



Agenda for 43rd Meeting of the GST Council

28 May 2021

Volume – 1





GST Council Secretariat

New Delhi

Dated: 16th May 2021

Notice for the 43rd Meeting of the GST Council Scheduled on 28th May 2021

The undersigned is directed to refer to the subject cited above and convey that the 43rd Meeting of the GST Council would convene on **28th May 2021 (Friday)** through Video Conference. The schedule of the meeting is as follows:

28th May 2021 (Friday) : 1100 Hours onwards

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

(-Sd-)

(Tarun Bajaj)

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

Tel: 011 23092653

Copy to:

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

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Discussion on Agenda Items

Agenda Item 1 – Confirmation of the Minutes of the 42nd GST Council Meeting held on 05th & 12th October, 2020

The draft minutes of the 42nd meeting of the GST Council (hereinafter referred to as ‘the Council’) held on 05th & 12th October, 2020 was circulated to the Member States after the approval of Chairperson of the GST Council. The changes suggested by Odisha, Rajasthan and Telangana have been incorporated and the draft minutes are as follows.

The draft minutes of the 42nd meeting of the GST Council held on 05th & 12th October, 2020 through video conference under the Chairpersonship of the Hon’ble Union Finance Minister, Smt. Nirmala Sitharaman (hereinafter referred to as the Chairperson). A list of the Hon’ble Members of the Council who attended the meeting is given at **Annexure-1&2**. 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 given at **Annexure-3&4**.

2. The following agenda items were listed for the discussion in the 42nd Meeting of the Council:

1. Confirmation of the Minutes of GST Council Meetings.
 - i. 40th meeting of the GST Council held on 12th June, 2020
 - ii. 41st meeting of the GST Council 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. Agenda Note for continuation of cess beyond the transition period
- 9A. GST Compensation Options – Ways of meeting the Shortfall
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
- i. Minutes of the Meetings of GoM on IGST Settlement held on 22.09.2020 & 01.10.2020
 - ii. GST on launch of small satellites by Indian enterprises
15. Date of the next meeting of the GST Council

Preliminary discussion

3. The Hon'ble Chairperson invited the Union Finance Secretary and ex-officio Secretary to the GST Council (hereinafter referred to as the Secretary) to begin the proceedings. The Secretary welcomed the Hon'ble Chief Minister, the Hon'ble Minister of State (Finance), the Hon'ble Deputy Chief Ministers and the Hon'ble Members to the 42nd Meeting of the GST Council.

3.1. After preliminary discussions, the Hon'ble Chairperson asked the Secretary to take up the individual Agenda Items for consideration of the Council.

Agenda Item 1 : Confirmation of the Minutes of GST Council Meetings

4. The Secretary informed that the 1st Agenda item, was the confirmation of the Minutes of the 40th and 41st Meetings of the GST Council (hereinafter referred to as Minutes) held on 12th June, 2020 and 27th August, 2020 respectively. He stated that the Minutes were circulated to all the States in advance and comments have been received from the following States suggesting the following changes.

i. The State of Puducherry suggested that:

- a. in Para 6.5 of the minutes recorded for the 40th GST Council meeting in line 4, to replace the presently recorded version (Several rounds of meetings were held amongst which one was held in the presence of Hon'ble Union Finance Minister and it was agreed that this issue will be resolved) with the following version "Several rounds of meetings were held in this regard. One such meeting was held in the presence of the Hon'ble Union Finance Minister and it was agreed that this issue will be resolved".
- b. in Para 9 of the minutes recorded for the 41st GST Council meeting, in lines 46 and 47, to replace the presently recorded version (Further he brought up the issue that every State was getting 51% revenue share whereas Puducherry was getting only 26% whereas it was entitled to 51%) with the following version "Further he brought up the issue that every State was getting 41% revenue share whereas Puducherry was getting only 26% whereas it was entitled to 41%".

ii The State of Kerala suggested that:

- a. in Para 40 of the minutes recorded for the 41st GST Council meeting, to replace the presently recorded version (the Hon'ble Member from Kerala stated that he disagreed with the assessment made by the Finance Secretary in dealing with the situation. When the economy is in recession, or in contraction, the theory suggests that the Government should expand the expenditure.) with the following version "The Hon'ble Member from Kerala strongly disagreed with the assessment made by the Finance Secretary in dealing with the situation. He stated that barring one or two states all others who spoke, said that the center should do the borrowing. Having felt the sense of the house, this aspect should be discussed first and he took strong exception to the discussions centering on Covid related revenue loss and non-Covid related revenue loss. When the economy is in recession, or in contraction, the theory suggests that the Government should expand the expenditure."

- b. in Para 59 of the minutes recorded for the 41st GST Council meeting, to replace the presently recorded version (the Hon’ble Member from Kerala stated that the best course of action would be to give some time to the States to communicate the option they choose to exercise.) with the following version “The Hon’ble Member from Kerala stated that the best course of action would be to give some time to the States to examine the options.”

5. For **Agenda Item 1(i) and 1 (ii)**, the Council approved the Minutes of the 40th GST Council meeting and 41st GST Council meeting with the changes suggested by Puducherry and Kerala as detailed in para 4 above.

6. After confirmation of the minutes of the 40th and 41st meetings of the GST Council, the Hon’ble Ministers from the States / UTs of Puducherry, Punjab, Kerala, Telangana, Haryana, Maharashtra requested the Chairperson that the GST compensation issue should be discussed first while rest of the agenda items could follow. The Secretary clarified that compensation issue was listed as Agenda Item 9A. He sought permission of the Chairperson and the Hon’ble Ministers to first discuss Agenda Item 9 on continuation of cess beyond transition period and then Agenda Item 9A. It was agreed upon and the meeting started with discussion on Agenda No.9.

7. However, the minutes are presented below in sequence of the Agenda Items 2 to 14 for the convenience of ease of reference.

Agenda Item 2: Deemed ratification by the GST Council of Notifications, Circulars and Orders issued by the Central Government.

8. The Secretary asked Pr. Commissioner, GST Policy Wing, Sh. Yogendra Garg to place the Agenda before the Council. PC, GSTPW introducing the Agenda briefed the Council that the Agenda is regarding deemed ratification of Notifications, Circulars and Orders in relation to decisions already taken by GST Council and if deemed fit may be ratified and approved by the Council. He stated that in the 40th GST Council meeting held on 12-6-2020, the Council had ratified all the notifications, circulars and orders issued before 10-6-2020. He thereafter made a presentation (**Annexure 5**) listing out all the notifications, rate and non-rate of CGST, UTGST, IGST and Compensation Cess Circulars and Removal of Difficulty orders issued since 10-6-2020 till 25-9-2020, under the GST Laws by the Central Government as available on www.cbic.gov.in

9. For **Agenda Item 2**, the Council ratified the following:

- i. the notifications, circulars and Orders as in Agenda Item and the presentation (attached as **Annexure 5**) made during the Council Meeting, which are available on www.cbic.gov.in

Act / Rules	Type	Notification/Circular/Order Nos
CGST Act/CGST Rules	Central Tax	From Notification No. 48/2020-Central Tax, dated 19.06.2020 to Notification No. 73/2020-Central Tax, dated 01.10.2020

Act / Rules	Type	Notification/Circular/Order Nos
		Notification No. 04/2020-Central Tax (Rate) ,dt. 30-09-2020
UTGST Act	Union Territory Tax	Notification No. 02/2020 - Union Territory Tax dated 24.06.2020 and Notification No. 04/2020 - Union Territory Tax (Rate) dated 30.09.2020
IGST Act	Integrated Tax	1. Notification No. 04/2020 - Integrated Tax dated 24.06.2020 2. Notification No. 05/2020 - Integrated Tax dated 24.06.2020 3. Notification No. 04/2020 - Integrated Tax (Rate) dated 30.09.2020
Circulars	Under CGST Act, 2017	141/11/2020 - GST
ROD Orders	Under CGST Act, 2017	01 of 2020- Central Tax

ii. the notifications, Circulars and Orders issued by the States which are *parimateria* with above notifications, Circulars and Orders.

Agenda Item 3: Decisions of the GST Implementation Committee (GIC) for information of the Council

10. PC, GSTPW, CBIC informed that the GST Implementation Committee (GIC) took various decisions between 27.05.2020. and 08.09.2020. Further, due to the urgency involved, certain decisions were taken by GIC after obtaining approval amongst GIC Members by circulation. He made a presentation (attached as **Annexure 5**) on the decisions taken by GIC.

10.1 The Hon'ble Deputy CM of Delhi on the decision of GIC with respect to sharing of information with the Comptroller and Auditor General of India commented that this information should be sought directly from GSTN instead of CAG approaching each State separately. He suggested that after getting approval from the States, GSTN should make the information available directly to CAG. He stated that an SOP be made by the Council for both CBIC and the States on the modalities of information sharing. He added that CAG is first approaching the States and then States are seeking information from GSTN and then sharing it with CAG. This will make the whole process cumbersome. He suggested that instead, GSTN

should be authorised and with due approval of the States, GSTN should be allowed to share information with CAG. He further stated that CAG was presently asking for information from the NCT of Delhi, so the issue needs to be addressed urgently.

10.2 The Secretary to the GST Council acknowledged that suggestion of the Hon'ble Deputy CM of Delhi was good and stated that it should be done the way suggested. He added that in consultation with CAG, they had established certain protocol as to how information from the Central Government will go.

Now as per the suggestions given by the Hon'ble Member, the same will be incorporated and then in principle approval can be taken with regard to the nature and manner of data sharing, so that whatever is decided for Central Government, the same can be placed before the Council and based on that, data sharing can be done with CAG. He informed the Council that the Deputy CAG had met him some time back and placed similar request that going to all the States separately for data will be cumbersome and hinder proper audit. He emphasised that proper audit was must to ensure timely corrective action on the observations of CAG.

10.3 The CEO, GSTN, clarified that there were two aspects, one being selection of cases where audit will be done and for that data can be taken centrally. Second is once the cases are selected then they need to approach the particular jurisdiction and look at the files. He informed that now the Central Government authorities have created User-ID and password for the CAG Officers so that they can access the information. Suppose the CAG authorities want to look at the entire refund processing, they can see from start to end for those cases which have been selected by them. Same thing they want for the States as well. He informed that for 30 Model-2 States, GSTN was in the process of creating a similar kind of access mechanism wherein the States create the access User-Id's and passwords and give to CAG for accessing data required.

10.4 The Secretary, GST Council summing up the discussion stated that today's meeting could be taken as authorisation for making similar mechanism for the States as had been done for the Centre after extensive discussion with CAG for data sharing with CAG, wherein after approval from the States, the User-Id and password can be given to CAG for enabling access and retrieval of data for the individual cases they want to look at.

10.5 The Hon'ble Deputy CM of Delhi again stressed that approval of the State in this process was must.

10.6 The CEO, GSTN clarified that the User-Id and password will be made available to the State Nodal Officer so that when the CAG team comes for audit it can be handed over by the State Nodal Officer for access of data and then be taken back once audit is complete. So, the control rests with the States. As it is approved today by Council, GSTN will work on the same and have the functionality ready at the earliest.

10.7 The Hon'ble CM of Delhi appreciated the same.

10.8 The Commissioner, Commercial Taxes, Karnataka submitted that as a Model 1 State, CAG had already sought their data through the backend. So they were already accessing their system and as Model 1 State they did not have access to the GSTN system. So as far as Model 1 States were concerned, CAG could continue to access their system much like their officers accessed it.

11. For **Agenda Item 3**, the Council took note of the decisions of the GST Implementation Committee between 27.05.2020 and 08.09.2020.

