non-taxable persons in India	64	On or before the 20th day of the succeeding month	Extended to 15.09.2017 vide Notification No. 25/2017-Central Tax dated 28.08.2017	Extended to 20.11.2017 vide Notification No. 42/2017 – Central Tax dated 13.10.2017		**10.11.2017** (Payment of taxes by OIDAR have been done with Service Tax. Data transfer from EASIEST is yet to be worked out. Date may be extended upto 20th Dec 2017)	The monthly returns for the months of July – October, 2017 have to be filed and since form would be available only from 10.11.2017, one month may be given to taxpayers. Further last date for GSTR-3 for July is 11.12.2017.	**15.12.2017**
5	**GSTR-6** Return for ISD	65	13 days after end of each month	Extended to 08.09.2017 vide Notification No. 26/2017 – Central Tax dated 28.08.2017 (for July) Extended to 23.09.2017 vide Notification No. 26/2017 dated 28.08.2017 (for August)	Extended to 13.10.2017 vide Notification No. 31/2017 – Central Tax dated 11.09.2017 (for July)	Extension to **15.11.2017** vide Notification No. 43/2017 – Central Tax dated 13.10.2017 (for July)	**7.11.2017** (For July date may be extended upto 25th Nov. For Aug-Oct period, there is dependency on GSTR-1. Date may be extended accordingly)	Since the form shall be available only from 7th November, giving 20 days after last date for filing of GSTR-3 for July which is 11.12.2017, the due date for July, can be **31.12.2017**. For the months of Aug-Nov, it shall have to be decided after the filing of **GSTR-1** for those	**31.12.2017 (For July, 2017 and dates for August to November, 2017 would be announced in due course)**

S No.	FORM and DETAILS	RULE	Original due date	First Revision	Second Revision	Third Revision	Expected date of availability (As indicated by GSTN with their comments)	Rationale for extension proposal, if any	Proposed due date
								months. Further it has no revenue implications.	
6	**TRAN-1** Declaration of transitional stock/ITC and its revision **Revision of TRAN-1**	117 120A	30.09.2017	Till 30.10.2017 vide Order No. 03/2017 – GST dated 21.09.2017 Till 30.10.2017 vide Order No. 03/2017 – GST dated 21.09.2017	Till 30.11.2017 vide Order No. 07/2017 – GST dated 28.10.217 Till 30.11.2017 vide Order No. 07/2017 – GST dated 28.10.217		**TRAN-1 was made operational on 21 Aug 2017.** **Revision of filed TRAN-1 will get deployed by 10 Nov 2017.**	Since it involves the details of transition stock and the module for revision is to be made available only from 10.11.2017, the option for revision be extended till 31.12.2017	**31.12.2017** **Date for revision of TRAN-1 to be extended till 31.12.2017**

2. This proposal has not been discussed in the Law committee and is directly placed before the Council owing to the urgency of the matter involved.

3. The approval of the GST Council is sought for the extension of dates as proposed in column 10 of the Table above.

Agenda Item 8(ii): Amendment to sub-rule (2) of rule 54 of CGST Rules, 2017

Sub-rule (2) of rule 54 of CGST Rules, 2017 reads as follows –

"Where the supplier of taxable service is an insurer or a banking company or a financial institution, including a non-banking financial company, the said supplier ***shall*** *issue a consolidated tax invoice or any other document in lieu thereof, by whatever name called for the supply of services made during a month at the end of the month, whether issued or made available, physically or electronically whether or not serially numbered, and whether or not containing the address of the recipient of taxable service but containing other information as mentioned under rule 46."*

2. CGST Rules, 2017 was amended vide notification No. 45/2017- Central Tax dated 13.10.2017 wherein the supplier, who, is an insurer or a banking company or a financial institution, including a non-banking financial company, was required to issue a consolidated invoice or any other document in lieu thereof at the end of the month. Subsequently, representations have been received from the trade requesting to give them the option to issue single or consolidated invoices viz., the said suppliers may be given the option to issue individual invoices or any other document in lieu therefore a consolidated invoice or any other document in lieu thereof at the end of month.

3. In this regard, it is submitted that this request is being made since the recipient of supplies wish to claim the corresponding input tax credit on each individual supply instead of taking credit on the aggregate value in a consolidated manner. Further, it is submitted that most of the taxpayers have made the requisite changes in their software to issue invoices at the time of supply and changing the same would require additional resources and time.

4. In light of the above, it is proposed to amend the said sub-rule to read as follows:

> *"Where the supplier of taxable service is an insurer or a banking company or a financial institution, including a non-banking financial company, the said supplier* ***may*** *issue a consolidated tax invoice or any other document in lieu thereof, by whatever name called for the supply of services made during a month at the end of the month, whether issued or made available, physically or electronically whether or not serially numbered, and whether or not containing the address of the recipient of taxable service but containing other information as mentioned under rule 46."*

5. It is submitted that this proposal has not been discussed in the Law committee and is directly placed before the Council owing to the urgency of the matter involved.

6. The GST Council may approve the proposal to amend sub-rule (2) of rule 54 of the CGST Rules, 2017 as detailed in para 4 above. P*ari-materia* changes would be carried out in SGST Rules also.

Agenda Item 8(iii): Presentation on GST on real estate sector

GST
REAL ESTATE SECTOR

REAL ESTATE SECTOR – INDIA

- Construction sector contributed about 8-8.4% to the country's GVA during 2015-16 and 2016-17, at constant prices (MOSPI)
- Residential segment contributes about 80% of the real estate sector
- Second largest employer after agriculture which is slated to grow at 30 per cent over the next decade
- Indian real estate market is expected to touch US$ 180 billion by 2020
- Market size is expected to increase at CAGR of 11.2% (2008-2020)
- Private equity investments increased 26 per cent to Rs 40,000 crore (US$ 6.01 billion) in 2016

SOURCE : India Brand Equity Foundation

2

XIII FINANCE COMMISSION RECOMMENDATIONS – GST

- The real estate sector (both residential and commercial) should be included in the tax base
- Stamp duty levied by State Governments should be subsumed within GST (It was also recommended that GST should subsume taxes on vehicles, taxes on goods & passengers and electricity duty)
- A threshold of Rs. 10 lakh in this regard will permit exemption of small residential and business properties.

3

WHY BRING REAL ESTATE IN GST ?

- Discourage/Curb land hoarding: Disincentivise idle inventory of land
- Appropriate valuation of land: better price discovery leading to increased revenues (tax and non-tax) for Central & State Governments
- Sourcing of tax paid raw materials and inputs in construction sector
- Reduction in prices of land and buildings for final customers
- War on black economy
- Completion of ITC chain: beneficiaries include ports/airports/businesses/hotels etc
- Same tax treatment for completed property as for under-development property

4

ARGUMENTS MADE AGAINST BRINGING REAL ESTATE UNDER GST

- Real Estate sector under stress owing to NPAs and Government's campaign against cash economy.
- If stamp duty on transfer of land and buildings is not subsumed within GST or substantially not reduced, then it may lead to rise in prices of residential houses for consumers
- Builder may not pass on the benefits of increased ITC to the consumer by re-calibrating the prices and simply add GST to the existing prices
- Bringing real estate within the fold of GST would result in reduction of revenue owing to unblocking of ITC (ITC on works contract, building, civil structure etc is denied and refund of excess ITC is blocked in respect of construction of complex etc.)

5

TAXES & LEVIES ON REAL ESTATE

- Stamp Duty (Entry 63 State List)
- Property Tax: Taxes on Lands & Buildings (Entry 49 State List)
- Registration fee: Registration Act, 1908
- Cess: Building & Construction Workers Welfare Cess Act, 1996

6

GST ON REAL ESTATE:DEFINITIONS in CONSTITUTION

- Article 366 (12) prescribes an inclusive definition of GOODS

"includes all materials, commodities, and articles"

- Article 366 (12A) defines GOODS AND SERVICES TAX to mean

"any tax on supply of goods or services or both except taxes on supply of the alcoholic liquor for human consumption"

- Article 366(26A) defines services to mean

"anything other than goods"

7

GST ON REAL ESTATE

Section 2(52) and 2 (102) of CGST Act define respectively,-

GOODS to mean-

- *every kind of movable property other than money and securities but includes actionable claim, growing crops, grass and things attached to or forming part of the land which are agreed to be severed before supply or under a contract of supply*

SERVICES to mean

- *anything other than goods, money and securities but includes activities relating to the use of money or its conversion by cash or by any other mode, from one form, currency or denomination, to another form, currency or denomination for which a separate consideration is charged*
- **Article 367 of the Constitution** states that,-

"Unless the context otherwise requires, the General Clauses Act, 1897 , shall….apply for the interpretation of this Constitution as it applies for the interpretation of an Act of the Legislature of the Dominion of India"

- **Constitution of India does not define immoveable property**
- **General Clauses Act does not define goods**. It defines immovable property [section 3 (26)] to include,-

land, benefits to arise out of land, and things attached to the earth, or permanently fastened to anything attached to the earth

8

GST ON REAL ESTATE

-IS CONSTITUTIONAL AMENDMENT REQUIRED?

Opinion of the Law Ministry / Attorney General may be taken

- Amendments in the GST laws certainly required!

9

STAMP DUTY

- Article 246: Subject-matter of laws made by Parliament and by the Legislatures of States
- Entry 91 of List I is the field of legislation for the Union Govt,-

  [*Rates of stamp duty in respect of bills of exchange, cheques, promissory notes, bills of lading, letters of credit, policies of insurance, transfer of shares, debentures, proxies and receipts*]
- Entry 63 of List II is the field of legislation for State Govts,-

  [*Rates of stamp duty in respect of* ***documents*** *other than those specified in the provisions of List I with regard to rates of stamp duty*]
- Indian Stamp Act, 1899 is a central legislation. However, rates of stamp duty in respect to sale/purchase of land and buildings is decided by the States

10

STAMP DUTY-contd

- As stamp duty is with reference to documents conveying land & buildings, while GST is on supply/sale of the same: which is on a different aspect (Nature of tax vis-à-vis measure of tax)
- GST: Article 246A begins with *Notwithstanding contained in Article 246*: Power to legislate with respect to GST overrides those under Article 246
- Leasing of land/immovable property attracts stamp duty: Did it affect levy of service tax or GST now: **No**

11

TAXES ON LANDS AND BUILDINGS

- Entry 49 of State List

  Taxes on lands and buildings
- Held by the Apex Court that there is a difference between levy on income from house property which is an income-tax and levy on house property, which is referable to entry 49
- Apex Court has also held that entry 49 refers to a tax directly on land and not tax on income arising from land
- Further held by the Apex Court that the method of arriving at the quantum of tax should not be mixed up with the nature of tax: annual tax levied by State on buildings and land
- Nature of Tax: Tax on land & buildings is Tax on STOCK of land & buildings while GST on FLOW (SUPPLY) of land & buildings
- GST legislation under Article 246A overrides that under Article 246 plus ASPECT theory laid down by Apex Court

12

GST ON REAL ESTATE

Schedule II of CGST Act

- *Any transfer of title in goods is **supply of good***
- *Any transfer of right in goods or of undivided share in goods without the transfer of title thereof, is a **supply of service***

Land and Building – transfer of a limited right is presently subjected to GST

- *"Land and Building*
- *Any lease, tenancy, easement, license to occupy land is supply of services*
- *Any lease or letting out of the building including a commercial, industrial or residential complex for business or commerce, either wholly or partly, is supply of services"*

Supply of services

- *Renting of immovable property*
- *Construction of a complex ---, except where entire consideration is received after completion certificate -- or its first occupation, whichever is earlier*
- *Works contract as defined in section 2 (119)*

13

GST ON REAL ESTATE- way forward

- Define goods to include movable and immovable property
- Define services as anything other than goods and including intangibles
- States free to levy stamp duty at rates decided by them on land and buildings
- Property tax to continue as at present
- Building Cess to be subsumed in GST as other cesses

14

Agenda Item 8(iv): Exemption from GST on the Government's share of Profit Petroleum and clarification regarding taxability of Cost Petroleum in the oil and gas sector

The Agenda Note with regard to "Profit Petroleum" and "Cost Petroleum" was discussed in the 20th GST Council meeting held on 5 August 2017.

