



Agenda for

42nd GST Council Meeting

5 October 2020

Volume – 3



File No: 547/42nd GSTCM/GSTC/2020

GST Council Secretariat

Room No.275, North Block, New Delhi

Dated: 11th September 2020

Revised Meeting Notice for the 42nd Meeting of the GST Council scheduled on 5th October 2020

The undersigned is directed to refer to the subject cited above and to say that the 42nd Meeting of the GST Council will be held on 5th October 2020 as follows:

Monday, 5th October, 2020 : 1100 hours onwards

2. The agenda items for the 42nd Meeting of the GST Council will be communicated in due course of time.
3. Please convey the invitation to the Hon'ble Members of the GST Council to attend the Meeting.

(-Sd-)

(Dr. Ajay Bhushan Pandey)

Secretary to the Govt. of India and ex-officio Secretary to the GST Council

Tel: 011 23092653

Copy to:

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

Agenda Items for the 42nd Meeting of the GST Council on 5th October 2020

1. Confirmation of the Minutes of GST Council Meetings.
 - i. 40th GST Council Meeting held on 12th June, 2020
 - ii. 41st GST Council Meeting held on 27th August, 2020
2. Deemed ratification by the GST Council of Notifications, Circulars and Orders issued by the Central Government
3. Decisions of the GST Implementation Committee (GIC) for information of the Council
4. Timelines in respect of TRAN-1/TRAN-2 declarations based on the discussions of 13th meeting of IT Grievance Redressal Committee held on 01.09.2020
5. Update on Return Enhancement and Advancement Project (REAP) & in-principle approval of overall architecture
6. Issues recommended by the Law Committee for the consideration of the GST Council
 - i. Extension of the GSTR-1/3B system of return filing and change in due date for quarterly taxpayers upon introduction of the new GSTR-2B functionality
 - ii. Issues related to Annual Return for Financial Year 2019-20
 - iii. Steps taken to improve compliance behavior of taxpayers for making furnishing of GSTR-1 mandatory before furnishing GSTR-3B
 - iv. Amendment to FORM GSTR-1 and notification 12/2017-Central Tax, dated 28.06.2017 for improving data quality to enhance tax administration
 - v. Agenda Note regarding refund to be disbursed in same PAN and Aadhaar linked bank account on which registration has been obtained under GST.
 - vi. Proposal for amendments to CGST Rules, 2017
 - vii. Limitation period for taking cognizance or institution of prosecution under GST
7. Issues recommended by the Fitment Committee for the consideration of the GST Council
 - i. Agenda Note on the representation received from HADMA seeking GST rate of 12% on Ayurveda/Unani/Siddha' (AUS)-ingredients based sanitizer
8. Issues of Goods and Services Tax Network (GSTN):
 - i. Status of receipt of Advance User Charges (AUC) from States and CBIC
 - ii. Need for moving resources from CR model to T&M model for important developments
 - iii. Status update on conversion of Goods and Services Tax Network (GSTN) into 100% Government-owned Company
9. Presentation on proposal to extend levy of GST Compensation Cess beyond the transition period to meet the shortfall during the transition period and constitute a Committee of Officers to work out anticipated shortfall, period of extension and other related issues
10. Review of Revenue position

11. Enabling UPI and IMPS as a payment option for payments of Goods & Services Tax
12. Status report of creation of GRC Zone-wise (CBIC) and States / UTs as on 04.09.2020
13. Performance Report of the NAA (National Anti-profiteering Authority) for the 1st quarter (April to June, 2020) for the information of the Council
14. Any other agenda item with the permission of the Chairperson
15. Date of the next meeting of the GST Council

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Discussion on Agenda Items

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

Agenda Item 6(vii): Limitation period for taking cognizance or institution of prosecution under GST

Section 132 of the Central Goods and Services Tax Act (hereinafter referred to as the “CGST Act”) provides for punishment for certain offences under the CGST Act. However, there are no direct provisions under the CGST Act about time limit for initiating prosecution. But, there are provisions on above time line under Criminal procedure Code, 1973 (CrPC).

2. In this regard, following is submitted:

2.1. Section 468 of CrPC, 1973 provides for period of limitation. As per the said provision, limitation periods are dependent on nature of punishment and term of imprisonment. The limitation period under CrPC is explained with the help of following table:

Sr. No.	Nature of punishment/ term of imprisonment	Limitation period
1.	Only fine	Six months
2.	Imprisonment for one year	One year
3.	Imprisonment for term exceeding one year up to three years	Three years

2.2. Section 469 of CrPC, 1973 talks about the commencement of the period of limitation. The following eventualities are discussed in sub-section (1) of section 469 of CrPC for the commencement of period of limitation:-

- i. Clause (a) says that period of limitation will start on the day of the offence.
- ii. Clause (b) says, if the commission of an offence is not known to the person aggrieved or police officer, then first day on which offence comes to the knowledge of aggrieved person or police.
- iii. Clause (c) says, when the identity of the offender is not known, in that case the first day on which identity of the offender is known to the person aggrieved or police officer.

2.3. In absence of any specific provision in respect of period of limitation for prosecution under GST Laws, the above provisions of section 468 and 469 of CrPC are generally made applicable. For commencement of period of limitation, clause (b) of Section 469(1) appears to be relevant in cases of offences under GST Laws. However, it is required to be tried in the competent court within time limit, otherwise it would be hit by limitation provision of CrPC. In a majority of cases under CGST Act, 2017, the offences are detected at the time of detection of tax evasion, but decision for prosecution is usually taken by adjudicating authority at the time of adjudication, by which period of limitation would have expired where punishment is not exceeding 3 years imprisonment.

3. In this regard, reference is drawn to the Economic Offences (Inapplicability of Limitation) Act, 1974 (ACT NO. 12 OF 1974), which is an Act to provide for the inapplicability of the provisions of Chapter XXXVI of the Code of Criminal Procedure, 1973 to certain economic offences punishable under any of the enactments or provisions, if any, thereof specified in the Schedule to the said Act. In view of the above lacunae in the GST Law as discussed in para 2, it is proposed that there is a need to address this by way of inserting CGST Act, 2017, IGST Act, 2017, UTGST Act, 2017 and Goods and Services Tax (Compensation to States) Act, 2017 in the Schedule to The Economic Offences (Inapplicability of Limitation) Act, 1974.

4. The issue was deliberated in the Law Committee on 30.09.2020 wherein it was decided that the Central Enactments relating to GST may be inserted in the schedule to The Economic Offences (Inapplicability of Limitation) Act, 1974. As far as respective SGST Act is concerned following two suggestions were proposed:

- i. States may be advised to include the respective SGST Acts in their CrPC Schedules / State specific Economic Offences (Inapplicability of Limitation) Act or any other similar Act, if any.
- ii. Alternatively, proviso to section 134 in respective SGST Acts may be inserted as below:

Purpose to be mentioned in respective State Bill: Proviso to section 134 provides for the inapplicability of the provisions of Chapter XXXVI of the Code of Criminal Procedure, 1973 to offences punishable under _____ State Goods and Services Act, 2017.

Proviso to section 134

Provided that nothing contained in Chapter XXXVI of the Code of Criminal Procedure, 1973 (2 of 1974) shall apply to any offence punishable under the _____ State Goods and Services Act, 2017.

5. Accordingly, the agenda note is placed before the GST Council for deliberation and decision with respect to the proposal at paragraph 4 above.