Agenda Item 4: Timelines for TRAN-1 and TRAN-2 based on 13th meeting of ITGRC

12. The Secretary of the Council asked the Convener, Law Committee to brief the Council on the agenda. The Convener, Law Committee explaining the agenda informed that in 13th ITGRC meeting, it was observed by the ITGRC that Rule 117(1A) of CGST Rules, 2017 had been amended vide Notification No. 02/2020-CT dated 01.01.2020 extending the due date for submitting the declaration electronically in Form GST TRAN-1 upto 31.03.2020, in respect of taxpayers who could not submit the said declaration by the due date on account of technical difficulties on the common portal and in respect of whom the Council had made a recommendation for such extension. Similarly, due date of filing TRAN-2 had been extended upto 30.04.2020. In view of the spread of pandemic COVID-19, these timelines stood extended to 31.08.2020 vide CBIC Notification No. 35/2020-CT dated 03.04.2020 read with Notification No.55/2020-CT dated 27-06-2020.

12.1 He further informed that the ITGRC in its meeting held on 01.09.2020 had recommended 26 cases (12 cases received from Nodal Officers and 14 cases received on account of Court cases) for opening up of the portal to file revised TRAN-1/TRAN-2. Further, another 31 cases viz. 9 Court cases and 22 cases received from Nodal Officer (received by nodal officers before 31.03.2020) were under examination by the GSTN. He informed that the ITGRC had observed that as due date for submitting the declaration electronically in Form GST TRAN-1 under present provisions of Rule 117(1A) was already over on 31.08.2020, it therefore appeared that ITGRC could not take up any fresh case for discussion and recommendation unless the Rule was amended. In view of the above, the ITGRC requested that this issue might be referred to Law Committee before bringing it to GST Council for appropriate recommendation.

12.2 The issue was deliberated by Law Committee in its meeting held on 09.09.2020, wherein it was decided that the timeline under Rule 117(1A) should not be extended, as any extension of time limit under Rule 117(1A) may adversely affect the stand taken by the Government in the Special Leave Petition 7425-7428/2020 filed by the Revenue in the case of Brand Equity Treaties Limited in the Hon'ble Supreme Court.

12.3 The Secretary apprised the Council that this Agenda involves two parts:

- (a) The ITGRC had recommended 26 cases (12 from Nodal Officers and 14 Court cases) in its 13th meeting held on 01-09-2020 for opening up of the portal to file revised TRAN-1/TRAN-2.
- (b) The cases pending with GSTN as on 01-10-2020, including 9 Court cases and 22 cases received from Nodal Officer (received by nodal officers before 31.03.2020), totaling to 31 cases.

He explained that though the due date for submitting the declaration electronically in Form GST TRAN-1 under present provisions of Rule 117(1A) was over on 31.08.2020 but these 26 cases, having technical glitches while filing TRAN-1/TRAN-2 and recommended by the ITGRC, may be considered so that the portal can be opened for these cases. This would give legal backing for enabling opening up of the portal in respect of these 26 cases recommended by ITGRC.

12.4 For the cases mentioned at 12.3(b) above, he requested the Council that the issue may be kept open and the same can be brought back to the Council. He informed that many of these taxpayers are approaching Courts to get transitional credit and that there is a need to be cautious as whatever is done with regard to these cases would have legal implications.

13. For **Agenda item 4**, the GST Council took note of the above and accorded its approval for 26 cases duly recommended by ITGRC in its 13th meeting held on 01-09-2020 for opening up of the portal to file TRAN-1/TRAN-2, if they had faced technical glitch.

Agenda Item 5: Update on Return Enhancement and Advancement Project (REAP) & in-principle approval of overall architecture

14. The PC, GSTPW made a presentation (**Annexure 5**) and briefed the Council that in the 39th GST Council meeting held on 14.03.2020, it was decided that instead of an entirely new return system, enhancements were to be carried out in the existing system and achieve the same objective. The Return Enhancement and Advancement Project (REAP) undertaken by the GSTN essentially involved, inter-alia, that the liability got auto-populated from the GSTR-1, the credit got auto-populated from GSTR-1 of the suppliers and ultimately an auto populated return is generated.

14.1 Briefing the Council PC, GSTPW highlighted that following features had already been enabled under REAP:-

i. Nil filing of GSTR 3B by SMS

ii. Nil filing of GSTR-1 by SMS

iii. Auto population of liabilities from GSTR-1 to GSTR- 3B for Monthly Taxpayer

iv. Auto drafted ITC Statement (GSTR-2B): Elaborating on this point, PC, GSTPW stated that auto drafted ITC statement in GSTR-2B was now available. The Secretary explained that one of the major issues during discussions in the Council was invoice matching. In GSTR-2B details of all the suppliers' invoices could be seen and on that basis his ITC was being computed leading us to the final goal of invoice matching. He stated that GSTR-2B was an important step in that direction. He reminded the Council of the presentation made by Sh. Nandan Nilekani in the 39th GST Council meeting held in March wherein he was requested that by end of July, certain important milestones be achieved, and this was one of them. This should prove beneficial for taxpayers as they would know the exact ITC available to them on the basis of invoice matching and also for the tax administration as any undue utilisation of tax credit will be red flagged for necessary action and follow up. So, it was good for the taxpayer and good for the tax administration and should definitely boost tax collection.

v. Enhancement of existing comparison report of auto-drafted and filed values for GSTR-3B

vi. Matching Tool for matching GSTR-2B and the Purchase register: To this point the PC, GSTPW elaborated that matching tool is now available using which the taxpayer could match his purchase register to GSTR-2B and find missing invoices. He stated that a communication tool is under development which would enable taxpayers to send the details of missing invoices to his suppliers for making necessary corrections/declaration.

vii. Import data as part of GSTR-2A download and GSTR-3B auto-population: To this point PC, GSTPW added that earlier import data from customs was on self-entry basis and now it was also flowing from the system automatically into the GSTR-2B.

viii. Delinking of credit/debit notes with invoices in GSTR-1/GSTR-6

ix. Providing detail of invoices considered for computation in Table 8A of GSTR-9: To this point, PC, GSTPW elaborated that in GSTR-9, ITC was auto populated for the entire year but the taxpayer did not know as to which invoices were captured and there was a difficulty in reconciliation which had now been made resolved.

Giving the roadmap, graphically depicted in the presentation (**Annexure5**) the PC, GSTPW stated that finally everything will be linked, and taxpayer would get an auto drafted GSTR-3B from the system. The ultimate goal is that everybody needs to declare only their GSTR-1, that is their own invoices, and once e-invoice was achieved for everybody, even GSTR-1 will also be automatically prepared and from this GSTR-3B will also be prepared. This would ensure that the compliance cost and burden go down significantly and barring reverse charge supplies and ITC reversals, practically everything will be done by the system.

14.2 He further highlighted that the only area where work was yet to be done was regarding the earlier approved quarterly return with monthly payments which was proposed to be rolled out as part of the new return system for smaller taxpayers with turnover less than Rs.5 crores. He informed that such taxpayers are about 89% in number and contributed only about 13% to the total tax revenue. PC, GSTPW stated that a similar QRMP system with a slightly different approach is now proposed to facilitate these small taxpayers. He highlighted that the major issue was computation of the tax liability every month after taking into account the outward supplies, inward supplies and ITC computation and filing of return because it may require some external assistance. He stated that under the proposed scheme, all the small taxpayers having turnover less than Rs.5 crores will have an option of either self-assessing their tax liability, or auto generating their challans of 35 percent of the cash liability of the last quarter. Thus, based on past tax liability, monthly tax liability would be allowed to be paid instead of assessing the tax liabilities. Only at the end of the quarter, they would need to file their return and assess the correct liability. This way instead of filing GSTR-3B and GSTR-1 every month, they would be required to be filed only quarterly which will lead to substantial reduction in the compliance costs. The Secretary, GST Council added that the taxpayers are actually paying 35% during first two months of the quarter on the basis of the last quarter cash payment and in case, during the third month, he has to pay more because of greater tax liability for the quarter, then he will not be required to pay interest on the tax liability for the first two months as he had already complied with the 35% requirement. This would substantially reduce his compliance burden as instead of filing monthly return, he is filing quarterly returns. He added that the total number of taxpayers with turnover less than Rs. five crores is almost 89% and for making these monthly payments, these people will not need to visit any accountant or professional anymore, so to that extent it will be a big relief.

14.3 The PC, GSTPW stated that the taxpayer will not need to refer back to his taxes and the system will pick up and generate the challan. He stated that the quarterly filers will be required to file their GSTR-1 also quarterly only. He stated that the challenge in quarterly GSTR-1 currently available for taxpayers having turnover less than Rs. 1.5 Crore is that some of the large buyers or buyers making exports demand that invoices supplied to them should be declared on monthly basis. The smaller taxpayers are therefore forced to either go for monthly compliance or lose their customers. He informed that keeping this difficulty in mind, a facility is proposed so that the taxpayers can report invoices of such buyers on monthly basis while report the rest on quarterly basis. Further he proposed that QRMP be made available from 01.01.2021 for which the option be made available from 01.12.2020. He informed that in order to facilitate these small taxpayers, what is proposed is that they are migrated automatically by default to QRMP Scheme and they

can opt out during December 2020-January 2021 till 31st January 2021 and the same will be publicised. With this, he placed the following proposal for in-principle approval of the Council:

- i. For month M1 and M2 of the quarter they will file only one challan PMT-06 for their liability (net of ITC)
- ii. Option to estimate tax liability or pay 35% of cash paid in last quarter
- iii. Continuous invoice filing facility (IFF) to be made available in M1 and M2

He stated that once GST Council granted in principle approval to the same, the Law Committee would work out the legal framework.

14.4 The Secretary GST Council reiterated that this was proposed to be brought from 01.01.2021 and that it had two components. One part being Technology which was already being worked out and they were confident that this would be done in time. The other part was legal for which certain changes in the Rules would have to be made which Law Committee will work out, so the taxpayers should get the benefit of QRMP right from the fourth quarter of this Fiscal Year.

14.5 The Hon'ble Member from Goa lauded the proposal and stated that it was long due and he was waiting for invoice matching to be there. He complimented the officers for formulating this proposal and opined that they should move ahead with it immediately for it to be implemented from 01.01.2021. He reiterated that it was long overdue and congratulated the officers for having worked on it despite the pandemic. He hoped this will help to plug leakages and firm up revenues.

14.6 The Hon'ble Dy. CM of Gujarat stated that it had always been discussed that the Forms and Returns must be made as comfortable and easy as possible. He opined that the Law Committee had not yet finalised the Return form and the format of the same must be widely publicised to CA's and professionals and feedback must be sought on it. He stated that it should be put up in public domain through website and feedback from Trade associations and stakeholders be sought on whether it is really comfortable and easy and only then should Law Committee finalise the same so that there is no need of any change in future.

14.7 To the point made by the Hon'ble Dy. CM of Gujarat, the PC, GSTPW explained that no returns or forms were being changed and that the proposal was only to allow for monthly payment to small taxpayer for which he will have to pay a challan of 35% of his cash payment of last quarter and that he will have to file quarterly returns, for which the form remains the same. The Secretary, GST Council added that GSTR-1 and GSTR-3B forms remained the same and only their frequency was being altered. This proposal would require changes in the GST Rules which the Law Committee will look into and these will be brought before the Council before 31.12.2020 for it to be made functional from 01.01.2021. Nonetheless he assured the Hon'ble Deputy CM that in case any changes were made in the forms, they would consult the same with stakeholders and obtain their feedback.

14.8 The Hon'ble Deputy CM of Gujarat suggested that they must strive to ease/simplify the forms as these prove to be quite complicated for the small taxpayers who are being allowed to file returns quarterly. A simple and easy form must be made available for these taxpayers. He thanked the Secretary for accepting his suggestion on stakeholders' feedback.