2. Certain observations with respect to them were made in the meeting. The same has been tabulated along with comments of TRU, CBEC.

Sl. No.	Issue	Observations	Comments
1	Is Government's share of profit petroleum leviable to GST or not?	In respect of production sharing contract between the Government and contractor, another view could be that both have come together for a common objective and were partners for commercial purpose and thus became an Association of Person(AOP) which was recognised as a separate legal entity. Services provided by one partner of AOP to another was not liable to be taxed and if an exemption was given, it would lead to reversal of input tax credit. He added that Government gave right of extraction and one view was that profit petroleum and cost petroleum was a consideration for the same. However, an alternative view was that all petroleum belonged to the Government and, therefore, extraction of petroleum and making payment for it would not be liable to tax as it would be violative of	It is felt that the contention that if the Government's share of "Profit Petroleum" is exempted from GST then there will be reversal of Input Tax Credit is not correct because it is a tax payable on input service of E&P companies. The tax is payable by Exploration & Production (E&P) company under reverse charge mechanism. The Government does not take any Input Tax Credit. It is therefore felt that reversal of ITC on account of exempting Government's share of profit petroleum from GST is unfounded. In view of the above, government's share of profit petroleum may be exempted from GST.
2	Is cost petroleum subjected to GST?		2. It was proposed to **clarify in the 20th GST council meeting that cost petroleum is not a consideration for service to GOI and thus not taxable** *per se*. In the equation, - P = T – C, cost petroleum is denoted by 'C'. Cost petroleum is the total cost of exploration, development and production petroleum. It was also mentioned in the Agenda Note that cost petroleum could be a measure of value of mining/exploration service provided by the operating member to the joint venture, in a situation when details of cash calls or bills raised by the operator on the joint venture have not been made available to the tax authorities. In this regard, it is submitted that as per Article 27.1 of the Model Production Sharing Contract, Government is the sole owner of the petroleum underlying the contract area except as regards that part of the crude oil/gas the title whereof has passed to the contractor or any other person in accordance with the provisions of the Production Sharing Contract. A harmonious reading of Article 297 of the Constitution and the Contract leads to a conclusion that Government is the sole owner till the contractor mines it out and sells it, in which case the title passes to the buyer. Before sale to the buyer, the contractor is the owner of the crude mined so long as he pays royalty and profit petroleum

		Article 297 of the Constitution (which dealt with things of value within territorial waters or continental shelf and resources of the exclusive economic zone to vest in the Union). It was also observed that it needed to be considered whether AOP was different from the operating member.	to the government. [In any case, Article 297 refers only to minerals beneath territorial waters, continental shelf and exclusive economic zone. It does not cover oil, coal and other minerals beneath the land surface of India.] The relationship between the Government and the contractor under PSC is not that of partners but of an assignor and assignee. Para 8.1 of the Production Sharing Contract states that subject to the provisions of the PSC, the Contractor shall have exclusive right to carry out Petroleum Operations to recover costs and expenses as provided in this Contract. Having acquired the right to explore, exploit and sell petroleum in lieu of royalty and a share in profit petroleum, contractors carry out the exploration and production of petroleum for themselves and not as a service to the Government. Hence, cost petroleum is not a consideration for service to GOI and thus not taxable per se. If the contention that the entire mineral wealth belongs to the Government and the E&P companies provide mining service to the Govt. and get cost petroleum as consideration for the same is accepted, it would lead to a huge tax liability on E&P companies. There is no doubt that the entire mineral wealth below the earth or the waters belong to the Governments all over the world. Different types of contract for oil and gas exploration and production have been developed to meet the different goals of governments. India follows the production sharing contract arrangement where the contractor bids for the rights to explore and exploit against payment of royalty and predetermined share in profit petroleum. India does not enter into a service agreement under which the State hires the services of mining from an oil and gas company or joint venture and retains the risks and benefits of exploration and pays the oil and gas company only for its services. Had GOI awarded service contracts to E&P companies, the contention of the Advisor, Punjab would have been correct. AOP is different from the members thereof. This flows from the Constitution: - Article 366 (29A) (e), - "*tax on the sale or purchase of goods includes*, - *a tax on the supply of goods by any unincorporated association or body of persons to a member thereof for cash, deferred payment or other valuable consideration*".

			Therefore, in 2006-07 Budget, Finance Act 2004, was amended so as to make it abundantly clear that *services provided by any unincorporated association or body of persons to a member thereof, for cash, deferred payment or any other valuable consideration, are taxable*. Moreover, para 7 of Schedule II of GST Act also has a similar provision, i.e., *supply of goods by any unincorporated association or body of persons to a member thereof for cash, deferred payment or other valuable consideration, is supply of goods*. Finally, the definition of person given in section 2 (84) of GST Act, clearly differentiates between an individual and an AOP or BOI, whether or not incorporated. In view of the above, it is proposed to clarify that cost petroleum is not a consideration for service to GOI and thus not taxable *per se*.

Agenda Item 9: Recommendations of Group of Ministers (GoM) on Composition and tax structure on restaurants for consideration of the GST Council

In accordance with the decision in the 22nd Meeting of GST Council held on 6 October 2017, a Group of Ministers (GoM) was constituted to examine measures to make the Composition Scheme more attractive and to revisit GST Tax Structure on Restaurants.

2. The GoM held two meetings on 15.10.2017 and 29.10.2017. Based on the deliberations, the GoM made its recommendations on each Term of Reference. The report of the GoM on the Composition Scheme and GST rate structure on restaurants is at **Annexure-I**.

3. The summary of the recommendations of the GoM is as below:

ToR I- Whether turnover of exempted goods can be excluded from the total turnover threshold for levying tax under the Composition Scheme

i. Annual turnover eligibility for composition scheme under the CGST/SGST law should be increased to Rupees 2 crore from the present limit of Rupees 1 crore by amending section 10(1) of the CGST Act and SGST Acts and after amendment in the law, the annual turnover threshold for composition be increased to Rupees 1.5 crore.

ii. The facility of Composition Scheme should not be made available to Associated Enterprises as defined in section 2(12) of the CGST/SGST Acts if the combined aggregate turnover of such Associated Enterprises exceeds the threshold limit prescribed for Composition Scheme.

iii. Apply a uniform rate of 1% under composition scheme for manufacturers and restaurants instead of present rates of 2% and 5% respectively.

iv. Composition rate for traders should be 0.5% if a tax payer chooses to pay tax on his aggregate turnover and the rate should be 1% if he chooses to pay tax only on his turnover of taxable goods.

v. Composition tax payers be allowed to make supply upto a limit of Rs 5 lakh of all services except for the Job Work services for which turnover value should be higher. This value could be decided by the GST Council.

ToR II- Can Composition Scheme be extended to Taxpayers making inter-State outward supplies of Goods

i. Inter-State outward supplies of goods be allowed under Composition scheme by amending section 10(2) of the CGST Act and SGST Acts.

ii. As small States have strong reservations on this issue, this provision may be reviewed once the scheme of compensation to States on account of revenue loss lapses after 5 years.

ToR III- Whether Input Tax Credit can be made available to registered persons receiving inward supplies from Composition Dealers

i. Members of the GoM had differing views on the issue and the GoM recommended to refer it to the GST Council.

ToR IV- Tax Structure of different categories of Restaurants, with a view to their possible rationalization/reduction

i. There should not be any distinction between restaurants based on air conditioning and all standalone restaurants with or without air conditioning and whether or not serving liquor be taxed at the rate of 12% with ITC.
ii. A restaurant within the premises of a hotel which has tariff for all rooms at Rs 7500/- or less per night be taxed at the rate of 12% with ITC.
iii. A restaurant within the premises of a hotel which has room tariff of more than Rs 7500/- per night (even for a single room) be taxed at the rate of 18% with ITC.
iv. Outdoor catering be taxed @ 12% with ITC.
v. Notwithstanding the above recommendations, GoM proposed that GST Council needs to take a view in light of TRU's observation that revenue loss could be in the range of Rs. 4000 crore on account of above proposal.

Other General Recommendations for consideration of GST Council

i. Maximum Retail Price for B2C supplies should be inclusive of GST and GST break up should be shown in the invoice by back calculation.
ii. Penalty for late filing of return be reduced from Rs 100/- per day to Rs 25/- per day each under CGST and SGST Act, subject to present ceiling of maximum late fee of Rs 5,000/- each under the said Acts.
iii. No penalty be levied in case of "Nil" return [i.e. where no transaction (either of purchase or sale) has been undertaken by the registered taxpayer].
iv. All taxpayers should file quarterly return instead of this facility being made available only to taxpayers having turnover upto Rs 1.5 crore and tax should be paid on monthly basis by all taxpayers.
v. All Returns to be filed by the taxpayers should be simplified.
vi. Simplification for classifying goods under HSN code.
vii. The modalities of invoice matching in the return be simplified.
viii. Payment of tax on advance payments be dispensed with for all taxpayers in respect of supply of Goods.
ix. Last date for filing GSTR-2 be extended beyond 31 October 2017 and late fee for GSTR-1,2 and 3 should be waived.
x. The report of GoM may be treated as an interim report and GoM which would continue to examine these issues further.

4. The report and recommendations of the GoM is placed before the GST Council for consideration.

***

Annexure-I

Report of the Group of Ministers on Composition Scheme and tax structure on Restaurant sector

In the 22nd Meeting of GST Council held on 6 October 2017, many concerns of SMEs were brought before the Council. It was mentioned that Composition scheme had not become very popular among MSMEs due to its restrictive structure. Concerns were also expressed over the tax incidence on restaurants and outdoor catering. The Council decided to constitute a Group of Ministers (GoM) to examine measures to make the Composition Scheme more attractive and to revisit GST Tax Structure on Restaurants. The members of the GoM designated as per OM No. 182/Committee-7/GoM/Restaurants/-GSTC/2017 dated 7.10.2017 is at **Annexure-A**. A list of officers who participated as special invitees as per OM of even No. dated 10.10.2017 is at **Annexure-B.**

2. **Mandate of the Group**: The Terms of Reference mandated for the GoM are as below:

I. Whether turnover of exempted goods can be excluded from the total turnover threshold for levying tax under the Composition Scheme;

II. Can Composition Scheme be extended to Taxpayers making inter-State outward supplies of Goods;

III. Whether Input Tax Credit can be made available to registered persons receiving inward supplies from Composition Dealers;

IV. Tax Structure of different categories of Restaurants, with a view to their possible rationalisation/reduction.

3. **Deliberations of the Group**: The Group held two meetings on 15.10.2017 and 29.10.2017 in Delhi. Comments and practice being followed in the States were sought on all Terms of Reference along with tax structure on restaurant in pre-GST regime. The comments received from the States on the Composition Scheme and tax structure on restaurants along with their suggestion are attached as **Annexure-C and Annexure-D**. The comments received from TRU on ToR- IV are at **Annexure-E.**

3.1. In the first meeting, it was decided that Association/organization of MSME as well as administrative Ministry may be invited in the 2nd meeting on 29.10.2017 to have a holistic view on the issues/concerns of MSMEs. The following Associations of MSME made presentation during the 2nd meeting on 20 October 2017:

i. India SME Forum
ii. Laghu Udhyog Bharti
iii. Federation of Indian Micro, Small & Medium Enterprises (FISME)
iv. Integration of Association of Micro, Small and Medium Enterprises of India (I am SME of India)
v. The Coimbatore District Small Industries Association (CODISSIA)
vi. Federation of Association of Small Industries of India (FASII)

3.2. The issues and concerns as well as suggestions by the above-mentioned Associations are summarized in **Annexure F**.

4. **Brief of Discussion:**

TOR I-Whether turnover of exempted goods can be excluded from the total turnover threshold for levying tax under the Composition Scheme:

4.1. It was stated that composition scheme of taxation is an exception to the normal GST scheme, where tax is levied based on turnover in order to promote simplicity and ease of compliance. The proposal to exclude exempted goods would complicate the scheme and increase compliance burden on taxpayer due to the need to maintain separate record for the turnover of exempted and non-exempted goods and scrutiny of such records by the tax authorities. Due to increase of eligibility turnover for Composition scheme to Rs 1 crore, some more head room for such exempted goods had become available.