15. For **Agenda Item 5**, the Council granted in principle approval to the Quarterly Return and Monthly Payment Scheme (QRMP) to be made available from 01.01.2021 as proposed and directed that the Law Committee should work on the legal framework for the same expeditiously.

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

16. The Secretary then asked PC, GST Policy Wing Sh. Yogendra Garg to take up this Agenda Item. The PC, GSTPW, initiated the discussions with a presentation (**Annexure 5**) and briefed the Council that all the proposals in this Agenda were discussed and recommended by Law Committee.

16.1 Taking up the Agenda Item 6(i) he stated that in the existing returns system consisting of GSTR 1-2-3, since GSTR 2 and GSTR 3 were kept in abeyance, GSTR-1 and GSTR-3B need to be prescribed time and again. He informed that the existing extensions were valid till 30 September 2020. The GST Council in its 39th meeting held on 14th March, 2020 had already decided on incremental approach to new return system by enhancing existing return system and that as explained in the previous agenda item, the said project would get completed by 1st April 2021. Therefore, the proposal was that GSTR-3B and GSTR-1 be prescribed till 31st March 2021 and at the same time Law Committee would work on ensuring that the legal framework law gets aligned with GSTR-1 and GSTR-3B system which are going to be the final returns system, so that further extensions are not required. He further stated that second part of the proposal was that the due date of quarterly GSTR-1 is the last day of the month succeeding the quarter which would cause difficulty to the buyers in availing ITC on time since now GSTR-2B has been made available which gets generated on the 14th of the succeeding month. He explained that there was a need to align the due date and it is proposed that due date for quarterly GSTR-1 be made 13th of the month following the quarter so that GSTR-2B of the quarter involve all those invoices also. The Council approved the said proposal at 6(i).

16.2 Taking up the next Agenda Item 6(ii) the PC, GSTPW stated that it was regarding annual return / reconciliation statement for 2019-20. He reminded the Council that for the annual returns for 2017-18 and 2018-19, based on the stakeholder's suggestions, certain tables had been made optional. Now, out of those optional Tables, two items i.e. details of ITC availed on capital goods and Tables 8A to 8D (ITC data) were proposed to be made mandatory as part of 2019-20 return cycle. For 2020-21 cycle he stated that they will be anyway developing a new form because of lots of enhancements which had taken place. He stated that the second decision point was that the Council had made the annual return for 2018-19 optional for taxpayers with turnover upto Rs.2 crore and 9C was mandatorily required to be filed by taxpayer having turnover of above Rs.5 crore, but looking at the difficult times that the taxpayers have gone through due to COVID related lockdown, further enhancement in turnovers in this regard could be considered. He explained that just less than 2 percent of the taxpayers had turnover of greater than Rs.20 crore and who contributed 84 percent of the tax. The PC, GSTPW, placed for the consideration of the Council whether they should maintain the same threshold that is Rs.2 crore for GSTR-9 and Rs.5 crore for GSTR-9C or should they be looking at any enhancement to give relief to more taxpayers.

16.3 The Secretary added that in this proposal some analysis had been done and it was discussed in Law Committee and the Council can take a final view on this. He stated that Form-9C particularly requires some professional help. It was also necessary because whatever extra credit one had taken, had to be reconciled through 9C. He informed the Council that whatever tax came from 9C mechanism last year, majority of it came from those who are having turnover more than Rs.20 crore. So the proposal was that if the turnover for mandatory GSTR 9C could be increased from Rs.5 crore to Rs.20 crore it would provide a big relief to the taxpayers and a larger number of taxpayers would not have to worry about filing 9C. Further he stated that through data analytics if supposing they found large gaps and somebody had taken more credit than due to him and if his turnover was less than 20 crores, they could always ask for more information. The

Secretary opined that this kind of balanced approach will protect the revenue and ease the compliance burden. He requested the Council to approve the proposal.

16.4 The Hon'ble Member from Kerala stated that when they had increased the limit last time he had opposed it justifying that the annual return was a very important instrument to check tax evasion. Now virtually they were giving it up in the name of easy compliance. He added that the extra effort to plug tax leakage has a compliance cost. They had already raised the limit and raising it further was not a balanced approach at all and therefore, he was not in favour of the proposal. 16.5 The Hon'ble CM of Puducherry stated that the present status for filing of annual returns GSTR-9 and 9A was that it was optional for taxpayers with aggregate turnover less than Rs 2 crores and the filing of GSTR-9C was mandatory for those with turnover greater than Rs.5 crore. In his view, filing of reconciliation statement in form GSTR-9C with annual turnover of more than Rs.5 crore had to be continued. In the sense, he agreed with the view expressed by the Hon'ble Finance Minister of Kerala that when they give exemption relaxations, it gives room for evasion and the reconciliation statement definitely will help to avoid evasion of tax. Therefore, check and balance will be there and according to him the present system of Rs.2 crores and Rs.5 crores be continued.

16.5 Hon'ble Member from West Bengal stated that in his presentation to the GST Council, Sh. Nandan Nilenkani mentioned about significant leakage of revenue and bigger question was, as to how do we reform this structure so that this leakage could be minimised. Of course now auto population was being proposed which was one of the key points that three hundred crores of invoices were to be uplinked every month, according to the original plan. He stated that GSTR-1 was working fine but GSTR-2 which was supposed to be auto populated was not working. He enquired from the senior officers whether these changes would bring down significant amount of leakage which is primarily due to input tax credit where fraudsters create companies and those companies are non-existent shell companies and they create ITC on them because the system does not have the auto population and matching of invoices there. What are the fundamental changes which will help in reducing the ITC fraud due to the inefficiency or lacunae in the system, how do we do that? If we can get an answer to that, if it was not possible now, if something could be produced to show how this could happen, it would be big service in the collection of tax.

16.6 The Secretary sought the permission of the Hon'ble Chairperson to respond to the Hon'ble FM of West Bengal stating that they had brought several proposals to achieve that goal of plugging leakages. In a sense that some of the proposal had been brought in this Council Meeting and some had been approved in the last two council meetings. One of the points mentioned by the Hon'ble Member about people creating companies, fly by night operators, issuing invoices and disappearing had been restricted through introduction of GST registration through Aadhar authentication. Now it was not that easy that somebody gets some PAN card or some documents from somewhere and floats a company, issues invoice and disappears. In order to get a registration, one will have to give Aadhaar and if somebody does not give Aadhaar number then in that particular case his premises has to be physically inspected. He was very glad to state that almost 90 percent of the new registration had been through Aadhaar based mechanism. Further he added that GSTR-2B auto-population and matching had been implemented. He requested the Hon'ble FM that instead of taking time here in the next Council meeting they could actually come up with the presentation on the steps taken thus far to curb leakages, minimise ITC leakages, the achievements on that front and the way forward and it could be discussed in detail.

16.7 The Hon'ble Member from West Bengal submitted that what the Hon'ble Deputy CM of Gujarat had said with regard to stakeholder consultation and inputs, in his experience having been on both sides of

the story, he found, was a very constructive suggestion. There were two sides of the story one is those who create the shell companies and run away and the other is honest taxpayer who are made to go through such a rigour. The bigger ones find ways and means through chartered accountant and smaller ones are unable to do so. He suggested that as pointed by the Hon'ble Deputy CM of Gujarat, stakeholder consultation was very important. He noted that it was here that they had repeatedly been making the mistake, not only in this tax but taxation in general.

16.8 The Secretary agreed that stakeholder consultation was very important and they would include it in every major decision. He brought to the notice of the Council that a major step had been taken from 1st of October wherein electronic invoice (e-invoice) had been made mandatory for all companies having turnover more than Rs.500 crore for B2B supplies. He noted that they were given a lot of time, lot of discussion took place and finally from 1st October it was initiated and during the last 3-4 days, each day 6 to 7 lakh invoices were being filled electronically. He stated that the mandatory limit for e-invoices today was Rs.500 crore and this Council had already approved that from 1st of January all companies having turnover of more than Rs.100 crores will be required to generate e-invoice and ultimately, they will gradually bring down this limit, so that smaller companies are also able to generate e-invoices. Finally, the day everybody starts generating e-invoices, the whole concept of GSTR-1 will no more be relevant and the invoice matching to that extent would be perfect, the return can be pre populated because all the invoices are electronic. The taxpayer can simply verify and make the payment. He added that they were adopting a gradual approach so that industry was also able to adjust. In this approach, bigger taxpayers are being included first as once they are able to adjust to the new system, the medium and small industries also will be able to follow up on the same.

16.9 The Hon'ble Deputy CM of Delhi stated that the driving force of this proposal, he presumed, was change in the definition of MSME. He further stated that he was of the opinion that the 5 lakh taxpayers falling between aggregate turnover of Rs.5 crores to Rs.20 crores were already getting their accounts audited, even IT audit was already being done for them. If they were already getting their audit done, they had to merely file return and subsequently with auto population tool this could be done. Therefore, he opined that there was no need to relax it further as Rs.5 crore limit was already set, it should be allowed to continue and they should not touch it and for the taxpayers with turnover above Rs 5 crore, it was not a big deal as they were already getting their accounts audited.

16.10 The Secretary, with the permission of the Hon'ble Chairperson, stated that the older limit could be retained and accordingly no change may be done. The PC, GSTPW, added that as part of this agenda 6(ii), a clarification that annual return being optional for taxpayers with less than Rs.2 crores aggregate turnover, was optional for composition dealers as well, may be issued. The Council approved the proposal to that extent.

16.11 The PC, GSTPW taking up Agenda 6(iii) briefed the Council that for auto-population and any matching, what was most important is that their outward supply statement, GSTR-1 was filed. Currently the behaviour was very different though the behaviour had been changing ever since rule 36(4) was introduced in terms of which the credit availed cannot be more than 110% of the tax as per invoices declared by the supplier. He stated that still there was a gap of about 20% between GSTR-3B and GSTR-1 filing. For the auto generation of liability in GSTR 3B under REAP project proposed from 1st of April, it was very important that GSTR1 filing becomes disciplined and GSTR-1 is filed before GSTR-3B is filed. So, it is proposed that measures be taken to ensure that GSTR-1 is filed before GSTR-3B. He explained that what

is proposed is that there is going to be a system check and late fee collected from 1st of April 2021 if GSTR-1 is not filed. He further stated that it was very important as the Secretary also mentioned that once GSTR-1 is filed then the entire returns can be auto-populated. Of course, when e-invoice reaches the last level, the GSTR-1 itself will become redundant but till such time it was important that GSTR-1 was filed. The other measures which Council had approved in the meeting held in December last year was to bring in system check that e-way bill is blocked if GSTR-1 are not filed. He further stated that both kinds of behaviour are there that some file GSTR-1 and not file GSTR-3B and vice versa. He added that if the Council approves the proposal in this meeting, the trade would get six months' advance notice.

16.12 The Secretary said that the said requirement will come into effect from 1st of April 2021 and this was very important. As the Hon'ble FM of West Bengal had mentioned about ITC leakages and resulting loss of revenue, these steps regarding filing of GSTR-1 prior to GSTR-3B must be taken. And in case GSTR-1 is not filed for 2 months their e-way bill would be blocked. He added that they were giving enough time so that trade and industry can adjust before it is rolled out from 01-04-2021.

16.13 The PC, GSTPW stated that quite a large number of large taxpayers and compliant taxpayers were already filing and more than two third of the paying taxpayers were already following this behaviour. He further stated that for the late fee on delayed furnishing of GSTR-1, currently there is an impression that on GSTR-1 there is no late fee though there is a late fee in law. The same is not being populated in the next month's GSTR-3B and not being thus collected also unlike the late fee for delayed submission of GSTR-3B. The proposal is that from 1st of April 2021, GSTR-1 late fee also appears in the next GSTR-3B. Another proposal for auto-population along with this is that of interest on the delayed payment of tax. He informed that the Council had already decided that interest will be on net basis. Therefore, it is proposed that from 1st of April, the late payment interest would also auto populated in GSTR-3B so that it can be collected with tax payment itself. It will also bring in more discipline in GSTR-3B filing. No change in law was required and these all were procedural changes. Further, he informed that since GSTR-3B can contain liability of earlier months also, there will be a facility to modify and add interest.

16.14 Taking up the next Agenda Item 6(iv) on changes in HSN requirement, the PC, GSTPW, stated that tax administration had been struggling to generate the sectoral data. A conscious decision was taken that in the first two-three years of the GST to not burden taxpayers with HSN requirement. Currently, for taxpayers having aggregate turnover upto Rs.1.5 crore no HSN is to be given, from Rs.1.5 to Rs.5 crore aggregate turnover it is only 2 digits and above Rs.5 crores it is 4 digits. But this is leading to misuse besides challenge in getting sectoral data. Quoting the example of stainless-steel, PC,GSTPW, stated that people don't declare the correct heading as they declare only 2 digit or 4 digit and the distinction cannot be made between costly grades and cheap grades leading to evasion of tax. He explained that the proposal was that from 1st of April 2021, 6 digit HSN for goods and service be made mandatory for all taxpayers above Rs.5 crore aggregate turnover while for those below Rs.5 crore aggregate turnover 4 digit code will be mandatory only on B2B supplies. In addition, power to prescribe a class of supplies where the 8-digit HSN/SAC must be mentioned so that sensitive items like chemical weapons or evasion prone goods like stainless steel etc. can be effectively monitored. He also proposed to modify GSTR-1 to add 'Rate of Tax' in Table 12 so that combined with the HSN the correct sectoral data can be obtained which would help in taking correct policy view.

16.15 Taking up the next Agenda Item 6(v) the PC, GSTPW stated that in the last three years investigation had shown that refunds were taken into accounts opened on the basis of fake documents. So when tax

administration went after people after finding fake refund by monetisation of fake credit, they were unable to trace them. Accordingly, it is proposed that refund be given only in the account which had been validated vis-a-vis with the Aadhaar and PAN of the claimant. It would ensure that the refunds were going into authenticated account belonging to registered taxpayer and not in the account of some operators of fake credit. Further, as was approved in earlier Council meetings, the refund applications would be Aadhaar validated so, one knows that it is coming from genuine person.

16.16 Moving to the next Agenda Item 6(vi) pertaining to amendment in CGST rules the PC, GSTPW, stated that in Covid period they had stopped blocking e-way bill. The current rule was that if two consecutive GSTR3Bs were not filed the e-way bill gets blocked. Since, conditional relaxation in filing of GSTR3B was given in lockdown period, blocking of e-way bills had been stopped w.e.f. 25th March 2020. He informed that there was demand from some of the State Administrations that such suspension of blocking should be made part of the rules. So, it was discussed in the Law Committee and the recommendation was a proviso may be added in Rule 138E that from 20.03.2020 to 15.10.2020 no e-way blocking be carried out and that from 15.10.2020 blocking will be reinitiated for taxpayers having aggregate turnover above Rs.5 crore. He informed that for taxpayers having aggregate turnover below Rs.5 crores, we would watch the behaviour and then take an appropriate call. He further stated that like they allowed GSTR-3B and GSTR-1 nil filing through SMS now the composition taxpayers who have no liability in a particular quarter also will be able to do NIL filing through SMS. He further highlighted some technical changes as mentioned in his presentation (**Annexure 5**) for approval of the Council.

16.17 Moving to the next Agenda Item 6(vii) pertaining to inclusion of GST laws in Economic Offences (Inapplicability of Limitation) Act, 1974 the PC, GSTPW stated that this was very important as in CrPC there was a time limit for prosecution. He stated that in the Economic Offences Act (Inapplicability of limitation) Act, 1974 all the existing laws are listed there but the GST laws are not there. He informed that in some cases, people being arrested in GST offences were given bail on day one saying that GST Officers do not file prosecution application within the limitation period. The proposal is that all the Central GST Acts that is CGST Act, IGST Act, the UTGST Act and the Compensation Cess Act be put in the Annexure to this Act. He further informed that most of the States also have similar acts and they also needed to carry out the similar amendments. Wherever a State doesn't have such an Act, a proviso as per draft can be inserted in the SGST Act itself.

16.18 Member CBIC Sh.Vivek Johri added that significance of changes carried out through this amendment is that, otherwise, the general limitation which was applicable under CrPC would also apply to all GST offences and that will prevent us from filing prosecution in time and taking action.

17. For **Agenda Item 6**, the Council took the following decisions:

- i. Approved extension of the present GSTR-1/3B return filing system till March, 2021;
- ii. Approved changing the due date for furnishing GSTR-1 by quarterly taxpayers till 13th of the month succeeding the quarter;
- iii. Granted in principle approval to make legal changes to replace GSTR-1/2/3 related provisions with the present GSTR-1/3B return filing system.
- iv. Empowered the Law Committee to deliberate upon the amendments required in the GST Acts and Rules accordingly.

- v. Approved issuance of clarification with respect to waiver of annual return in FORM-9A for composition taxpayers.
- vi. Approved measures to ensure GSTR-1 filing mandatory before GSTR-3B from 01.04.2021 through
- Waiver of GSTR-1 late fee if same is filed before GSTR-3B
- Blocking of e-way bills to be enabled on system from 01.04.2021 if two consecutive GSTR-1's are not filed
- vii. Approved to populate GSTR-1 late fee in next GSTR-3B
- viii. Approved to populate interest for late payment of tax also in next GSTR-3B from 01.04.2021
- ix. Approved facility to add interest if part of the liability being declared in GSTR-3B pertains to earlier tax periods.
- x. Approved making 6 digit HSN for goods and 6 digit SAC for services mandatory for taxpayers above Rs. 5 Cr. turnover w.e.f. 01.04.2021
- xi. Approved making 4 digit HSN/SAC compulsory on B2B supplies by taxpayers below Rs.5 Cr. turnover w.e.f. 01.04.2021
- xii. Amend Rules to empower to notify 8 digit HSN on notified class of supplies by all taxpayers
- xiii. Approved modification of GSTR-1 to include Rate in Table 12 to have better sectoral data w.e.f. 01.04.2021
- xiv. Approved grant of refund only in a PAN & Aadhaar linked Bank account of the claimant.
- xv. Approved Aadhaar revalidation at the time of filing refund application.
- xvi. Approved waiver of blocking of e-way bill during COVID period from 20.03.2020 to 14.10.2020 - to be given legal backing through a proviso in CGST Rule 138E
- xvii. Approved blocking to be reinitiated from 15.10.2020 for taxpayers with turnover > Rs. 5 crore.
- xviii. Approved NIL filing of CMP-08 through SMS from a date to be notified-change in CGST Rule 67
- xix. Approved change in Rule 142(1A) making communication of demand ascertained by the officer in FORM DRC-01A optional
- xx. Approved changes in forms-RFD-01, GSTR-5 (non-resident) to include reverse charge liability, GSTR-5A (OIDAR) to include place of supply and Provision for declaring fee in DRC-1,2,7,8,9,24,25 & ASMT-16
- xxi. Approved inclusion of GST Laws in Schedule to Economic Offences (Inapplicability of Limitation) Act, 1974 so as to exclude from said limitation and inclusion SGST Act in the Schedule of respective Acts or if such an Act is not there, then to insert proviso to Section 134.

Agenda Item 7: Issues recommended by the Fitment Committee for the consideration of the GST Council. 7(i): The representation received from HADMA seeking GST rate of 12% on Ayurveda / Unani / Siddha (AUS)-ingredients based sanitizer.

18. The Secretary introduced the Agenda Item 7(i) to the Council and asked the Joint Secretary, TRU-I (Co-Convener of the Fitment Committee) to present the agenda before the Council.

18.1 The JS, TRU-I stated that a representation dated 27th July, 2020, was received from the Haryana Ayurvedic Drugs Manufacturers Association (HADMA) regarding Ayurveda / Unani / Siddha (AUS) ingredient-based sanitizers, having Tulsi, Neem, aloe vera or other similar ingredients, claiming that the said goods were Ayurvedic medicines and, therefore, merit classification under HS Code 3004 90 11 and should attract GST at the rate of 12%. The contention was that the clarification in Press Release dated the 15th July, 2020 did not apply to AUS ingredient-based sanitizers. Their main argument was that AUS ingredients-based sanitizers should be treated differently from alcohol-based sanitizers for the purpose of GST levy, since AUS ingredients-based sanitizers fall under category of Ayurveda 'medicines' and required license under the Drugs and Cosmetics Act, 1940.

18.2 Subsequently, HADMA filed CWP No. 11474 of 2020 before the Hon'ble Punjab and Haryana High Court, praying for accepting their above-mentioned contention regarding AUS ingredient-based sanitizers, as well as relief from enforcement action by GST authorities on this account. The Hon'ble High Court, in its Order dated the 11th August, 2020 disposed of the said petition with the observation that "It is hoped that the same shall be taken up for consideration by the GST Council at the earliest, considering the issue involved." The Hon'ble High Court directed that the representation of HADMA dated 27th July, 2020 be placed before the GST Council for consideration.

18.3 The JS, TRU explained the contentions of HADMA. The representation of HADMA dated 27th July, 2020 was placed before the GST Council as per the Order dated 11-08-2020 of the Hon'ble High Court of Punjab and Haryana. The JS, TRU further explained the details of Press release dated 15-07-2020, WCO reference from Covid-19 medical supplies and other details to the GST Council. He stated that the Fitment Committee had examined the issue and recommended that Ayurveda / Unani / Siddha (AUS) ingredients-based sanitizers were classified under tariff item 3808 94 00 and attracted 18% GST and as such there should be no distinction between them and alcohol-based hand sanitizers.

18.4 The Hon'ble Ministers from Delhi and Kerala expressed their agreement with the recommendations of the Fitment Committee. The Hon'ble Deputy Chief Minister from Gujarat also supported the recommendation. The Hon'ble Minister from Tamil Nadu stated that same rate should be there for all types of sanitizers otherwise it might lead to misclassification disputes. The Hon'ble Minister from Uttar Pradesh stated that the present GST rate of 18% on all types of sanitizers should continue. The Deputy Chief Ministers from Bihar, Haryana and the Hon'ble Minister from Rajasthan also agreed with the recommendation. The Hon'ble Chief Minister from Puducherry also supported the proposal that GST rate of 18% should continue on all types of sanitizers. Thus, the GST Council, after considering the representation of HADMA dated 27th July, 2020, agreed with the recommendations the Fitment Committee on this issue.

19. For **Agenda Item 7(i)**, the GST Council recommended that the Ayurveda / Unani / Siddha (AUS) ingredient-based sanitizers be classified under tariff item 3808 94 00 with 18% GST and as such there should be no distinction between them and alcohol-based hand sanitizers.

Agenda Item 8: Issues of Goods and Services Tax Network (GSTN):

8(i): Status of receipt of Advance User Charges (AUC) from States and CBIC

20. The Secretary of the Council asked the CEO, GSTN to brief the Council on the agenda. The CEO, GSTN stated that as per the Revenue Model of GSTN approved by the Empowered Committee of State Finance Ministers (EC) in its meeting held on 30th August 2016, the GST System Project was being implemented by GSTN as per approval of the Cabinet and the cost incurred on the project (Capex and Opex) along with GSTN's own expenses was to be shared equally by the CBEC (now CBIC) and States in the form of User Charges to be remitted by them in two (2) instalments in a Financial Year on a half-yearly basis by 1st March and 1st September of the year.