4.2. It was submitted that in the composition turnover of retailer/trader, approximately 20-30% of the value pertained to exempt items, which also got taxed under the Composition scheme. Therefore, the composition taxpayer ended up paying more tax than normal taxpayer.

4.3. Besides excluding the exempted goods, exclusion of services was also discussed as it was creating a bar on availing of Composition scheme for small enterprises who dealt both in goods and services. It was mentioned that sometimes minor supply of services is given with the goods and in most of cases, it was in-separable from the supply of goods. It was further discussed that MSME also undertake job work for the big manufacturers, which is classified as service under the GST Acts. Job work helps SMEs to optimally utilize their capacity and retain the employees even during the lean period. So, there is a case for considering job work service up to a certain limit in addition to other services within the overall eligibility criteria of composition scheme.

4.4. It was brought to the notice that on account of many restrictions under the Composition scheme, fragmentation of business was taking place by creating entities for dealing in goods and services, which not only went against the revenue but also affected ease of doing business. It was suggested that Associated Enterprises as defined in section 2(12) of the CGST/SGST Acts should not be allowed Composition Scheme, if the combined aggregate turnover of such Associated Enterprises exceeds the threshold limit prescribed for Composition Scheme.

4.5. A contrary view was that proposal under this ToR would give rise to room for disputes and litigation on exempted/non-exempted turnover and will subject them to audit, requiring them to keep the record for 5 years. In this connection, it was discussed if excluding exempted goods from total turnover can be made optional for the composition taxpayer. In such a situation, a composition taxpayer, who opts to exclude exempted goods can be required to pay higher composition tax.

4.6. Taking into account the deliberation in both meetings, the GoM recommended the following:

i. Annual turnover eligibility for composition scheme under the CGST/SGST law should be increased to Rupees 2 crore from the present limit of Rupees 1 crore by amending section 10(1) of the CGST Act and SGST Acts and after amendment in the law, the annual turnover threshold for composition be increased to Rupees 1.5 crore.
ii. The facility of Composition Scheme should not be made available to Associated Enterprises as defined in section 2(12) of the CGST/SGST Acts if the combined aggregate turnover of such Associated Enterprises exceeds the threshold limit prescribed for Composition Scheme.
iii. Apply a uniform rate of 1% under composition scheme for manufacturers and restaurants instead of present rates of 2% and 5% respectively.
iv. Composition rate for traders may be 0.5% if a tax payer chooses to pay tax on his aggregate turnover and the rate may be 1% if he chooses to pay tax only on his turnover of taxable goods.

v. Composition tax payers be also allowed to make supply upto a limit of Rs 5 lakh for all services except for the Job Work services for which turnover value should be higher. This value could be decided by the GST Council.

ToR II – Can Composition Scheme be extended to Taxpayers making inter-state outward supplies of Goods

5.1. On this issue, different views emerged among the members. One view was that the movement of goods and services took place frequently between neighbouring States such as Delhi and Haryana and even miniscule amount of inter-State supplies makes the taxpayer ineligible for the composition scheme. Another view was that allowing such a facility will totally blur the distinction between the normal taxpayer and composition taxpayers.

5.2. It was also expressed that inter-State supplies attracted payment of IGST and subsequently the SGST portion went to the destination State. In order to allow the inter-State supplies, it was suggested that portion of composition tax could be assigned to the destination state depending upon inter-State sales. However, it was felt that it would require many changes in the provisions of GST Act and procedures, besides necessary changes would also be required in the return to capture inter-State supplies and process to assign the composition tax to the destination State. Further, it would still lead to revenue loss to small States, which are mostly consuming States, as embedded taxes will not get assigned.

5.3. It was suggested that one way to address this issue was to consider such States having inter-locked boundaries with other States as one region for the purpose of composition. For example, for Delhi, it may be considered "National Capital Region-NCR".

5.4. It was observed that no scheme would be successful if it did not meet the requirement of stakeholders. It was not trade friendly to mandate that a composition person should not undertake transaction across State boundaries, and this went against the basic principle of "One Tax, One Nation". The objective of any scheme should be to cater to the needs of business in wider term, which was not being fulfilled under the present scheme of Composition.

5.5. A view was also expressed by some members that by allowing inter-State supplies, no difference would be left between small taxpayer and big taxpayer. In such a case, full GST should be charged on inter-State supplies even from the composition taxpayer or inter-state supplies should be allowed for a limited turnover of Rs 10-20 lakh.

5.6. It was also observed that this restriction on inter-State supplies under Composition scheme was giving rise to the scope of parallel economy, which was against the intent of GST to bring more and more business in tax net. The fear of revenue implication was exaggerated and on the contrary, it would give fillip to the business which could and grow beyond State boundaries.

5.7. Considering the above, the GoM recommended the following:

i. Inter-State outward supplies of goods be allowed under Composition scheme by amending section 10(2) of the CGST Act and SGST Acts.

ii. As small States have strong reservations on this issue, this provision may be

reviewed once the scheme of compensation to States on account of revenue loss lapses after 5 years.

ToR III – Whether Input Tax Credit can be made available to registered persons receiving inward supplies from Composition Dealers

6.1. On this issue, from the discussion it emerged that MSME sector faced major difficulties due to restriction on ITC under Composition scheme. In the B2B transaction, as ITC cannot be availed by the recipient, the big manufacturers were reluctant to purchase goods from the MSMEs under composition scheme. There is usually a cluster of ancillary units around any big manufacturer, who cater to their input supplies and these units mostly fall under MSME. It was also informed that manufacturers in this sector were earlier exempt upto Rs 1.5 crore from Central Excise duty but now those opting for composition scheme are required to pay tax without availing ITC on their inputs and this increased their cost. Further due to the fact that no ITC is available to the recipient, B2B supplies were not happening. This had not only hampered the MSMEs, but also affected big manufacturers creating logistic issues and disrupting supply chain by not purchasing from MSME situated around them.

6.2. The contrary view was that ITC was never allowed to composition dealers and it would make the scheme very complicated. Presently the return of composition taxpayer was simple as no ITC was allowed. In order to allow ITC, return would have to be brought at par with normal taxpayers, requiring uploading of their invoices and thereafter following matching procedure. GSTN also expressed that allowing inter-State supply and passing of ITC would be a major departure from the agreed GST principles, requiring substantial change to software which would be time consuming and make the system very complicated.

6.3. It was suggested that as earlier MSMEs with turnover below Rs 1.5 crore were exempted from central excise duty, one solution could be to allow 50% cash back of the CGST portion into the recipient's account. It was pointed out that in view of the embedded taxes, MSMEs in pre-GST era got excise advantage on their value addition portion only.

6.4. A strong view emerged that taxpayer engaged in B2B supplies may not opt for composition, having tax paid supplies.

6.5. Members of the GoM had differing views on the issue and the GoM recommended to refer it to the GST Council.

ToR IV – Tax Structure of different categories of Restaurants, with a view to their possible rationalization/reduction

7.1. It was noted that in the service tax regime, restaurants having AC were charged Service tax at the rate of 6%, which was arrived at after allowing 60% abatement on the full value of services and all non-AC restaurant were exempt from payment of service tax. They were also allowed ITC on all goods and services except for food items under chapter 1 to 22 of the Central Excise Tariff.

7.2. In the GST regime, tax on non-AC restaurants are levied at the rate of 12% with ITC. Restaurants having AC and non-AC portion are treated at par with AC restaurants and are charged GST at the rate of 18% with ITC. It was stated that such an arrangement is found mostly in Dhabas on high-ways and in small restaurants in town.

7.3 Tax Research Unit (TRU) was generally of the opinion that status quo may be maintained if ITC is to be continued for restaurants. However, Non-AC portion of a restaurant (Restaurant with both AC and non-AC portions) and food parcels (take-aways), whether from AC or Non AC, may attract 12% with ITC. It was also pointed out that at present, ambit of restaurant services covered under Composition scheme is quite wide as it covers supplies referred to in clause (b) of paragraph 6 of schedule II. TRU also expressed concern about projected revenue loss of about Rs.4000 crore on account of pruning of rates from 18% to 12%.

7.4 It was pointed out that all stakeholders have strongly favoured extending the facility of ITC to the restaurant sector. National Restaurant Association of India (NRAI) strongly suggested to prune rates for standalone restaurants and to remove distinction between non-AC portion of restaurant from the AC portion of the restaurant. During deliberations, it was recognized that distinction of restaurant based on AC or Non-AC was creating a lot of resentment amongst the consumers and this distinction needed to be removed.

7.5. Considering all factors, the GoM recommended the following:

i. There should not be any distinction between restaurants based on air conditioning and all standalone restaurants with or without air conditioning and whether or not serving liquor be taxed at the rate of 12% with ITC.
ii. A restaurant within the premises of a hotel which has tariff for all rooms at Rs 7500/- or less per night be taxed at the rate of 12% with ITC.
iii. A restaurant within the premises of a hotel which has room tariff of more than Rs 7500/- per night (even for a single room) be taxed at the rate of 18% with ITC.
iv. Outdoor catering be taxed at the rate of 12% with ITC.
v. Notwithstanding the above recommendations, GoM proposed that GST Council needs to take a view in light of TRU's observation that revenue loss could be in the range of Rs. 4000 crore on account of above proposal.

8. In addition to the above proposals, many difficulties/issues/concerns were brought to the notice of the GoM by the representatives of the MSME sector. After discussion, the GoM proposed further simplification of some provisions and procedures under GST. The proposals in brief to be forwarded to GST Council for consideration are as under:

i. Maximum Retail Price for B2C supplies should be inclusive of GST and GST break up should be shown in the invoice by back calculation.
ii. Penalty for late filing of return be reduced from 100/- per day to Rs 25/- per day each under CGST and SGST Act, subject to present ceiling of maximum late fee of Rs 5,000/- each under the said Acts.
iii. No penalty be levied in case of "Nil" return [i.e. where no transaction [either of purchase or sale) has been undertaken by the registered taxpayer].
iv. All taxpayers should file quarterly return instead of this facility being made available only to taxpayers having turnover upto Rs 1.5 crore and tax should be paid on monthly basis by all taxpayers.
v. All Returns to be filed by the taxpayers should be simplified.
vi. Simplification for classifying goods under HSN code.
vii. The modalities of invoice matching in the return be simplified.
viii. Payment of tax on advance payments be dispensed with for all taxpayers in respect of supply of Goods.
ix. Last date for filing GSTR-2 be extended beyond 31 October 2017 and late fee for GSTR-1,2 and 3 should be waived.

9. The report of GoM may be treated as an interim report and GoM would continue to examine these issues further.

10. Summary of recommendations of the GoM:

A.

ToR I- Whether turnover of exempted goods can be excluded from the total turnover threshold for levying tax under the Composition Scheme

i. Annual turnover eligibility for Composition scheme under the CGST/SGST law should be increased to Rupees 2 crore from the present limit of Rupees 1 crore by amending section 10(1) of the CGST Act and SGST Acts and after amendment in the law, the annual turnover threshold for Composition be increased to Rupees 1.5 crore.

ii. The facility of Composition Scheme should not be made available to Associated Enterprises as defined in section 2(12) of the CGST/SGST Acts if the combined aggregate turnover of such Associated Enterprises exceeds the threshold limit prescribed for Composition Scheme.

iii. Apply a uniform rate of 1% under Composition scheme for manufacturers and restaurants instead of present rates of 2% and 5% respectively.

iv. Composition rate for traders should be 0.5% if a tax payer chooses to pay tax on his aggregate turnover and the rate should be 1% if he chooses to pay tax only on his turnover of taxable goods.

v. Composition tax payers be also allowed to make supply upto a limit of Rs 5 lakh for all services except for the Job Work services for which turnover value should be higher. This value could be decided by the GST Council.