20.1 He further informed that as per the approved Revenue Model, GSTN had raised demand for the payment of AUC to the Central and State Governments for the 2018-19, 2019-20 and 2020-21. The Advance User Charges of FY 2018-19 was received from all States and Centre, except from the States of Punjab and Telangana. GSTN had been following up for the same with the concerned states. Further, the follow up for Advance User Charges of 2019-20 was also being made continuously, including by way of informing the status to the GST Council. Also, the first instalment of Advance User Charges for FY 2020-21 was payable by 1st June 2020 and second Instalment was payable by 1st October 2020. However, in view of the current situation, few states had expressed concerns that they might not be able to release funds to GSTN within specified time, and had requested for extension of time without interest.

20.2 The Secretary stated that the CBIC had paid its first instalment of Rs.132.22 Crores towards AUC for FY 2020-21. Submitting the status of pendency of AUC as on 29-09-2020, he specifically pointed out the following:

- (a) The States of Telangana, Punjab and others who had not paid the AUC for FYs 2018-19 and 2019-20 were requested to pay their dues at the earliest.
- (b) For FY 2020-21, the first installment for payment of AUC was due on 01-06-2020 and the second installment for payment of AUC was due on 01-10-2020. Many States and the UTs had not paid the AUC for FY 2020-21. Some of the States had requested for extension of time without interest. Hence, he requested the GST Council to give consent for extension of due date for payment of AUC for FY 2020-21 (both first and second installments) till 31-03-2021 without levying any interest.

21. For **Agenda Item 8(i)**, the GST Council took note of the above and accorded its approval for extension of the due date for payment of AUC for FY 2020-21 (for both first and second instalments) till 31-03-2021 without levying any interest. Further, the States who had not paid the AUC for FYs 2018-19 and 2019-20 are requested to pay their dues at the earliest.

Agenda Item 8(ii): Need for moving resources from CR model to T&M model for important developments.

22. The CEO, GSTN explained the agenda that the proposal of Software development under actual identified resources utilization model, commonly known as Time and Material (T&M) basis, to implement the changes identified under roadmap for incremental improvements to existing Returns (Linking of GSTR-1/GSTR-2A/2B with GSTR-3B) was placed before the GST Council in its 39th meeting held on 14th March 2020. Consequently, Council approved the proposal of incremental enhancement of existing Returns on a T&M basis starting with 60 personnel to carry out development. GSTN also approved 30.5 resources under T&M model for critical changes of Back office, Front Office and Registration module of GST System,

which had been named LEAP Project. These were not really additional resources being paid for but movement of resources from normal CR model of change implementation to T&M model of change implementation.

22.1 He further explained that the main difference in T&M model and normal CR model is that in T&M model payment is calculated in terms of man-days of resources identified which were deployed exclusively for the project. It was for GSTN to closely monitor the running of the project and ensure that the manpower was fully utilised. At present GST, which had fast evolving law, needed this agile mode of IT development under T&M model. GSTN was now experienced enough to use T&M model of development and deliver projects faster. In CR model payment was made for individual CR and effort was estimated for each step in the development and payment was for effort in the development. On the other hand, huge time was spent on estimation of efforts, impact assessment etc and then designing involving to and fro movement between GSTN and Infosys till agreement was arrived at the effort estimation and thereafter the software was developed.

22.2 The CEO, GSTN further informed that the GSTN and Infosys started T&M model in the month of April for changes in Returns and related CRs and named this as REAP (Return Enhancement and Advancement Project). Accordingly, following approvals were requested from the GST Council:

- (i) that the methodology of getting the work done on T&M basis, would be followed for developing above mentioned changes along with other critical changes which had direct impact on revenue. Overall 45 resources (30 in REAP and 15 in LEAP Project) starting from 1st Oct 2020 till 30th June 2021 would be utilised for the same over and above the existing resources; and
- (ii) to extend REAP & LEAP Projects with existing resources from 1st Oct 2020 till 30th June, 2021.

22.3 Further, the Secretary apprised the Council that the agenda proposed methodology of getting the work done on T&M basis through 45 additional resources for developing the software changes mentioned in para 5 of the Agenda Item 8(ii) from 01-10-2020 to 30-06-2021 over and above the existing resources. He also sought extension of REAP AND LEAP Projects with existing resources from 01-10-2020 to 30-06-2021.

23. For **Agenda Item 8(ii)**, the GST Council took note of the above and accorded its approval to the proposal contained in Agenda Item 8(ii).

Agenda Item 8(iii): Status update on conversion of Goods and Services Tax Network (GSTN) into 100% Government-owned Company

24 The CEO, GSTN stated that the GST Council in its 27th Meeting held on 4th May 2018 had decided that the GSTN will be converted into a 100% Government-owned entity by transferring 51% equity shares held by the Non-Government institutions to the Centre and States equally. The Union Cabinet in its Meeting held on 26th September 2018 had approved the proposal and the present status of conversion of GSTN into 100% Government-owned Entity.

24.1 He apprised that the Union Government and 24 States / UTs had paid the amounts while the payment was pending from 07 States as on 16-09-2020. After the payment to the non-Governmental

institutions for the shareholding by the remaining States, further processes were required to be done to convert GSTN into 100% Government-owned entity.

24.2 He stated that there was an urgency to complete the process as early as possible and following were placed before the Council for information and directions:

(a) The present status of conversion of GSTN in to 100% Government-owned entity.

(b) The 07 States as listed in (Annex-2 of the Agenda) may be requested to make payment of their respective share purchase consideration and execute necessary documentations including Shareholders' Agreement and send the same to GSTN in order to expedite the matter of conversion of GSTN.

24.3 During the discussion, the GSTN updated that as on 03-10-2020, out of the 07 remaining States, 03 States viz. Tamil Nadu, Telangana and Arunachal Pradesh had made the payments to Non-Government Institutions for share transfer. The officials from Andhra Pradesh Government stated that Andhra Pradesh Government had already paid requisite amount on 03.10.2020 for their share purchase consideration.

24.4 Further, the Secretary apprised the GST Council that after payment by the 04 States as mentioned above, only three States viz. Rajasthan, Chhattisgarh and Sikkim were remaining for payment of their respective share purchase consideration to Non-Government Institutions. The officials from Rajasthan Government stated that they had moved the proposal to Finance through Budget which could not be cleared in Assembly and they would pay as soon as it was approved by the Assembly. The Secretary suggested that the amount of Rs.8.23 lakhs was not much, and requested for exploring other methods (Head of Account) for early payment.

25. For **Agenda Item 8(iii)**, the GST Council took note of the agenda and requested the concerned States to make early payment of their respective share purchase consideration to non-Government institutions.

Agenda Item 9: Extension of levy of GST Compensation Cess beyond transition period.

26. The Secretary requested the Joint Secretary, DoR to present the agenda and initiate the discussion. The JS, DoR began his discussion by quoting Section 8(1) of the GST (Compensation to States) Act 2017 which provided for levy of Compensation Cess on supply of goods and services for the purposes of providing compensation to the States for loss of revenue arising on account of implementation of the Goods and Services Tax for **a period of five years or for such period** as may be prescribed on the recommendations of the Council. To ensure that the total cess is sufficient to cover the compensation requirement during the entire transition period, the levy of cess would have to be extended beyond initial period of five years. He informed that the Learned Attorney General of India, in his opinion in Note dt 26-08-2020, had recommended that the continued levy and collection of the cess beyond the period of five years could take place only in the event there has been a shortfall in the payment of compensation to the States during the 5 year transition period. In other words, the GST Council would recommend the continuance of the cess beyond the transition period of 5 years only in a situation of shortfall during the transition period, which would necessitate the raising of funds for paying the compensation to the States after the 5 year period is over.

26.1 In light of the above, the Secretary requested the GST Council to take a view and consider the recommendation that the levy of compensation cess be extended beyond the transition period of five years for such period as may be required to meet the gap. Further, the exact period for which the cess would be extended beyond June 2022 would be worked out and brought before the Council subsequently.

26.2 The Hon'ble Minister from Kerala welcomed the proposal. The Hon'ble Minister from West Bengal stated that this proposal was very good and that it would not burden whoever borrowed. He submitted that the Compensation Cess collected beyond the transition period may be used for paying off interest and the principal amount and accordingly, the period for which the levy has to be effected beyond the transition period ought to be decided. The Hon'ble Minister from Punjab also praised the proposal and submitted that the end date should not be defined and the levy should be extended till full compensation is settled. The Hon'ble Minister from Karnataka welcomed the proposal calling it both imperative and inevitable. The Hon'ble Chief Minister of Puducherry stated that as there is a provision in law, it is agreed upon to extend. Due to the extension of levy of the compensation cess beyond five years, the States would not lose anything. This was also in accordance with the commitment made by the then Union Finance Minister and Chairman of the Council Late Shri Arun Jaitley. The Hon'ble Minister from Madhya Pradesh also supported the proposal. The Hon'ble Minister from Uttar Pradesh thanked the Chairperson for this proposal and supported it. The Hon'ble Minister from Goa congratulated the Chairperson for taking such a practical decision. During this period of global pandemic, India was far better than many other countries, on account of the steps taken by the Hon'ble FM. The slow-down was mostly due to the pandemic and not due to any reason on account of the Union of India. The GST architecture was working very well and as the economic activity picks up, the revenue will become very good. The Hon'ble Minister from Odisha supported the proposal.

27. For **Agenda Item 9**, the Council took note of the suggestions made by the Hon'ble Ministers and approved to extend the levy of Compensation Cess beyond June 2022 till the entire shortfall is covered. The extension has to be reviewed from time to time.

Agenda Item 9A: GST compensation options – ways of meeting the shortfall as discussed on 5th October, 2020.

28. The Secretary asked the Joint Secretary, DoR to initiate the discussion on the Agenda Item. The Joint Secretary, DoR stated that after the discussion on ways to meet shortfall in cess collection in the 41st meeting of the GST Council held on 27-08-2020, States were given two options to meet their GST compensation shortfall for current FY from market borrowing. The details of the two options were communicated to States by the Department of Expenditure, Government of India. Thereafter, 21 States opted for Option-1 while Puducherry indicated that it would accept Option-1 if accepted by all States. He further stated that the States while giving the option have also made several suggestions and given their views which are tabulated in Annexure to the Agenda Item. No State has yet opted for the Option-2.

28.1 The Secretary stated that based on these suggestions, the Department of Expenditure had agreed to modify Option-1 as under:-

(i) Projected growth of 10% would be reduced to 7% and the amount under Option-1 would then be about ₹1.1 lakh crore.

(ii) The interest on borrowing will remain the first charge on the Fund. The repayment schedule will be spread out during the period of extension of cess beyond transition period so that the part of the cess collection, remaining payment of interest and repayment of debt is released to the States against arrears of compensation.

28.2 The Secretary stated that the States which had not yet given their options may indicate their views on Option-1 in the meeting. He further emphasized that the Department of Expenditure had communicated that this borrowing of ₹1.1 lakh crore is in addition to the increase in the borrowing limit from 3% to 5%. He stated that there should not be any doubt regarding the headroom for the States as this borrowing is in addition to the 5% already available to the States. He further stated that in case a State were not able to borrow the entire amount up to 5% in the present year, it also could be extended to next year as per the special dispensation scheme as communicated by the Department of Expenditure. With the above details, he submitted the Agenda Item to the Council for discussions.