ToR II- Can Composition Scheme be extended to Taxpayers making inter-state outward supplies of Goods

i. Inter-State outward supplies of goods be allowed under Composition scheme by amending section 10(2) of the CGST Act and SGST Acts.

ii. As small States have strong reservations on this issue, this provision may be reviewed once the scheme of compensation to States on account of revenue loss lapses after 5 years.

ToR III- Whether Input Tax Credit can be made available to registered persons receiving inward supplies from Composition Dealers

i. Members of the GoM had differing views on the issue and the GoM recommended to refer it to the GST Council.

ToR IV- Tax Structure of different categories of Restaurants, with a view to their possible rationalization/reduction

i. There should not be any distinction between restaurants based on air conditioning and all standalone restaurants with or without air conditioning and whether or not serving liquor be taxed at the rate of 12% with ITC.

ii. A restaurant within the premises of a hotel which has tariff for all rooms at Rs 7500/- or less per night be taxed at the rate of 12% with ITC.

iii. A restaurant within the premises of a hotel which has room tariff of more than Rs 7500/- per night (even for a single room) be taxed at the rate of 18% with ITC.

iv. Outdoor catering be taxed at the rate of 12% with ITC.

v. Notwithstanding the above recommendations, GoM proposed that GST Council needs to take a view in light of TRU's observation that revenue loss could be in the range of Rs. 4000 crore on account of above proposal.

B. Other General Recommendations for consideration of GST Council

i. Maximum Retail Price for B2C supplies should be inclusive of GST and GST break up should be shown in the invoice by back calculation

ii. Penalty for late filing of return be reduced from Rs 100/- per day to Rs 25/- per day each under CGST and SGST Act, subject to present ceiling of maximum late fee of Rs 5,000/- each under the said Acts.

iii. No penalty be levied in case of "Nil" return {i.e. where no transaction (either of purchase or sale) has been undertaken by the registered taxpayer].

iv. All taxpayers should file quarterly return instead of this facility being made available only to taxpayers having turnover upto Rs 1.5 crore and tax should be paid on monthly basis by all taxpayers.

v. All Returns to be filed by the taxpayers should be simplified.

vi. Simplification for classifying goods under HSN code.

vii. The modalities of invoice matching in the return be simplified.

viii. Payment of tax on advance payments be dispensed with for all taxpayers in respect of supply of Goods.

ix. Last date for filing GSTR-2 be extended beyond 31 October 2017 and late fee for GSTR-1, 2 and 3 should be waived.

x. The report of GoM may be treated as an interim report of GoM which would continue to examine these issues further.

Annexure-A

OFFICE OF THE GOODS AND SERVICES TAX COUNCIL
Tower-II, 5th Floor, Jeevan Bharti Building,
Connaught Place, New Delhi

F. No. 182/Committee-7/GoM/Restaurants/-GSTC/2017 **Date: 7/10/2017**

OFFICE MEMORANDUM

In pursuance of decision taken in the 22nd Meeting of GST Council held on 6 October 2017 at Vigyan Bhavan, New Delhi, a Committee of Group of Ministers (GoM), who are also Members of the GST Council, has been constituted to examine measures to make the Composition Scheme more attractive and to revisit GST Tax Structure on Restaurants. Committee shall consist of the following Members:

S. No.	Name, designation & organisation	
1.	Dr. Himanta Biswa Sarma, Hon'ble Finance Minister, Govt. of Assam	Convenor
2.	Shri Sushil Kumar Modi, Hon'ble Deputy Chief Minister, Govt. of Bihar	Member
3.	Dr. Haseeb Drabu, Hon'ble Finance Minister, Govt. of Jammu & Kashmir	Member
4.	Shri Manpreet Singh Badal, Hon'ble Finance Minister, Govt of Punjab	Member
5.	Shri Amar Agrawal, Hon'ble Minister of Commercial Taxes, Govt. of Chattisgarh	Member

2. The terms of reference of the Committee of Group of Ministers shall be to examine:

a. whether turnover of exempted goods can be excluded from the total turnover threshold for levying tax under the Composition Scheme;
b. can Composition Scheme be extended to Taxpayers making inter-state outward supplies of Goods;
c. whether Input Tax Credit can be made available to registered persons receiving inward supplies from Composition Dealers;
d. the Tax Structure of different categories of Restaurants, with a view to their possible rationalisation/reduction.

3. The Committee of GoM will be assisted by the Additional Secretary, GST Council in its work.
4. This issues with the approval of the Hon'ble Union Finance Minister and Chairperson, GST Council.

(-Sd-)
(Arun Goyal)
Additional Secretary

Copy to:

1) PS to Hon'ble Minister of Finance, Government of India, North Block, New Delhi;
2) PS to Hon'ble Minister of State (Finance), Government of India, North Block, New Delhi
3) All Members of GoM;
4) The Nodal officers of the State of Assam, Bihar, Jammu & Kashmir, Punjab, Chhattisgarh, with the request to intimate the Hon'ble Ministers regarding their nomination as Members of the Group of Minister on Composition Scheme and Restaurant Sector;
5) Nodal officers of all the States;
6) The Revenue Secretary, North Block, New Delhi;
7) Chairperson, CBEC, North Block, New Delhi;

Annexure-B

OFFICE OF THE GOODS AND SERVICES TAX COUNCIL
Tower-II, 5th Floor, Jeevan Bharti Building,
Connaught Place, New Delhi

F. No. 182/Committee-7/GoM/Restaurants/-GSTC/2017 **Date: 10/10/2017**

OFFICE MEMORANDUM

Subject: First meeting of GoM on Composition Scheme and restaurant sector on 15 October 2017 in New Delhi – reg.

A Committee of Group of Ministers (GoM) has been constituted vide Office Memorandum even no. dated 07 October 2017 to examine measures to make the Composition Scheme more attractive and to revisit GST tax structure on restaurants.

2. The First Meeting of the GoM on Composition Scheme and Restaurant Tax Structure has been fixed for 11:30 hrs on 15 October 2017 at Bihar Niwas, Chanakya Puri, New Delhi.

3. Following members are requested to attend the above said meeting as Special Invitees:

Sl. No	Name and Designation	Organisation/State
1	Shri Upender Gupta	Commissioner (GST), CBEC
2	Shri Amitabh Kumar	Joint Secretary (TRU), Dept of Revenue
3	Shri P K Mohanty	Advisor (GST), CBEC
4	Dr. P.D. Vaghela	Commissioner, Commercial Taxes, Gujarat
5	Shri Ritvik Pandey	Commissioner (Commercial Taxes), Karnataka
6	Shri Khalid A Anwar	Senior Joint Commissioner, Commercial Taxes, West Bengal
7	Shri Shashank Priya	Joint Secretary, GST Council
8	Shri Dheeraj Rastogi	Joint Secretary, GST Council

-Sd-
(Arun Goyal)
Additional Secretary

To,

1. All Special Invitees
2. Convener of the GoM on Composition Scheme and Restaurant Sector through the Nodal officer.

Annexure-C

Summary of comments received from States on Composition Scheme
(Based on information received from States)

Sl. No	State	Whether turnover of exempted goods is excluded from the total turnover threshold for levying tax under the Composition Scheme	Extension of Composition Scheme to taxpayers making inter-state inward/outward supplies of Goods	Availment of ITC by Composition dealers/ITC on purchases from composition dealers	Any other Remarks
1	Andhra Pradesh	Turnover between Rs 7.5 Lakhs and Rs 50 Lakhs in a period of twelve consecutive months for General Composition dealer (Known as TOT dealers) **Comments/Suggestions**: Exempted turnover may be excluded for levying tax on composition suppliers to reduce the burden on small traders who make outward interstate supplies	•The dealers importing/exporting goods from/to outside the territory of India or making interstate purchases or interstate sales/dispatches are not eligible for composition scheme. **Comments/Suggestions**: It is against the destination principle of GST. Hence, it should not be allowed.	A composition dealer is not entitled to claim ITC. **Comments/Suggestions :** It would complicate the return filing and requires change of all the administrative procedures. It is also against the basic principle of composition levy and GST. It only results in fall in revenues and does not encourage more number of dealers coming into tax net. Hence, ITC should not be allowed on the supplies received from Composition Scheme.	
2	Arunachal Pradesh		-	-	No composition Scheme was implemented in VAT regime
3	Assam	•Turn over limit – Rs 60 Lakh. •This includes taxable and Non-taxable goods. •There is no monetary upper ceiling in case of works contractors. **Comments/Suggestions:** a) In respect of traders who are liable to pay 1% percent GST on the turnover, the composition limit should be increased to Rs. 2 crore from the proposed 1 crore which was decided in the 22nd GST council meeting on 6/10/2017, in order to extend relief to more	•Applicable to retail dealers who purchases and sells such goods exclusively within state. •The retailer is not entitled to make interstate purchase or enter into any transaction governed by the CST Act,1956. •The retailer is not entitled to use Delivery Note etc for importing goods from outside the state. •The dealer opting for Composition Scheme can make inter-state purchases using "C" form and he can also obtain and use "Delivery Note" for importing goods from outside the State.	Not eligible for ITC on his purchases **Comments/Suggestions :** In the last meeting, council has provided many facilitative changes to ease the burden of compliance on small and medium business. Keeping in conformity with such changes and to make it more attractive, it is proposed that ITC also may be allowed upto 2 percent for purchase from MSME under composition scheme in order to ensure level playing field to this sector to	Composition Schemes are available to: Retail dealers, works contractors, real estate developers, dealers marble dealers, composition scheme for brick fields, dealers selling sweet meat, snacks, cooked food, milk and non-alcoholic beverages etc.

		small taxpayers from the compliance issue and to ensure ease of doing business. If required, section 10 may be amended and ordinance can be brought by asking all the states to amend the same simultaneously. b) In respect of manufacturer who is liable to pay 2% GST on the turnover, composition limit may be increased to Rs. 3 crore. These manufacturers were allowed excise duty exemption upto 1.5 crore turnover in the earlier regime, but now these units have become liable to pay tax beyond GST threshold of Rs. 20 lakhs or 10 lakhs, as the case may be. This is requested in order to promote employment giving small scale industries. c) In respect of restaurants that are liable to pay 5% GST, the limit may be increased to Rs. 2 crore in order to provide relief to small and medium size restaurants as well middle class consumers from the burden of payment of taxes at the time of eating out or take away.	**Comments/Suggestions** – In order to allow small scale traders to make interstate sales in today's world on e- commerce through portals and even otherwise, inter-state supply may be allowed for composition dealers provided they charge full IGST on their supply and transport the goods with a valid e-way bill. Further, deemed ITC on such supply may be allowed to the recipient. However, the supplier will have to maintain tax invoices of purchase from normal registered dealers. However, ITC to be claimed by seller may be restricted as given below to prevent misuse --- a) In case of manufacturers, 50% of IGST paid as per sales invoice of inter-state sale. b) In case of traders, 80% of IGST paid as per sales invoice of inter-state sale. c) RCM may be made mandatory for the composition dealers for all receipts/purchases made from an unregistered entity. If required, section 10 (2) may be amended and ordinance can be brought by asking all the states to amend the same simultaneously. Issuance of tax invoice will have to be allowed for inter-State transactions instead of bill of supply.	compete with the large industries. This is because manufacturers pay 2% tax under composition scheme. Issuance of tax invoice will have to be allowed for inter-State transactions instead of bill of supply.	
4	Chattisgarh	Turnover Limit was Rs 60 Lakh per annum without including value of tax free goods.	-	•Composition dealers were not eligible to claim ITC on purchases made by them from registered dealers	No obligation to maintain regular books of accounts and assessment. Categories:

				•No ITC was available for purchases from Composition dealers	a. Works Contractors b. Traders who purchase and sell within state of Chattisgarh
5	Delhi	Any dealer whose turnover in the previous year or in current year does not exceed Rs 50 lakhs	The dealer shall not procure or supply goods to any place outside Delhi at any time during the year.	The dealer can't claim any ITC of the taxes paid by him.	
6	Gujarat	Threshold for composition scheme is Rs 75 lakh. Threshold limit isn't specified for cases of Works Contractors, agriculture produce, right to use the goods. **Suggestions/Comments:** Only taxable turnover should be considered for threshold for composition & tax payment	•Interstate sales/purchases, import &export branch transfer/consignment is not allowed except in case of composition of tax on agriculture produce, where, sell and purchase is prohibited from a place out of territory of India. •Reverse charge/purchase tax is leviable, if purchases are made from un registered dealer in case of Resellers and works contactors. Suggestion/Comments: Detailed study of implications is required.	Not entitled to claim ITC in respect of tax paid by him on purchases. But in cases of composition of tax on turnover of right to use the goods, he is allowed to claim tax credit in respect of tax paid by him on purchases Suggestions/Comments: The group may get it examined as it will require drastic changes in Act, Rules & Forms.	
7	Haryana	-	In case of Retailers (Turnover less than Rs 40 Lakh except dealer of aerated water/drinks or medicine) – the goods purchased in course of interstate trade or commerce – the lumpsum was payable at the same rate of tax as applicable on goods in the state.	In case of Ply Board Manufacturer – The claim of ITC was available subject to certain restrictions	Category of dealers eligible for Composition Scheme are as follows: Brick Kiln Owner, Contractors (Other than Developers), Developers, Ply Board Manufacturer, Retailers,
8	Himachal Pradesh	Threshold limit was Rs 30 Lakh for all taxpayers other than those dealing in liquor and medicines **Comments/Suggestions:** GST deduction of tax exempted goods cannot be allowed to composition taxpayers as they are required to pay tax on their entire turnover irrespective of the fact that the tax on the goods	Comments/Suggestions: composition taxpayers by the very nature of their businesses being B2C suppliers are not engaged in dispatching of goods to consumers either in the same State or the other. Therefore, permitting them to make interstate supplies will only help the unscrupulous businesses. This step will also violate	The dealers can't claim ITC Comments/Suggestions: MSME in order to stay viable would like to avail ITC benefits. Genuine MSME wanting to avail ITC will not opt for composition scheme as it cannot set-off the input tax against the output tax.	

		supplied is 28%, 18% or 0% for the reason of simplicity. Since a tax on supplies of 28% is not charged at 28%, therefore tax on supplies of 0% cannot be charged at 0% by extension of the same logic. Any such proposal will lead to dragging a composition taxpayer into classification disputes, leading to increase in the compliance burden defeating the very purpose of the scheme. In case any deduction is allowed to such tax payers, then apart from revenue loss to the Government it will make the account keeping complex for them. Therefore, allowing deduction is neither in the interest of revenue nor that of the composition tax payer.	the principle of destination based taxation under GST. Above all it will be highly prejudicial to revenue of smaller states like the state of Himachal Pradesh vis-a-vis bigger adjoining States.		
9	Jammu & Kashmir	Subject to certain conditions, all dealers other than manufacturers and importers whose annual turnover was between Rs 10 Lakh and Rs 25 Lakh. **Suggestion/Comments:** It is, as such, suggested that the Composition Scheme as it exists for the purpose of calculation of turnover and taxability of the total turnover be kept intact. In case, it is felt that burden of taxation is higher on composition dealers, the GST Council may consider reducing the rate of tax of the Composition dealers without tinkering with the existing scheme.	The taxpayer under composition scheme is supposed to not have any goods in stock brought from outside the state on the date he opts to pay turnover tax and not sell any goods brought from outside the State after such date The dealer coming isn't allowed to purchase goods from outside the state or import from outside territory of India. Suggestion/Comments: In case, the interstate outward supplies of goods by Composition dealer is allowed, no ITC shall be available to the destination State as the taxes will be retained by the State of origin. Further, additional tax paid by the Composition dealer on	No ITC was allowed including on transition stock. **Suggestions/Comments :** This proposal goes against the basic concept of GST. Since Composition dealer does not charge any tax and only pays tax on the turnover out of his margin, hence no credit would accrue to the dealer receiving supplies from Composition dealer. Moreover, creating a tax chain midway and without considering the taxes paid by the Composition dealer on his inward supplies vitiates the concept of passing on of ITC.	Maintenance of account of purchases and sales in the sale and purchase register is a pre-requisite condition The person opting for this shouldn't be a casual dealer

			their outward supplies shall add to the value of the goods as it will include the cost of the embedded taxes paid in the State of origin, thereby putting the same State at disadvantage. Pertinent to mention here that the Composition dealer shall have to issue tax invoice at par with normal GST dealer so that the tax collected is available as ITC to the purchasing dealer which as per the existing provision of GST law is not permitted. Further, RCM mechanism has been put on hold for the time being and the Composition dealer will not be liable to pay any tax on the purchases at the inward supplies received from an unregistered dealer thereby incentivizing avoidance of tax.		
10	Karnataka	•All dealers with a total turnover in a year not exceeding Rs 25 lakh other than works contractors, hoteliers' restaurateur, caterers, sweetmeat stalls, ice cream parlors, bakeries and mechanised crushing unit which were eligible for the scheme irrespective of the turnover. •In case of works contractors who obtains the goods from outside the State are liable to pay tax at the regular rate at the transfer of property in goods on such turnover and that taxable turnover shall be reduced from the composition turnover to that extent.	Dealers other than works contractors who obtain or purchases goods from outside the state or the dealers selling goods in the course of interstate trade or commerce or in the course of export out of territory of India are not eligible for composition scheme. **Comments/Suggestions:** When a composition supplier is allowed to make inter-state outward supplies, the tax paid by him on his input remains in the State of origin, thereby deviating from the destination principle of GST. Allowing this will mainly hurt the revenue of	Any dealer opting for composition of tax was not be permitted to claim any input tax credit on any of the purchases made by him nor any dealer was eligible to claim input tax credit charged by a composition dealer. **Comments/Suggestions :** allowing this credit will not even benefit the system but will complicate the returns of the composition taxpayers where they will have to now, issue tax invoice, show the tax separately and upload invoice level details for	Goods purchased from unregistered dealers are liable to tax at regular rate on reverse charge basis.

		•Subcontractors turnover is exempted from the total turnover of a main contractor if that turnover has already suffered tax. **Comments/Suggestions:** The main objective of composition scheme is simplicity. Classifying the supplies into exempt and non-exempt supplies puts a classification burden on the taxpayers and exposes them to future disputes. Overall revenue impact of this change would not be very significant. it is recommended that before such a decision is taken, granular data of returns filed (GSTR-3B) may be analysed to see if it will really benefit a significant number of suppliers.	consuming States and smaller States in particular. It will lead to gain for States that are primary sources of goods and services for smaller States. One option could be to leave it to States to allow composition suppliers from other States to supply goods and services to recipients in their States. If composition suppliers are allowed to make outward inter-state supplies, they may also be allowed to make supplies through e-Commerce operators.	the recipient to take credit.	
	Kerala	For smaller dealers whose turnover was below Rs.75 lakhs per annum. The dealer had to pay 0.5% of tax on the turnover. Tax was liable to be paid only on the turnover of taxable goods.	Interstate purchase or sale was not allowed.	Composition taxpayers were not allowed to collect the tax nor granted input tax credit.	Dealers who made first sale within the State, Manufacturers, works contractors, dealers in bullion and gold ornaments were not permitted to pay under composition scheme.
11	Madhya Pradesh	Turnover limit of Rs 1 Crore with certain safeguards.	Composition Scheme is available for dealers purchasing specified goods from dealers within the State.	Not eligible for ITC in respect of Goods sold during the year in relation to which the option is exercised by the dealer	
12	Maharashtra	**Comments/Suggestions:** Even though providing deduction of exempt supplies to the suppliers under composition increase their compliance burden however, it would become simpler for the small suppliers covered under composition scheme. There	**Comments/Suggestions:** Revenue generation from composition suppliers may not be significant we may consider allowing such suppliers to effect an inter-State supplies. Though it deviates from the destination based taxation principle, the consumption	**Comments/Suggestions:** We should not consider such deviation from the basic principle of VAT system. A composition supplier does not collect tax separately. What he really pays is the tax on his turnover and not on the supply of goods. The rate	Composition scheme has been there for restaurants, caterers, bakers, retailers and second-hand motor vehicle/tractor, works contractor and builders and developers

		is no significant revenue implication even if we restrict taxation to the extent of taxable supplies only.	States would not be impacted substantially on this count. When we allow such composition suppliers to effect an inter-State purchases we should equally allow them to have an inter-State supplies which would be largely envisaged to be B2C supplies. The only impediment for this decision would be a requirement to amend the law. (Section 10(2)(c))	prescribed are such that the government should get tax on his value additions. The presumption would be wrong that he collects taxes at the rate of 1%, 2% or 5%.	
13	Manipur		**Comments/Suggestions:** The state has strong reservations about this proposal as it would have adverse implications for consumers of state, tax revenue collections and overall tax compliance in the state.		No composition Scheme was implemented in VAT regime
14	Mizoram	Turnover threshold of Rs 10 lakh for registered Retailers. Taxable Turnover of sales in relation to dealer liable to pay tax on sale of goods under Section 7(1) was part of gross turnover of sales during any period which remains after deducting therefrom sale of exempted goods, zero rated goods, labour and non-material cost incurred by dealer in execution of works contracts	Composition Scheme is not available for dealers/retailers importing goods from outside the State.	Sale of zero rated goods were eligible for ITC when sold in the course of export out of the Country or sold to SEZ/EOUs by Domestic Tariff Area.	
15	Puducherry	Threshold limit for opting for composition scheme was Rs 50 lakh except for works contactors where no threshold was specified	Inter State purchases were not allowed	No ITC were allowed	Dealers in following goods were not eligible for composition scheme: Indian made foreign liquor, sugarcane, all kinds of pan masala,

					narcotics, rectified spirit
16	Rajasthan	Turnover threshold of Rs 75 lakh (excluding turnover of exempted goods)	Composition scheme was available to dealers purchasing and selling the goods within the state	-	
17	Sikkim	Composition Scheme was allowed to dealers of all business nature, other than importers and manufacturers, having annual gross turnover upto Rs 15 lakh. There was no threshold for works contractor.	Composite dealers were not allowed to purchase and sell goods in course of inter-state trade **Comments/Suggestions:** State of Sikkim has strong reservations against the proposal of extension of composition scheme for interstate inward/outward supplies. Small business enterprises of bigger states would get unfair advantage at the cost of livelihood of small business enterprises of small consumer states. There is possibility of diversion of trade to neighbouring state and subsequent loss to Sikkim state.	-	
18	Uttar Pradesh	Turnover threshold of Rs 50 lakh **Comments/Suggestions:** If the exempted goods turnover is excluded from total turnover of the dealer then he has to maintain record for exempted and non-exempted categories of goods separately and there could be disagreement on the value between the officer and the dealer.	This scheme was not available for dealers engaged in interstate purchase or sell of goods. **Comments/Suggestions:** This proposal would go against the basic destination principle of GST because ITC of buyer state can only be ensured on taxes paid in interstate trade if it is also ensured that the taxes on goods and inputs are transferred to purchasing state. • Since the ITC would not be available to composite dealers, the ITC can't be passed on to consuming state.	No ITC was available. **Comments/Suggestions:** Allowing ITC to composite dealer would go against the principle of GST. Accepting this proposal would cause a revenue loss for consuming states and it could be a loss of Rs 500 crore approximately to the State of UP.	