28.3 The Hon'ble Minister from Chhattisgarh informed that the Hon'ble Chief Minister of Chhattisgarh had expressed that the State was not able to accept either of the options provided. He stated that instead of limiting to two options, the matter could have been left open for any State to give any proposal regarding borrowing on their account or any other mechanism by which the shortfall in cess collection could be met. He further stated that keeping in view the principles of cooperative federalism and Section 18 of the Constitution (One Hundred and First Amendment) Act 2016, it was not proper to seek opinion on a matter which had already been decided and incorporated in the Constitution (One Hundred and First Amendment) Act 2016 and that the GST (Compensation to States) Act 2017 does not make any differentiation in the shortfall in revenue either on account of implementation of GST or due to Covid-19 or any other reason. He urged that the GST Council must live by the letter, word and spirit of the Constitution. The Hon'ble minister further stated that the international rating agencies also consider the debts taken by the States to be the cumulative debt of the country when they downgrade or upgrade a country's economic rating. He further stated that the majority should not be the deciding factor, instead, the principles enshrined in the Constitution, considered decisions and judgment that all members had taken since the inception of the concept of GST to the passing of the GST Act should work. He stated that the Centre should come forward to carry out its bounden Constitutional duty in times of stress by being the agency taking the loan which would be serviced by the extended Cess collections beyond June 2022, instead of just being a guarantor.

28.4 The Hon'ble Minister from Rajasthan stated that he agreed with the views of the Hon'ble Minister from Chhattisgarh. He stated that during the debate on GST in the Parliament, doubts were expressed regarding availability of compensation to the States and the draft Act was amended to remove the word 'may' and insert the word 'shall' in its place. He stated that it was a constitutional duty of the Centre to compensate the States and not giving compensation to the States was harming the States, more so during the Covid-19 pandemic.

28.5 The Hon'ble Deputy Chief Minister of Gujarat thanked the Chairperson for finalizing and offering two options to the States for handling the compensation shortfall, especially during the current Covid scenario and the slowdown in the economy and when the revenues of both the Centre and the States had fallen. He further stated that since all the recommendations of the States regarding the options provided were considered by the Centre, such as reducing the assumed growth rate from 10% to 7%, interest payment to be made from cess collections, the States would not be burdened by the borrowing. He further stated that a decision should be taken soon, and the process be started immediately to enable the States to get the amount as per the option chosen by them.

28.6 The Hon'ble Minister from Tamil Nadu stated that in the FY 2020-21, for the period till July 2020, compensation of ₹4,258.94 crore is due to be paid to the State and it was a matter of grave urgency that the GST compensation payments are made immediately to enable them to continue the battle against Covid-19. He further stated that it is for the Centre to find the necessary funds to compensate the States if there was a shortfall in the cess collection. He suggested a via media in the 41st meeting of the GST Council, that the Centre could mobilize resources and borrow the funds required in the GST Compensation Fund. The loan could be serviced through an extension of the GST cess for few years beyond 2021-22. He informed that the Hon'ble Chief Minister of Tamil Nadu had written to the Hon'ble Prime Minister in this regard. He further stated that in the last meeting held on 27.08.2020, the Centre had proposed two options in which an artificial distinction was being drawn between GST implementation based losses and Covid induced losses.

28.7 He added that as per the note circulated earlier, under the operative Sections of the GST Compensation Act 2017, the compensation is payable for the entire shortfall in revenue collection, even if it is not on account of GST implementation. Further, this position had been clarified by the Attorney General and was asserted by the Centre. It was also stated that the balance shortfall would be made good in the subsequent years. He stated that even for the current financial year, partial release of compensation may be done. He also stated that the States had pointed out in the meeting conducted by the Union Finance Secretary, that the assumption of 10% normal growth in Option-1 was a highly unrealistic and unwarranted. Instead, revenue gap of the States must be assessed based on the appropriate proportion of the total anticipated loss this financial year under Option-1. He further stated that in such circumstances, given that there are only limited options, his State chooses Option-1 with a hope that it would be reworked to reflect the highest proportion of the actual loss in revenue.

28.8 The Hon'ble Minister from Madhya Pradesh thanked the Chairperson for considering the suggestion of the State about reducing the assumed growth rate from 10% to 7%. He stated that under Option-1, even after the State borrows Rs.4,500 crore, a further sum of about Rs.2295 crore would be due. He stated that Madhya Pradesh had also suggested that after the period of cess collection is over, after the payment of interest on borrowing, cess collections should be used for paying the pending compensation amount before the principal on the borrowing is paid.

28.9 The Hon'ble Minister from Karnataka stated that there was a need to shift to the solution of the problem, which is unprecedented and was never envisaged by the predecessors. He stated that the whole country was in dire economic and health emergency. He further stated that the proposals brought before the GST Council had further instilled the confidence among the States and showed the commitment of the Centre and the Union Finance Ministry and now it is for the States to come forward to work towards the

solution as enough discussion had taken place. He further requested the Chairperson to negotiate with RBI for a special concession on interest and special period for extension of repayment. He further stated that if the proposal did not go through because of the one issue of who should be borrowing, then there is a risk of receiving no compensation for all the States.

28.10 The Hon'ble Chief Minister of Puducherry stated that he had sent a letter to the Hon'ble Chairperson on 05.09.2020 in which he highlighted that it was the statutory obligation on the part of the Centre to pay the GST compensation to the States and in case of any shortfall in compensation cess, it was the responsibility of the Centre to borrow from the market and pay to the States. He stated that making the States to borrow from the market was not agreed in previous GST Council Meetings namely, 7th, 8th and 10th. Without prejudice to the above proposal, only if all the States agree for the first option, Puducherry also prefers first option but, unfortunately, a picture had been given in the note that Puducherry agreed for the 1st option. The Hon'ble Chief Minister further stated when the Constitution (One Hundred and First Amendment) Act 2016 was passed in the Parliament and thereafter implemented, the States had given up their right to tax in view of the assurance given by the Centre to compensate the States for five years and the autonomy of the States to tax had been taken away. Now that the States are reeling under severe economic crisis as had been explained by other Hon'ble members, the compensation should be paid to the State exchequer for meeting the Covid-19 challenges, and for fulfilling various liabilities and welfare schemes for the people. He further stated that in the two options given by the GST Council, a growth rate of 10%, further revised down to 7%, was assumed. A notional growth rate might not work for all the States and the actual growth rate for each States should be taken, as different States have different growth rates. He stated that apart from Ld. AGI's opinion, the Constitutional obligation and statutory liability is on the Centre, as the assurance was given by the then Chairman of the GST Council, on record in the minutes of the meeting; that when there was a shortfall and when the cess was not accumulating, the Centre would go for open market borrowing to compensate the States. He further stated that the Centre should go for market borrowing as it was the liability of the Central Government to do it and it was much easier for them, and the Centre should not tell the States to borrow. Further the Union Territories of Delhi and Puducherry would face additional complexities also. He further stated that there had been a strong tradition of arriving at consensus in the GST Council meetings under the then Chairman as well as the present Chairperson by seeing the larger interest of the nation and the people of the country. He suggested that the Centre should approach the RBI for borrowing and give the money to States as it was a much easier method than States going for borrowing.

28.11 The Hon'ble Deputy Chief Minister of Tripura stated that he agreed with the view of the Hon'ble Minister from Gujarat regarding being pragmatic and moving forward. He also agreed with the views of the Hon'ble member from Karnataka that it was a practical solution that the loan would be repaid from the cess collections of the extended period and it is important to get the fund in time. He requested the Chairperson to initiate the opening of special window with the Reserve Bank of India, so that the States who are willing to borrow could go ahead with the borrowing proposal.

28.12 The Hon'ble Minister from West Bengal stated that in the letter sent to the States it was mentioned that it would be better for the States to borrow instead of the Centre because of the following: (i) Impact on rating from credit agencies- He mentioned that the debt-to-GDP ratio, which is a benchmark used by credit rating agencies, is arrived at by looking at the aggregate debt of the Centre and the States as a proportion

of GDP. Hence, there would be no difference whether States or the Centre borrow. (ii) Increase in fiscal deficit - He mentioned that the credit agencies would look at the fiscal deficits of the States as well as the Centre. (iii) Macro-economic implications - He pointed out that the macro-economic implications would be there for States as well as the Centre. He further stated that the Centre had a better headroom i.e. the capacity to borrow and the States which were already mowed down in debt, did not have capacity to borrow. He stated that the Centre can monetize its fiscal deficit while the States cannot. The Centre also had a special window with the RBI, whereas the States do not have such a special window to borrow. He further stated that the Centre would have an advantage of borrowing at G-sec rate whereas the States get a competitive rate around 2% higher than the G-Sec rate. He stated that the State Bank of India's report said that only 8 States had capacity to borrow, while the rest did not. He further mentioned that the Centre had sovereign guarantee whereas the States do not, in the same manner in which the word 'sovereign guarantee' is used. He mentioned that the artificial differentiation between Covid-19 and non-Covid-19 situation as delineated in the borrowing options would not be possible as the Covid-19 situation was a reality.

28.13 The Hon'ble Minister from West Bengal further stated that history should be looked at, and that it was Shri Arun Jaitley, then Leader of the Opposition who said on 20th December 2013 that the BJP did not support GST because they did not trust the then Central Government to compensate the States. Further, on 18th February 2017, the then Secretary of the GST Council was asked why the Act should not clearly say that the Parliament shall compensate in five years, instead of the present reading of the Act. The then Secretary went on record to say that the Centre could raise resources by other means for compensation and this could be recouped by continuation of cess beyond five years. He further mentioned that the Chairperson stated on March 14th, 2020, that it was the solemn commitment to the States and the Centre is duty bound to give compensation to the States. The Hon'ble Minister informed that when he was the Chairman of the Empowered Committee, the States had given up 70% of taxing capacity under only one condition that the Parliament shall compensate the States for a period of five years. He stated that a letter was sent from the Hon'ble Chief Minister of West Bengal to the Hon'ble Prime Minister, saying the Centre should borrow and the States would cooperate by extending the Cess so that the Centre does not have to pay anything on its own apart from the cess collection irrespective of how long it would take. He further stated that the options could have been given in advance. He said that both options specified that the States have to borrow. In Option-1, with an artificial differentiation made where the interest and principal would be paid from the cess collection. In Option-2, to borrow a sum of Rs. 2.5 lakh crore of estimated revenue loss where the interest would be paid by the States from their resources. He appealed to the Chairperson that given the Centre's capacity to borrow and the headroom available to the Centre, the borrowing should not be done at the cost of the States. He mentioned that the Reserve Bank of India has supposedly said that it was much easier for the Centre to borrow. He concluded with a positive note that economy would pick up, as it was seen in September 2020 revenue collection, and entire compensation can be paid from cess collection.

28.14 The Hon'ble Minister from Punjab stated that the State of Punjab lost 25% of its revenue base which was subsumed when GST was launched and no other State would have lost so much of revenue. He further stated that extending payment of compensation beyond the transition period was not permissible by the law as on date. He referred to the opinion of the learned Attorney General which stated that the States were entitled to receive full compensation during the transition period in accordance with the provisions of the Act irrespective of the shortfall. As on date, there is no provision in the GST (Compensation to States) Act 2017 for extending the period of five years for payment of compensation to States. He further mentioned

that Section 8(1) of the Act would only entitle an extension with regard to period of the levy and collection of cess beyond the period of five years for the payment of compensation to the States and this would not permit the extension or deferment of the period of five years for the payment of compensation to the States. He stated that in his opinion, it was only in the case where all the States together agree for a deferment or extension with regard to payment of compensation to them, could one adopt such a course of action. He stated that he had written to the Chairperson on the subject and wanted to know whether the compensation law would be amended to provide compensation in the revised manner and if so, could this amendment be retrospective starting from April 2020.