			•Moreover, in case of composite manufacturer it would be impossible to calculate the taxes paid on inputs used in manufacture of goods for interstate trade. •There would be immense loss of revenue for consuming state like UP and there would also be rise in prices of goods due to cascading effect if this proposal is allowed.		
19	Uttarakhand	Dealers having turnover upto Rs 50 lakh during previous financial year. Irrespective of turnover, manufacturers were not eligible for this scheme	Dealers making interstate purchase and sales were not eligible for composition scheme.	Dealers under composition scheme were not allowed to claim ITC	
20	West Bengal	Threshold limit for resellers was fixed at Rs 50 lakh/annum, Rs 25 lakh for restaurants & eateries and no limit in case of works contractors **Comments/Suggestions:** The moment we try to import the concept of tax on taxable turnover we will thereby in disguise asking all such small tax payers to maintain stock of taxable and exempt supplies separately. Thus, instead of helping these people we will end up making life more complicated for them. Instead we should reduce the rate to 0.25% for CGST and 0.25% for SGST meaning thereby that his total outflow will get reduced by 50%, which will immensely help these categories of	The registered composite dealer was not allowed to make interstate sales and purchases including export and import. **Comment/Suggestions:** Under VAT the composition dealers were barred from making any inter-state sales. In fact, in our State and in good number of other States also they were not allowed to import goods into the State from outside. In GST we relaxed the latter provision and allowed a tax payer opting for composition scheme to make inter-state purchases. What we stopped them from was making inter-state sales, which also includes exports and supplies to SEZ. It may lead to loss of revenue for the consuming States, and as	The registered composite dealer was not allowed to avail ITC on their local purchases. **Comments/suggestions:** This proposal strikes at the very root of the design of GST. Making a provision allowing credit to the recipient would imply that these tax payers are collecting tax which goes against the substantive provision contained in section 10 and section 33 (i.e. amount to be indicated in tax invoice and other documents). Again, these categories of taxpayers are not allowed to issue tax invoice, a mandatory document for claiming input tax credit, and in its absence, it will create a huge issue with regard to matching of invoices for the purpose of allowing input tax credit to the recipient.	

		tax payers. This legally also is tenable and will not require any amendment in law.	such it would be better if it is left to the consuming States to decide whether it wants to allow its recipients to make inter-state purchase from a supplier in another State paying tax at composition rate.		
21	GSTN		Violation of Basic principle of GST - A taxpayer who has opted for composition scheme cannot charge Tax from the recipient of the supply. Therefore, Inter State supply cannot be allowed as recipient State will not get ITC. Thus, consuming States will be loser in this case. The proposal also require amendment in Law as section 10(2) specifically bars this.	In case Composition taxpayer is allowed to claim credit like normal taxpayer then he will have to issue tax invoice for passing the credit. In that case there will be no need to have Composition Taxpayer	Allowing Inter-State supply and passing on ITC will be a major departure from the agreed principles. This will also mean total change of architecture of GST System which has been designed based on the principle that the Composition Taxpayer can't levy any Tax and can't get benefit of ITC. Making changes will not be time taking but will allow to make the system very complicated.

Annexure-D				
Summary of Rate structure on Restaurant in Pre-GST regime in States (Based on information received from States)				
Sl. No	**State**	**VAT Rate**	**VAT structure**	**Suggestions**
1	**Andhra Pradesh**	5%	On taxable turnover, without ITC	AC and Non-AC portion in same premises, the rate of 18% applicable should not be applied to Non-AC portion also.
2	**Arunachal Pradesh**	12.5%		
3	**Assam**	15% 6%	Cooked food and Sweet meat excluding processed and preserved cooked foods in sealed container	
4	**Chhattisgarh**	5%.	On the turnover	
5	**Delhi**	12.5% 20%	on food on alcoholic beverages and aerated items	
6	**Gujarat**	15%		Give hotel and restaurant a benefit of composition scheme without any turnover limit. Hotel and restaurant tax rate outside composition scheme shall be 12% in GST.

7	**Goa**	12.5% 15% 12.5% 22% 5% 20%	Cooked food Aerated and carbonated non-alcoholic beverages **other than manufactured by SSI**. Aerated and carbonated non-alcoholic beverages m**anufactured by SSI**. Foreign Liquor / Indian Made Foreign Liquor and Beer Country Liquor Cooked fast food such as pizza, burger, fried chicken, sandwich, hot dog, noodles, potato chips, cake etc. served or sold including home delivery under a brand name by any branded chain outlets of fast food including fast food counters at the Airport.	
8	**Haryana**	13.125%	On sale value	
9	**Himanchal Pradesh**	5%	All category of the restaurant. No ITC	Flat rate of 12% without ITC or 18% with full ITC for all categories of restaurants.
10	**Jammu & Kashmir**	5%	On the taxable turnover	Classification based on AC and non-AC needs to be dispensed with. Rate can be reduced to 5% without the benefit of ITC.
11	**Karnataka**	**14.5%**	**On the taxable turnover**	12% as well as 18% depending on supplies made from non-AC or AC portion.
12	**Madhya Pradesh**	5%		
13	**Maharashtra**	13.5%	Of taxable turnover	Restaurant serving liquor along with food- 18% Restaurant serving food only - 12% The categorization should not be on the basis of AC or non-AC restaurants. It would be only liquor serving and non-liquor serving restaurants.
14	**Manipur**	13.5%		
15	**Mizoram**	**5%**		
16	**Rajasthan**	14.5% 5.5%	Other than below Cooked food including snacks and prepared hot tea except when sold in hotels	

17	**Sikkim**	13.5%		
18	**Uttarakhand**	5%		
19	**Uttar Pradesh**	**14.5%**		**Not in favour of reducing GST rate**
20	**West Bengal**	14.5%	With ITC whether AC or not	(i) supplies from non-AC restaurants or non-AC portion of an AC restaurant should be 12% with full ITC; (ii) supplies from AC restaurants should be 18% with full ITC (iii) supplies from takeaway counters of a restaurant irrespective of whether it is AC or not should be 12%.

Annexure-E		
Comments of TRU on rate structure in Restaurant sector		
Sectors	**Action**	**Justification**
Restaurants (6% Service tax with embedded taxes)	• We may maintain the status-quo except for the following. • We may not disturb the composition rate for restaurants. • However, we may increase the aggregate turnover limit for restaurants availing composition (may be to Rs.2-3 crore per annum. • We may apply the CBEC circulars 139/8/2011-TRU dated 10th May, 2011 and 173/8/2013-ST# **dated 7th October, 2013** to non-AC part of a restaurant & levy 12% GST. • If it is decided to reduce GST on all restaurants (except restaurants attached to hotels which will continue to attract 18% GST) to 12% with full ITC then ITC of aerated waters should be blocked. [This implies that restaurants will continue to have the option of paying 18% GST if they want full ITC because otherwise it will amount to excessive delegation as extent of blocking of ITC has been fixed under the CGST Act by Parliament in section 17 (5) of CGST Act. So blocking by delegated legislation has to be conditional].	• By reducing GST rate from 18% to 12% for all restaurants with full ITC will result in a substantial loss of revenue (Rs. 2300 odd crore per annum) • 4 States have given revenue of Rs 1330 crore in 2016-17.
Outdoor catering (*any person who supplies, either directly or indirectly, any food, edible preparations, alcoholic or non-alcoholic beverages or crockery and similar articles or accoutrements for any purpose or occasion)* (9% Service tax with embedded taxes)	Outdoor catering should continue to attract GST @ 18%. [this is in proportion (6:9) with Service tax regime]	In service tax regime effective Service tax rate on restaurants was 6% whereas for outdoor catering it was 9%. This is because the service element in outdoor catering is always more than in restaurants. (ST Revenue in 2016-17 was Rs 604 crore).
Bundled Services including hotel, convention centre, club, pandal, shamiana or any other place specially arranged for organising a function (Renting of Premises + catering+ Restaurant service)	Ideally, the rates of GST in respect of the 3 services viz. restaurant, outdoor catering and renting of premises, should be the same i.e. 18% which is the standard rate of GST.	Once we have different rates, the dealers will simply split the bill and load most of the value on the service which attracts the least rate. It could also lead to huge disputes and litigations. (ST Revenue in 2016-17 was Rs 1334 crore).

10.5% service tax with embedded taxes		
Takeaway service (Parcel)	Food parcels (take-away), whether from AC or non-AC, may attract 12% GST (with full ITC)	As the element of services is less and comparable with restaurant service

Summary: By reducing the GST rate from 18% to 12 % for all kinds of restaurant services as decided by GoM, will lead to substantial loss of revenue (about 4000 crore per annum based on service tax revenue in 2016-17).

Services provided in relation to serving of food or beverages by a restaurant, eating joint or mess, having the facility of air conditioning or central air heating in any part of the establishment, at any time during the year (hereinafter referred as 'specified restaurant') attracts service tax. In a complex, if there is more than one restaurant, which are clearly demarcated and separately named but food is sourced from a common kitchen, only the service provided in the specified restaurant is liable to service tax and service provided in a non-air-conditioned or non-centrally air- heated restaurant will not be liable to service tax. In such cases, service provided in the non-air-conditioned / non-centrally air-heated restaurant will be treated as exempted service and credit entitlement will be as per the CENVAT Credit Rules.

Annexure-F

Summary of representations/presentations from SME Associations

1. **India SME Forum**
    - As SMEs usually are unable to pay GST before receipt of payment, payment of GST by MSMEs should be within 30 days after receipt of payment of invoice
    - Composition players should be able to make inter-State supplies
    - Input credit should be made available to the recipient on the payment of tax on turnover
    - As registered trademarks attract higher taxes, there is an affinity to de-register; To counter this, taxation slabs should be based on turnover, rather than Brand

2. **Laghu Udyog Bharati**
    - Composition players should be able to make inter-State supplies, as SMEs working near borders of the States are suffering
    - Making amendment in Section 10(2) of CGST Act 2017 by allowing Job Work services only for Micro & Small Manufacturer
    - Allowing Registered Person in Composition to pay tax on Aggregate Turnover except turnover of Exempted Outward Supplies
    - Threshold limit for opting Composition Scheme should be increased to Rs. 1.5 crore
    - Some suppliers who provide the service of food as well as selling of packed food items should be charged at 1% instead of current 5%
    - Rate of GST for Micro & Small Manufacturer and traders to be made at par by making it at the rate of 1% (i.e. 0.5% CGST & 0.5% SGST)

3. **Federation of Indian Micro and Small & Medium Enterprises (FISME)**
    - MSMEs who do job work should be included under Composition scheme
    - Dealers selling tobacco products, ice creams etc. commonly sold in grocery stores should be made eligible
    - For deciding Composition eligibility/ composition levy, exempted goods like loose grains etc. should not be clubbed with taxable goods
    - MSMEs are hugely burdened in the GST regime where they cannot avail the credit even when they paid the full tax on their purchases. Delinking input credit from data entry/ payment of GST by suppliers should be considered
    - The suppliers need to be given adequate time, at least a year to collect and submit the pending C forms and till then their transition credits may be allowed in full.
    - A Penalty of 10% of input credit availed may be applied if tax payment has not been made by the supplier. This will incentivise customers to buy from genuine suppliers while not choking the entire system
    - GST on Advances received should be abolished forthwith
    - Cross utilization of accounts should be allowed
    - The number of slabs be limited to ideally maximum three.
        i. The lowest slab covering essential goods and highest slab on sin- goods/ luxury goods. Rest all items should be in the mean rate (or revenue neutral rate).
    - Return should be quarterly for all

4. **Integrated Association of Micro, Small & Medium Enterprises of India**
    - Composition players should be able to make inter-State supplies
    - Composition scheme's scope should be widened to include all service providers
    - Composition supplier should be allowed to make supplies through E-commerce
    - GST Rate on AC restaurants should be brought at par with non-AC restaurants (12%)
    - Cross utilization amongst all cash ledgers should be allowed

- First level of submission while filing returns should be removed since it is causing many practical difficulties
- Quarterly filing of GSTR-1, 2 and 3 and monthly filing of GSTR-3B
- Late fee should be limited to lower of amount of tax payable or upper limit as per law and should be waived off till Mar 31, 2018
- Threshold limit for GST under reverse charge on intra-state, Inter-state purchases be increased to Rs. 5000/- per invoice
- GST to be applicable only on delivery/ sales or 120 days from date of receipt of advance, whichever is earlier
- Working capital limit of MSMEs be enchanced with immediate effect by at least 33%

5. The Coimbatore District Small Industries Association

- Composition scheme must be extended for Job Workers, all Service industries
- Inter-State sales should be allowed under Composition scheme
- Job order taxes should be brought down to 5%
- Threshold limit should be increased to Rs. 1.5 crore

6. Federation of Associations of Small Industries of India

- Inter-State sales should be allowed under Composition scheme
- Do away with Reverse Charge Mechanism of all types for a turnover limit of Rs. 2 crore
- Give retrospective effect to the exemptions issued and give prospective effect for clarifications leading to liability by issuing exemption notification for the past
- Let advances not be taxed
- Restrictions in credit in section 17 (5) of the CGST Act should be reconsidered
- Government must provide simple software for small businessmen
- Provide a scheme of additional financing the businesses for the tax payments

7. Ministry of Micro, Small and Medium Enterprises

- Exemption limit for GST needs to be increased to Rs. 60 lakh
- Composition scheme limit be increased to Rs. 1.5 crore
- Inter-State outward supplies to be allowed for SME sector under composition scheme
- For SME sector, late fees and penalties must be waived for non-filing of return for the months of July, August and September
- Simplified procedure should be put in for NIL return
- TRAN-1 filing date needs to be extended
- Effective rate of GST should be brought to 50% of original rate for MSMEs with turnover up to Rs. 3 crore
- All remaining items produced by SMEs in the 28% band may be brought down

8. Representations from restaurant Sector

NRAI (National Restaurant Association of India)

- Continue allowing ITC benefits to the sector
- The GST rate may be brought down to 12% with ITC for all categories of restaurants

Agenda Item 10: Minutes of 3rd Meeting of Group of Ministers (GoM) on IT challenges in GST implementation for information of the Council and discussion on GSTN issues

The Minutes of the 3rd Meeting of the GoM on IT challenges in GST implementation are as follows:

1. In pursuance of decision taken in the 21st Meeting of GST Council held on 09 September 2017 at Hyderabad, a Group of Ministers (GoM), was constituted to monitor and resolve the IT challenges faced in implementation of GST.

2. The first meeting of GoM was held on September 16, 2017 at Vidhan Soudha, Bengaluru; Karnataka. In the first meeting, the GoM had identified 47 items (48 items out of which one item was repeated twice) for time bound resolution. These priority items were reviewed by GoM in the second meeting and for the third meeting, the GoM asked IT Committee to review the progress before the 3rd meeting and prepare agenda for the 3rd meeting held on October 28, 2017. The list of 47 priority items with status as on 28 October is attached as **Annexure-1** to this agenda item.

3. The third meeting was held on 28 October 2017. It was attended by the following Hon'ble Members of GoM.:

Sl. No.	Name	Designation	Members
1	Ho'ble Shri Sushil Kumar Modi	Deputy Chief Minister, Bihar	Convenor, GoM
2	Hon'ble Shri Krishna Byregowda	Minister of Agriculture, Karnataka	Member, GoM
3	Hon'ble Shri Amar Agarwal	Minister for Commercial Taxes, Government of Chhattisgarh	Member, GoM
4	Hon'ble Shri Etela Rajendar	Finance Minister, Telangana	Member, GoM

4. Hon'ble Shri Shashi Bhushan Behera could not attend the meeting due to other engagements.

5. The list of officers who attended from CBEC/ States, GSTN and Infosys is at **Annexure-2**.

6. The meeting commenced with preliminary remarks from the Convenor of GoM as given below:

i. At the outset, the Convenor of GoM expressed dis-satisfaction at the situation that has emerged all over the country with regard to the performance of the IT framework supporting GST. He observed that, despite the best efforts of all concerned, the pace of problem resolution, roll-out of new functionalities and overall performance of the IT support system has created a lot of negativity about GST.

ii. Timelines fixed for issues raised in the first meeting and revised in second meeting are not being met. The overall progress made on these so far is not satisfactory.

iii. Spectrum of these issues are becoming big and impacting many dealers now and hence need to be closed without any further delay.

iv. Placement of Resident engineers is far from being complete. The delay in providing qualified and trained manpower by a Company like M/s Infosys is not understandable. Also, the quality of placed engineers so far is not good. They do not have understanding of GST project and unable to understand/solve the issues. This aspect needs to be given

top priority by Infosys. Further, the numerical strength of the team deployed by Infosys to the GST project and whether it has registered any increase in recent times is not known.

7. The Hon'ble Minister, Karnataka observed that the basic structure of GST that had been put in place was being modified just to ensure that the system becomes capable of catering at least to the modifications and yet the response of the system was not encouraging. He stressed that what was required was transitional help and not post-stabilizations assistance.

8. The Hon'ble Minister, Telangana observed that the flawless delivery and performance of the IT system was nowhere to be seen.

9. After initial remarks from Hon. Convenor and Member of GoM, CEO – GSTN presented the status. CEO GSTN apprised all members that IT Committee met on October 25, 2017 to review the status of prioritized GoM items and other issues raised by CBEC and States. He presented the following issues as identified by IT Committee before the GoM:

i. Issue relating to protocol of exchange of filed data between GST system and Systems of CBEC and Model 1 states
ii. API Release and Support to CBEC and Model 1 states
iii. Non-adherence of Planned and Revised Timelines by Infosys
iv. Need to Deploy more trained Manpower for various applications which are being developed by GSTN/Infosys
v. Early deployment of Qualified Resident Engineers with State tax IT teams and CBEC IT team
vi. Error Messaging improvement and more user-friendly Interfaces

10. Following decisions were taken by the GoM in this meeting:

i. **Data reconciliation** should start on a daily basis with CBEC and Model-1 States, as being done for reconciliation of challans with Pr. CCA. GSTN/Infosys to share the reconciliation report with CBEC and Model-1 States having details like what data is being shared, how many files, and the data count in each file. The CBEC/Model-1 State IT Teams will acknowledge the same and in case of any difference point out the same on the common document for resolution.
ii. **API Calendar**: GSTN/Infosys will refresh the API calendar and publish API Specifications in-time to enable CBEC/Model 1 States to come up with application at their end in sync with same application deployed for model-2 States by GSTN.
iii. **Placement of more manpower by Infosys**: Infosys will deploy more skilled manpower on development of pending application modules so that these can be developed in parallel and not in sequence to complete the pending task in time limits agreed.
iv. **Resident Engineers**: The datelines proposed by Infosys to place trained Resident engineers at state headquarters, not covered so far, by 14 December 2017 was not agreed to by the GoM. The GoM instructed Infosys to place the trained Resident Engineers who are their own employee by end of November 2017. The GoM further suggested that Infosys/GSTN should send a team to HQ of large States to a have better understanding of challenges faced by them.
v. **Error handling and error messaging**: Infosys will get complete review of error handling and error messaging conducted by an expert agency with aim to eliminate vague and

incomprehensible error messages being shown to users. This should be done in a time bound manner and report presented in the next meeting.

vi. **Provision of full review**: GoM directed that full preview should be provided before freezing the data in all modules.

vii. **Edit facility in GSTR-3B**: Edit facility should be provided for those who have submitted the return but have not done set-off and filed the return. The warning sign before submit button is pressed should be a blinking one to attract the attention of the user so that he reads the warning message before pressing the submit button which freezes the data and makes entries in the ledgers.

viii. **Outreach program**: The GSTN team apprised the GoM about steps taken towards taxpayer education and the material which is kept on the GST portal in the form of FAQs, User Manual, Videos, recording of webinars conducted in multiple languages etc. For wider dissemination of such material, the details of webinars/videos prepared by GSTN for taxpayers' education should be shared again with CBEC and States so that it can be percolated down to district/taluka level.

ix. **Additional facilities in GSTR-2**: For the GSTR-2 module following facilities may be added:

a. The name of the dealer should be reflected in the table along with GSTIN in the downloaded file from GST portal.
b. The offline tool should be further upgraded to include comparison of downloaded data with those from the purchase register of the taxpayer to show matches and mismatches.
c. Bulk acceptance of invoices should be made available on the Portal as well as the Offline Tool.
d. GSTR-2 JSON should be kept ready for download immediately after last date of filing of GSTR-1. This will save time required today to generate the downloadable file.
e. Date of submission of return should be shown on the portal.

x. **Return search facility**: A new search facility should be added to the GST portal to enable tax officers as well as buyers to see the status of return filing by the other taxpayer.

xi. **Intimation of delay in submission of return**: A pop-up should be introduced to tell the taxpayer about the late fee, on account of delay between submission and filing, if applicable.

xii. **MIS for Policy making**: GSTN should start work towards generation of MIS for the policy makers as all India data is now available at one place. Some of the examples given by Hon'ble Minister from Karnataka were details of taxpayers who have not filed return: nature, turnover etc. The aim should be to do better analysis and generate MIS to be used as a policy making tool. He also desired the deployment of Video based learning tools.

11. The meeting concluded with following closing remarks from Hon. Convenor of GOM:

i. The system should be made more user-friendly
ii. There should be a provision for sending mails and messages to two different persons, including the authorised signatory
iii. More clear error messages should be added in the system.
iv. More data validations should be added in the system.
v. Offline tool should be made simple and more user-friendly.
vi. Return editing facility should be made available at the earliest.
vii. Facility to preview and take a printout should be made available in all Forms.

viii. Revised timeline should be adhered to.
ix. Deployment of Resident Engineers should be done at the earliest and completed by 30 November 2017.
x. GSTR-2 issues should be added in the list of prioritized issues.
xi. A preview of every Form that is required to be filled up on the portal should be made available and the same should be available for printing/downloading.
xii. Before the taxpayer is asked to submit any information that is to be frozen, the system should provide a summary of the related information/the entire Form (in downloadable form) and it should also give adequate warning to the taxpayer that he should verify the information provided to him before he proceeds to submit since the same cannot be edited after it is frozen on the system.
xiii. Additional manpower should be deployed on this project to complete the work on time.
xiv. Nominate a person from the core team for each State to act as a nodal officer whom the State authorities can escalate problems. The nodal officer will take the issue up with the concerned team, provide a solution and communicate to the State authority.
xv. The possibility of deputing one member of the core team to a State for three days to assess the situation and get first-hand information about situation on the ground may be explored.
xvi. Timelines for release of new functionalities, in addition to the 47 items being monitored, shall be worked out.

12. Following new issues were identified in the meeting to be added to existing 47 items to be tracked as priority items:
i. New search facility to see the status of return filing of a taxpayer
ii. A new pop-up regarding intimation of late fee, if there is a gap between filing and submission of return after the due date.
iii. The name of the dealer should be reflected in the table along with GSTIN in the downloaded GSTR2 file from GST portal.
iv. The offline tool should be further upgraded to include facility to do comparison of downloaded data with those from the purchase register of the taxpayer to show mismatches and matched entries.
v. Bulk acceptance of invoices should be made available on the Portal as well as the Offline Tool.
vi. GSTR-2 JSON should be kept ready for download immediately after last date of filing of GSTR-1. This will save time required today to generate the downloadable file.
vii. GST Return filing history should be provided on the pattern of GST Payment Challan History.
viii. Additional manpower on the project to complete the priority items as per agreed timelines.
ix. MIS for policy making

13. Hon. Convenor of GOM suggested GSTN to introduce the “Live Chat” facility in helpdesk for troubleshooting technical issues. GSTN to revert on this.

14. CEO, GSTN was asked to work out the timelines for the new items and put up the same before Hon’ble Convener.

15. The Minutes of the 3rd Meeting of the GoM on IT challenges in GST implementation are placed before the Council for perusal and information.