28.15 He further stated that the state of economy was not good, and the States' fisc was stretched like never before, and hence measures need to be taken to settle the past dues of compensations. He stated that this would collectively match with the 25% of the revenue gap for the current year and hence the compensation cess collected should be disbursed without any further delay. He further mentioned that the Council could go ahead with the interim plan of borrowing for requirements up to December 2020 and by that time, the proposals could be fine-tuned. He stated that the Centre was expanding the first part of borrowing in Option-1 by another about Rs.13,000 crore with the provision of IGST settlement of 2017-18 providing additional revenue of Rs.13,000 crore. With GST picking up in September 2020 and cess crossing Rs.7,000 crore and hopefully more in near future, there was not much left at stake to deny full compensation as the gap could only be around Rs.60,000 crore. He suggested that a Group of Ministers may be formed on the subject as the issue was too sensitive and had potential to become a precedent in settling compensation issues in the future. He stated that in case the issue was not settled during the meeting, the Council may activate the dispute resolution mechanism. He concluded saying that there were three issues to be considered (i) whether the Council would go with the Ld. AGI's opinion and amend the Act; (ii) whether the dispute resolution mechanism could be activated and (iii) since the gap was only around Rs.60,000 crore which could be handled by the Centre, a collective decision could be taken in this regard. He stated that the spinoff in terms of morale for the business community and for the State governments would far outweigh the sum of Rs.60,000 crore.

28.16 The Hon'ble Minister from Uttar Pradesh thanked the Chairperson for extending the cess collection beyond five years and for reducing the assumed growth rate from 10% to 7%. He stated that the Centre had not avoided any responsibility and had given assurance to give maximum facility to the States in the form of the two options provided, among which the State of Uttar Pradesh had chosen Option-1. He stated that since the Centre was taking responsibility and had given a suggestion, the States should agree to it. He stated that his State would support the Centre in any decision it may take and further stated that with the economic package announced by the Centre during the time of Covid, purchasing power of the people has increased and economic performance of the State improved compared to last year. He stated that in comparison to the revenue collection in the year 2019, the revenue collection in 2020 was better. He stated that this improvement in economic performance was the result of the steps announced by the Centre from time to time and he hoped that the same performance would continue in future. He further stated that the Centre may consider two suggestions put forward by the State i.e. (i) a plan may be evolved regarding the compensation till 2022 and (ii) more packages may be designed by the Centre so that purchasing power may be increased and economic performance may be further strengthened. He thanked the Chairperson for supporting the State and hoped that the support would continue in the future also.

28.17 The Hon'ble Minister from Kerala stated that a written speech was circulated on 03.10.2020 to all the Members of the Council and it be taken as read. One of the main concerns expressed by the States was that the revenue loss which may occur when the taxing powers of States get subsumed, and when the taxation system changes from origin-based to destination-based. The issue of GST compensation was discussed in the Empowered Committee meetings held on 14th June and 26th July 2016. The States had unanimously agreed that the compensation should be paid in full for a period of five years. The Union Finance Minister, who was appreciative of the concerns of the States, assured the Empowered Committee that the Centre is committed to give full compensation for a period of five years. The States were assured of compensation by the Central Government and it was incorporated in the Constitution (One Hundred and One Amendment) Act 2016, and further to allay the fears it was mandated that "Parliament shall, by law" provide for compensation, instead of "may". It cannot be denied that compensation package and the comfort it provided to the states was the clincher in implementing GST across the country. He added that during the discussions in the 5th meeting of the GST Council held on 2nd/3rd December 2016, the 7th meeting of the GST Council held on 22nd/ 23rd December 2016 and the 8th meeting of the GST Council held on 3rd/ 4th January 2017, the relationship between compensation and Compensation Cess was extensively discussed. It could be seen from the Minutes of the Council meetings that the States were assured that compensation to States will not be restricted to the compensation Cess collected. It was after much deliberation that 14 per cent growth was guaranteed to the states. The widening of the Compensation deficit had become evident much before COVID with the decline in GDP growth rate during 2019-20, so much so that in the 37th meeting of the GST Council at Goa, the Chairman, Fifteenth Union Finance Commission, while addressing the Council, pleaded to the States to re-visit the Compensation formula, saying that the growth at 14 per cent was unsustainable in the macroeconomic scenario that prevailed in the country. All States had then rejected the proposal.

28.18 The Hon'ble Minister of Kerala further stated that in the 41st meeting of GST Council, the States presented their views, while the Centre discussed the opinion of Attorney General and placed before the States two options of borrowing. In such circumstances, if it is difficult to arrive at a consensus, the legal provisions for Dispute Resolution Mechanism within the Council may be activated. It appears that measures taken by the Centre seem to have impact on State resources as cesses are kept outside the divisible pool, the States are being given only 32% of the Centre's resources against the promised 42%. He also raised the issue of proper management of IGST and compensation accounts. He quoted the example of the Central Government appropriating a sum of Rs.88,344.22 crores in 2017-18 and Rs.13944 crores in 2018-19 from IGST account by crediting it to the Consolidated Fund of India. He also mentioned about amendment in the GST Act for petroleum products to be brought into GST. Further, the long-standing demand of the States to appoint a Vice-Chairperson to the GST Council may be considered and implemented at the earliest. He stated that there were two principles on which the State would not compromise -. (1) that full compensation had to be paid as it was a Constitutional right of the States and (2) if a borrowing is required, it could not be part of the normal borrowing of the States or the additional borrowing of the States which was already permitted. Option-2 did not meet these conditions. With the current proposal, these principles were not upheld. He drew attention to the statement made by the Union Finance Minister two days after the last GST Council meeting, wherein she assured that as a commitment of the Centre, full compensation would be paid to the States.

28.19 The Hon'ble Minister of Kerala further stated that there were four issues which needed to be discussed. (1) the issue of how much compensation would be paid now and how much to be deferred, (2) the issue of who should be borrowing, the States or Centre or both, (3) what would be the terms and conditions of borrowing, and (4) the issue of repayment. He stated that the issue of repayment was already settled. He stated that he was happy with the statement of the Secretary that the full compensation would be paid. He further stated that he believed that the Council as a federal institution must be strengthened and that all the members must strive to have a professional approach to decision making and must compromise to develop a consensus. He stated that he agreed with the view expressed by the Hon'ble Member from West Bengal that within the Council, a professional approach should be taken. He stated that as the Hon'ble Member from Punjab stated, with an additional sum of Rs.60,000 crore, entire compensation could be paid for the year. He stated that the issue was that a concept of distinction was made suddenly, between loss incurred due to implementation of GST and due to other causes, which was never thought while preparing the GST Act. He stated that the definition of the compensation and calculation of compensation was elaborately mentioned in the Act itself, without any reference to any other factor such as act of nature, act of God, and origin of the loss. He stated that even if one accepts this concept of differentiation between the causes, it was all the more important that the compensation should be paid immediately since Covid had already come and the impact was being felt at present and the shortfall must be made good immediately. He stated that it would not make much sense macro-economically to compensate at a future date, for the revenue loss during a recession. He stated that even with the differentiation, since the Covid impact was at present, the loss of revenue was at present, the States should be compensated at present. He further stated that regarding the question of who should borrow this amount, he would agree with the view of the Hon'ble Members from West Bengal and Chhattisgarh that there would not be any difference whether the States borrow or the Centre borrows. He stated that it would be much easier and convenient for the Centre to borrow as the Centre would get much better terms and a window for monetizing the debt. He stated that as the compensation requirement would be different for each State, there could not be same rule for all and that the additional borrowing would have to be tweaked which was an ex-post outcome. He stated that it would be much more convenient for the Centre, when looked at rationally.

28.20 He stated that with regards to the Ld. AGI's opinion that it cannot be paid from the Consolidated Fund, when undistributed IGST fund was not just parked in the Consolidated Fund but was appropriated into the Consolidated Fund, there could be no argument that the Centre cannot borrow to make good the shortfall in compensation to the States. He stated this view goes against the history of discussions held in the Council, Empowered Committee and the Parliament, yet, a discussion should be held regarding how much the Centre should borrow and how much should the States borrow and arrive at a consensus. He stated that regarding the terms and conditions, since it was already decided that the repayment was to be made from the extended cess collection and the interest also to be paid from the same, the whole 2% additional borrowing could be made unconditional as few States would find it very difficult to implement the condition regarding direct benefit transfer in electricity sector. He stated that in case this was not acceptable, a dispute resolution mechanism be made active and the issue may be referred to the same as it would only show the maturity of the Council in working to arrive at a consensus.

28.21 The Hon'ble Minister from Telangana stated that the distinction of loss of revenue on account of implementation of GST and of Covid was artificial. He further stated that it was the Constitutional right of the State to get the entire shortfall. He stated that compensation payment should not be linked to normal or

additional borrowing which is permitted to States under the Aatma Nirbhar Package. He stated that the Centre should borrow entire shortfall which could be serviced from the cess collected beyond 2022 and Centre need not pay anything from its kitty. He further requested that the cess collected in the last six months, which was readily available with the Council to the tune of about Rs.30,000 crore, may be paid to the States immediately to provide relief to the States during the time of Covid.

28.22 The Hon'ble Deputy Chief Minister of Delhi stated that when the States surrendered their right to tax, it was assured to them by the then Chairman, GST Council that the States would be compensated for five years with an assured growth rate of 14%. He stated that ideal situation was for the Centre to borrow and compensate entire shortfall to be recouped by the Cess collection beyond 2022. He stated that it would not be proper to divide the shortfall into two categories of Act of God situation and due to implementation of GST. He stated that when the borrowing options were provided, the Union Territories with legislature were effectively provided with only one option, which was Option-1. He stated that the NCT of Delhi was compelled to accept Option-1. He stated that in the detailed agenda note (volume-5), Agenda Item 9A (3) (V) it was said that in respect of Union Territories (including National Capital Territory), suitable arrangements to ensure flow of resources under the Special Window to them would be made by the Government of India. He requested that it may be clarified whether the Ministry of Home Affairs (MHA) had been kept in loop while deciding the above arrangement for Union Territories with Legislature because it would not be possible without MHA's approval. He further stated that it was mentioned in Agenda Item 9A (3) (XI) that the remaining arrears of compensation accrued during the transition period would be paid after the interest and principal are paid. He sought clarification as to whether this would mean that the remaining part of Rs.1.35 lakh crore would be given to the States after 2022. He further stated that assumed growth rate of 7% was calculated based on two year average, instead it would have been better to be based on last year's revenue growth rate which was around 2.8% to 3.0%.

28.23 The Hon'ble Minister from Assam stated that the Centre had committed at the time of implementation of GST that the Council would compensate the States for the revenue loss due to the implementation of GST. He stated that as per Section 18 of the Constitution (One Hundred and First Amendment) Act 2016 the shortfall due to implementation of GST was to be compensated, the Centre was helping the States even though the Central Government is also facing several such challenges. He stated that the Central Government was also facing the Covid-19 crisis as the States did and that the entire vaccination program had been taken over by the Centre which would involve expenditure of huge amount. This is in addition to the handling of the situation at Ladakh. He stated that this was the time to strengthen the hands of the Centre rather than having difference of opinion. He further stated that the assurances about the principal amount, the guarantor, the extension of cess period and no limitation on the borrowing of the States, secure the interests of States. He further stated that the Centre had been standing by the States in disbursing the Compensation amount, devolution amount and the revenue grants even though similar situation is being faced by the Centre.