Annexure 1

Status of implementation of 47 items identified by GoM in the first Meeting as on 28 October 2017

Sl.No	FORM	FORM Components/Details	Agreed Date of Deployment	Actual Date of Deployment/ETA	Status	Remarks
1	GSTR 3B	Solution for 3.5 lakh GSTR3B who have submitted but not filed	19-Sep-17	21-Sep-17	Complete	Closed
2	MIS	Reports Data Dump for Model-2 States	22-Sep-17	07-Oct-17	Complete	Closed
3	Registration	Amendments of Core fields	22-Sep-17	27-Sep-17	Complete	Closed
4	Registration	Opt out for Composition scheme	22-Sep-17	01-Oct-17	Complete	Closed
5	Registration	Suo Moto Registration and Payment option by Govt. department 1) ID creation, 2) Create Challan, 3) Making Payment	29-Sep-17	27-Sep-17	Complete	Closed **Note:** API for Model 1 will be released by end of this week.
6	Registration	GSTP Registration Processing	29-Sep-17	27-Oct-17	Complete	Closed, deployed to production.
7	Registration	TDS/TCS Registration and Processing	29-Sep-17	TDS – 13-Oct-17 TCS - TBD	In Progress with delay	TCS- Release testing in progress.
8	GSTR 1A	Generation & Submission/Filing of GSTR- 1A	30-Sep-17	10-Oct-17	Complete	Closed
9	Refunds	Refund for Export - ICEGATE API (Part of RFD-01)	30-Sep-17	05-Oct-17	Complete	Closed
10	Offline	Creation and submission of Returns in Offline Utility for GSTR-2 without xls download from tool	06-Oct-17	14-Oct-17	Complete	Deployed to production on 14-Oct.
11	Offline	Creation and submission of Returns in Offline Utility for GSTR-2 with xls download from tool	11-Oct-17	27-Oct-17	Complete	Deployed to production on 27-Oct.
12	GSTR 2A	GSTR-2A for ISD changes	11-Oct-17	11-Oct-17	Complete	Development completed. Code will be ready but end to end testing is dependent on GSTR6 that has scheduled go-live on 23rd Oct

Sl.No	FORM	FORM Components/Details	Agreed Date of Deployment	Actual Date of Deployment/ETA	Status	Remarks
13	Tran 1	Revised Tran1 (Reopening Transition Form-1 to enable Multiple Submit)	13-Oct-17	30-Oct-17	In Progress with delay	User Acceptance testing in progress. ETA for production on 30-Oct
14	Tran 1	CSV Utility for 6a, 6b, 7b, 9a, 9b of TRAN-1	13-Oct-17	30-Oct-17	In Progress with delay	User Acceptance testing in progress. ETA for production on 30-Oct
15	Payment	Grievance for Payment not reflecting in Cash Ledger - PMT07	16-Oct-17	25-Oct-17	Complete	Operational
16	GSTR 5A	Creation & Submission of GSTR-5A (OIDAR supplies)	17-Oct-17	31-Oct-17	In Progress with delay	Release Testing in progress. Dependency on OIDAR Registration
17	ITC01	Application for eligible ITC prior to registration / withdrawal from compounding scheme ITC 01	17-Oct-17	31-Oct-17	In Progress with delay	Release test is in progress. ETA for production on 31-Oct.
18	GSTR 3B	GSTR-3B - Feature Enhancement		TBD	Not Started	Note: This is a major design change and applicable for all Returns. Design change is in progress.
19	GSTR 3B	GSTR-3B - Enhancement to enable Print out/PDF Download	18-Oct-17	13-Oct-17	Complete	Operational
20	GSTR 1A	GSTR 1A Offline utility	18-Oct-17	27-Oct-17	Complete	Closed
21	Registration	Change of authorized signatory by Tax Officer	18-Oct-17	12-Oct-17	Complete	Operational **Note:** API for Model 1 will be released by end of next week.
22	Registration	Registration of Non-Resident Tax Payers	18-Oct-17	27-Oct-17	In Progress with delay	User Acceptance testing in Progress. ETA for production 27-Oct
23	Tran 1	G2G API's for Transition forms	20-Oct-17	8-Nov-17	In Progress with delay	In progress
24	GSTR 1	GSTR 1 - Enhancement to enable Preview and	20-Oct-17		Complete	Operational

Sl.No	FORM	FORM Components/Details	Agreed Date of Deployment	Actual Date of Deployment/ETA	Status	Remarks
		Print out/PDF Download				
25	GSTR 2	GSTR-2 - Enhancement to enable Preview and Print out/PDF Download	20-Oct-17		Complete	Operational
26	MIS	MIS Reports for Model-2 States	20-Oct-17		In Progress with delay	Development in progress. Will be shared in a staggered way – first set of 2 reports released on 24-Oct a) Registration Application Register b) Summary of Approved Registrations (Voluntary/ Others) based on Type of Taxpayer. Other Important Modules including Return and Payment MIS will be made available soon.
27	GSTR 6, GSTR 6A	Creation & Submission of Return for ISD GSTR-6 / View of GSTR-6A (ISD)	23-Oct-17	31-Oct-17	In Progress with delay	UAT is in progress; deployed on 28th Oct
28	GSTR 3	Creation and Submission of Monthly Return GSTR-3	30-Oct-17	30-Oct-17	On track	Closed group test is complete. Feedbacks are being incorporated.
29	Mismatch Report	Creation & Display of Mismatch Report	30-Oct-17	07-Nov-17	In Progress with delay	Development in progress.
30	Registration	Change of jurisdiction by Tax Officer before approval / rejection	30-Oct-17	25-Oct-17	Complete	Operational
31	Registration	OIDAR Registration and Processing	30-Oct-17	31-Oct-17	On track	UAT in progress.

Sl.No	FORM	FORM Components/Details	Agreed Date of Deployment	Actual Date of Deployment/ETA	Status	Remarks
32	Registration	Cancellation and Surrender of Registration Certificate	30-Oct-17	10-Oct-17	On track	Workaround provided for cancellation by 10th Oct.
33	Registration	Revocation of RC	30-Oct-17	TBD	Not Started	Development not started
34	Registration	Grievance Management	30-Oct-17	30-Oct-17	On track	UAT in progress. Pl update current status
35	Registration	GSTP Dashboard	30-Oct-17	30-Oct-17	On track	Release Testing in progress Pl update current status
36	Tran 2	Transition Form 2 Development	30-Oct-17	15-Nov-17	In Progress with delay	Development under progress. ETA is 15-Nov
37	GSTR 4	Creation & Submission of Quarterly Return by Compounding Taxpayer GSTR-4	03-Nov-17	06-Nov-17	In Progress with delay	Release testing is in progress
38	GSTR 11	Filing of Returns by UIN Holders for Inward Supplies GSTR-11	10-Nov-17	17-Nov-17	In Progress with delay	
39	GSTR 4	View of GSTR-4A (composition supplies)	17-Nov-17	17-Nov-17	On track	
40	GSTR 5	Return for non-resident taxable person	17-Nov-17	17-Nov-17	On track	Release testing is in progress
41	Refunds	Refunds - Exports WO payment of tax - part of RFD01	20-Nov-17	20-Nov-17	On track	Work around planned to be deployed by 27th Oct. Main Use Case delivery as per Phase 2 plan currently under discussion. Expected delay from 20th Nov
42	Refunds	Refunds - BO Processing	20-Nov-17	20-Nov-17	On track	Design is in progress. Use Case delivery as per Phase 2 plan currently under discussion. Expected delay from 20th Nov

Sl.No	FORM	FORM Components/Details	Agreed Date of Deployment	Actual Date of Deployment/ETA	Status	Remarks
43	Refunds	Refunds - Excess Balance in Cash Ledger	01-Dec-17	01-Dec-17	On track	Work around planned to be deployed by 27th Oct. Main Use Case delivery as per Phase 2 plan currently under discussion. Expected delay from 20th Nov
44	GSTR 7	Creation and Submission of TDS Return GSTR-7	08-Dec-17	08-Dec-17	Not Started	
45	GSTR 7A	View of GSTR-7A (TDS)	08-Dec-17	08-Dec-17	Not Started	
46	GSTR 8	Creation & Submission of Return for e-Commerce GSTR-8	08-Dec-17	08-Dec-17	Not Started	
47	Refunds	Refunds - Exports of Services	08-Dec-17	08-Dec-17	Not Started	

Annexure 2

List of Officers present

1. GSTN: The following officers attended the meeting from GSTN:

Sl. No.	Name	Designation
1	Shri Ajay Bhushan Pandey	Chairman
2	Shri Prakash Kumar	CEO
3	Shri Nitin Mishra	EVP(Technology)
4	Shri Nirmal Kumar	SVP (Software)
5	Shri Pankaj Dixit	SVP (Infrastructure)
6	Shri Abhishek Singh	AVP (PM)

2. CBEC: The following officers attended the meeting from CBEC:

Sl. No.	Name	Designation
1	Shri S. K. Panda	Member –IT, CBEC
2.	Ms. R. Bhagyadevi	ADG Systems, Chennai

3. States: The following officers attended the meeting from States:

Sl. No.	Name	Designation
1	Shri Ritvik Pandey	Secretary, Govt of Karnataka
2	Shri MS Srikar	CCT, Karnataka
3	Ms. S Sangeetha	Commissioner, Chhattisgarh
4	Shri Arun Mishra	Spl. Secretary Commercial Taxes, Bihar.
5	Mr M S Reddy	Additional Commissioner, Telangana
6	Shri K. S. Basavaraj	Joint Commissioner, Karnataka
7	Shri Dipankar Sahu	Dy. Comm, Odisha
8	Shri Mukesh Kumar	CTO, Bihar

4. Infosys: The following officers attended the meeting from Infosys:

Sl. No.	Name	Designation
1	Mr. Pravin Rao	CEO
2	Mr. Binod Hampapur	EVP
3	Mr. C.N. Raghupathi	SVP
4	Mr. Renga	SVP
5	Mr. P.N. Moorthy	AVP (Delivery Manager)
6	Mr. Venkat Narayan	AVP (Principle Architect)
7	Mr. Murali Vasudevan	AVP (Release Manager)
8	Ms. Surya Kumari Achal	AVP (Test Manager)
9	Mr. Indrasis Dasgupta	Program Manager

Agenda Item 11: Present status of e-Way Bill System as on 31 October 2017

The National Informatics Centre was assigned with the e-Way Bill Project under GST regime. The assignment involves the study, design, development, implementation and maintenance of the e-way bill system for the entire country.

2. Accordingly, NIC started the work on this project in July 2017. With the support and help of the Government of Karnataka, the e-way Bill system was designed, developed and tested during Aug 2017. The system was made functional in Karnataka during Sept. 2017. This system has been designed as per the Rules and Notifications of e-way Bill requirements, issued by Govt. of India and Govt. of Karnataka.

3. The e-way Bill system is a user-friendly system and provides multiple modes for e-way bill generation – Web based, SMS based, Android App based, bulk generation, API based and through GST Suvidha provider. It has the functionalities of generation of e-way bill, updation of vehicle details, cancelation of e-way-bill, generation of consolidated e-way bill etc. It also has the facility for rejection of the e-way bill by the recipient of the goods, if the goods do not reach him. It has simple registration process for registered tax payers (GSTIN holders) and simple enrolment process for the unregistered transporters. This system has been interlinked with the GSTN system for exchange of master GSTIN registration details. It also captures the additional information required for the GSTR-1 preparation of the tax payers. The web based, SMS based and android based **verification module** have also been developed and deployed to be used by the mobile check posts of the department.

4. This system has been rolled out successfully in Karnataka from 12.09.2017 using the ICT infrastructure readily available with Government of Karnataka. In 8 to 10 days of its launch, the system was streamlined and well accepted by the tax payers. The transporters of the Karnataka have also accepted and joined this system. More than **26 lakhs e-way bills** were generated by the tax payers of Karnataka during **October 2017**. Around **1 Lakh tax payers** are registered and more than **800 unregistered transporters** are enrolled during last one and half months. At present, daily about **1.1 Lakh e-way bills** are being generated by the tax payers and transporters of Karnataka for movement of goods in the state.

5. It is proposed to roll out this system in another 5 States during Nov./Dec. 2017. Based on request from GSTN, Kerala, Rajasthan, Uttarakhand, Gujarat and Nagaland have shown keen interest to start the rollout. NIC is working to extend the system to these States before national level roll out. It is felt that the experience gained from rollout in these States would provide valuable inputs to further fine tune the system. ICT infrastructure (servers) for hosting the e-way bill application for these States is being arranged by NIC with the help of Government of Karnataka. NIC will conduct the masters' training programme for these States in November 2017 and assist them in smooth roll out during Nov./Dec. 2017. The master trainers will further conduct the awareness programmes and workshops for stake holders in respective States.

6. Servers for national rollout have been delivered at the NIC data centres at Shastri Park and Pune and deployment of hardware will commence soon. It is understood from GEM that the Microsoft products are likely to be registered soon. NICSI will place the order for these after their registration on GEM. NIC has also planned to start the masters training programmes for the officers of all the States during November/December, 2017 so that further awareness programmes and workshops can be conducted by each state for its stake holders.

7. This is placed before the GST Council for information.