28.24 He further stated that the country was just recovering from the economic slowdown and the Centre may be complimented for the GST revenue collection in the month of September 2020. Reacting to the proposal of creating the dispute resolution mechanism within GST Council, he stated that Assam along with around 21 other States had no dispute with the Centre. He also stated that the States were in immediate need of revenue and the dispute resolution mechanism is not a priority as on date. He stated that the Centre

had already taken the views of all the States and had generously assured the States of full compensation for the revenue including the loss of revenue on account of Covid. He also stated that the 21 States which had chosen Option-1, may be allowed to go ahead with the borrowing, irrespective of other States not joining, as the revenue is needed immediately for the welfare of the people. He sought to place on record his deep appreciation to the Union Government, the Hon'ble Prime Minister, the Hon'ble Union Finance Minister and the Hon'ble Minister of State (Finance) for the kind of help and support extended to the States in the present hour of crisis.

28.25 The Hon'ble Minister from Andhra Pradesh stated that he would like to reiterate certain facts. He stated that taxation was an integral part of governance and administration. He stated that from the revised estimates, an approximate amount of Rs.67 lakh crore was spent in total (about Rs.27 lakh crore of the Union and Rs.40 lakh crore was spent by all the States). If the defence expenditure of around Rs.4,67,000 crore was deducted, along with paramilitary related expenditure, an expenditure of 7% would be reduced. It would mean that the States spend about 64% and the Centre about 36% of the total expenditure towards services, subsidies, welfare and administrative expenditure which directly concerns the common man. He further stated that regarding the taxes that are collected, which form part of the divisible pool, the cesses and surcharges in the year 2018-19 was around Rs.2,65,000 crore which had seen a steep increase in 2019-20 to about Rs.6 lakh crore which was directly reflected on the divisible pool which otherwise would have been automatically been part of the State revenues. In the year 2018-19 the divisible pool was around Rs.18 lakh crore whereas in 2019-20 (R.E), the divisible pool was reduced to Rs.15 lakh crore. This had a direct bearing on the revenues of the States. In 2018-19, Rs.7,61,000 crore was the share of the States taxes which had come down to Rs.6,50,000 crore in 2019-20. He stated that the Cesses and Surcharges had become the major portion of total taxation which was reflecting on the divisible pool and on the taxes transferred to the States.

28.26 He stated that in this scenario, where the States had far more direct responsibilities for governance and administration, it was requested that certain decisions may be taken which would have a bearing on the revenues of the States such as (i) the assumed growth rate of 7% may be reviewed further in a scientific manner because there was slowdown in the country's economy and global economy even before Covid (ii) de-linking of the 2% additional borrowing facility which was provided to the States as part of Aatma Nirbhar Package and (iii) the priority order for repayment to be changed to from interest first, principal next and arrears of compensation later to arrears of compensation being the first charge, interest as the second charge and the repayment of principal as the third charge. He further stated that with regards to borrowing, the Centre was more empowered and appropriate to borrow or to raise the money of around Rs.1 lakh crore required as the Centre had the facility to coordinate with RBI to do the needful.

28.27 The Hon'ble Minister from Arunachal Pradesh stated that he agreed with the views of the member from Assam and chooses Option-1. He thanked the Centre for confirming that the interest would be repaid from the compensation cess.

28.28 The Hon'ble Member from Jammu and Kashmir stated that they would opt for Option-1 and were in favour of utilizing the borrowing mechanism that was proposed, as early as possible, to enable the Union Territory to deal with the situation that was prevailing. He further requested that the compensation cess collected till September 2020 may be released at the earliest possible.

29. The Hon'ble Minister from Goa thanked the Hon'ble Chairperson for taking the problems being faced by States, into consideration. He stated that after 21 States had already chosen Option-1, it could have been put to a voting and done away with, but the Hon'ble Chairperson had not done so. He stated that a good formula had been devised. He stated that with the new initiatives on invoice matching, detecting tax fraud, plugging leakages of revenue, the revenue was bound to increase. He stated that in spite of the pandemic, revenue was on a march to recovery as evidenced in the recent GST collection. He further stated that right path had already been chosen by the Hon'ble Chairperson by allowing the cess to continue beyond 5 years to cover the entire borrowing and interest, by putting no additional burden on the States, making available the borrowing, window through the RBI or such facility as created by the Centre and the States not to be penalized for borrowing more.

29.1 He further stated that as he had suggested in the last GST Council meeting, Cess should be increased on cigarettes, bidis and tobacco related products. He stated that the World Health Organization recommends that the total taxation should represent at least 75% of the retail price where as it was only 49.5% for cigarettes, 63.7% for smokeless tobacco and 22% for bidis at present. In the name of common man, bidis are taxed on the lower side, but they should also consider the suffering of poor people, because of the impact on the health and subsequent economic costs involved. He stated that cess should be charged on these products as was suggested by scientific data. He stated that according to his calculation an amount of Rs.49,000-50,000 crore could be raised with minimum increase in the rate of cess so that the burden of loan on the States and the Centre would be reduced. He further stated that around Rs.1,04,500 crore i.e. 1.16% of the GDP was spent on treatment for ailments of tobacco use in 2011 and it could be further more at present. He stated that the Council need not be subjected to allegations that it was protecting the tobacco industry and all the members of the Council should support this proposal as these products were harmful to the health and were deteriorating the health of the common man in the form of bidis, and of the rich in the form of smokeless, e-cigarettes. He further stated that people from tobacco industry had given a calculation with much reluctance that even with just one rupee increase per stick, the revenue gain would be around Rs. 50,000 crore.

29.2 He further requested that a sum of around Rs.7000 crore collected at present along with the balance of Rs.15,000 crore collected, not released to the States should be released to the States without further delay. He suggested that since smaller States like Himachal Pradesh, Goa and North Eastern States require smaller amounts, and that it should be decided by consensus that smaller States, which require small amounts, may be released compensation without any delay. He stated that with an early disbursal, the funds could have been utilized in building tourism infrastructure, which would have resulted in a greater influx of tourists, more earnings of foreign exchange through foreign tourists, more indirect tax collection through GST and revenue would have risen. He stated that the smaller States deserved an extra consideration and he hoped this would happen. He stated that it was not the case that the Centre had money and holding it back and not giving to the States and that the problem was being faced by the States and Centre alike.

29.3 The Hon'ble Deputy Chief Minister of Haryana stated that his State opted for Option-1 as stated in the Annexure. He further requested the Council that the cess collection which had been accumulated with the Centre as on date to the tune of Rs.28,000 - 29,000 crore should be released as soon as possible with a set timeline so that the States start getting funds and a timeline should be set for the repayment of interest

and arrears to the States. Further, as per Agenda Item 9, a timeline regarding extension of cess whether for three or five years must also be decided by the Council so that the interests of States are safeguarded.

29.4 The Hon'ble Deputy Chief Minister of Bihar thanked the Chairperson for giving two options to the States and given the circumstances, these were the best options that the Centre could give. He further stated all States were in need of money since compensation was not available for the last six months and since 20 States had already opted for Option-1, the process regarding the borrowing may be started at least for these States. He further requested that the States, who had not given an option yet, may be given sufficient time to choose but the process should start for others so that the States who had opted for option 1 may start getting the required money by November. He further stated that the Council should deliberate and list out goods which can possibly be subjected to compensation cess. He stated that similar to raising compensation cess on cigarettes and tobacco products as suggested by the Hon'ble Member from Goa, there was a need to consider a change of tax structure on Pan Masala also as regularly suggested by the Hon'ble Member from Uttar Pradesh. He stated that an Officers Committee may be made to deal with the issues of identifying products which can be subjected to cess and the products on which cess already exists but it can be raised. He stated that the States were already reeling under severe economic pressure and the process for borrowing may be started at the earliest. He further stated that regarding the dispute resolution authority, he was the Chairman of the Empowered Committee and that the Standing Committee and perhaps even the Parliament had already rejected that proposal since the States are sovereign and no other authority or tribunal could direct them in these matters. He stated that if a dispute arises, or if there was a difference of opinions, the Council already had the mechanism of constituting Groups of Ministers (GoMs) to deal with those issues and had already constituted 11 such GoMs so far which were successful in dealing with the issues referred to them.

29.5 The Hon'ble Minister from Himachal Pradesh thanked the Centre for taking many steps to stabilize the economy and agreed with the views as put forward by Hon'ble Members from Assam, Bihar and Gujarat. He stated that he welcomed the options given for payment of compensation cess and the unanimous decision of the Council to extend the compensation cess beyond July 2022 so that the burden of the repayment, interest shall not fall on the States. He further stated that similar to many other States, Himachal Pradesh also opted for Option-1, and requested that an early borrowing may be facilitated by the Centre at G-sec rates.

29.6 Since the Hon'ble Minister from Jharkhand could not attend the meeting, the representative officer from Jharkhand put forward the State's view. She stated that the Hon'ble Member from Jharkhand and the Hon'ble Chief Minister of the State had already sent written communication that neither of the two options as communicated was acceptable and that it was the Centre's responsibility to go for borrowing and transfer the entire compensation to the States and that the Centre should raise the required funds as a loan lending it to the GST Compensation Fund against the future receipts of the cess beyond 2022. She further requested that the existing funds which had been collected already may be released to the States as soon as possible.

29.7 The Hon'ble Minister from Uttar Pradesh stated that he welcomed the statement of the Hon'ble Member from Bihar. He further stated that he had raised three issues of Pan masala, brick kilns, and Mentha oil earlier also. He stated that with regards to mentha oil, which was specific to his States, there was an outgo of Rs.400 crore for which no tax was collected in return. He stated that a GoM may be convened to

deal with the issues of Pan masala and brick kilns and said that he was ready to take responsibility in GoM in whichever capacity assigned to him. He stated that there was a loss of revenue of Rs.2000 crore in these issues and thus they may be decided at the earliest. He further stated that there was a significant evasion of tax in these sectors and that in their single initiative they were able to uncover a loss of Rs.738 crore and recover the same. He stated that these could be good sources of revenue. He stated that before GST, in 2015-16, around Rs.500 crore tax had been collected in brick kilns and at present, it was reduced to less than Rs.100 crore and thus a decision should be taken at the earliest. He further stated that the problems in Mentha would also be eliminated if Reverse Charge Mechanism (RCM), in which the buyer who purchases from the farmer at the first instance would pay the tax, was implemented. He stated that the State was already doing better at tax collection, compared to last year's collection, and hoped to continue the performance with the support of the Centre.

29.8 The Secretary stated that the issues of pan masala, brick kilns, mentha oil and casinos were already discussed earlier and if time permitted, a presentation regarding the same could be made, so that the Council can be made aware of the issues involved, then the Council could guide how to move further.

29.9 The Hon'ble Deputy Chief Minister of Gujarat stated that a scheme of Reverse Charge Mechanism already existed in Cotton in Gujarat, where lakhs of farmers sell cotton and the dealers who purchase the cotton to make cotton bales, make the payment of tax. Similar RCM mechanism may be employed as suggested by Hon'ble Member from Uttar Pradesh. He further stated that a constitution of GoM may not be required as the issue only pertains to Uttar Pradesh which had been raising the issue from a long time.

29.10 The Secretary stated that based on the suggestions given on all these four issues, a Group of Ministers may be formed to discuss and analyze the issues: Capacity based taxation on Pan Masala, Reverse Charge Mechanism in mentha oil, brick kilns, taxation in casinos and with respect to lotteries.

29.11 The Hon'ble Minister from Karnataka stated that the issue of horse racing also may be referred to the proposed Group of Minister and the Chairperson assured the same.

29.12 The Hon'ble Minister from Odisha stated that the issue of whether the liquor was food or not should be decided. He further stated that the issue is not pending in any court and would not be sub-judice to decide. The Hon'ble Chairperson had assured him to take the matter in the next GST Council meeting, but unfortunately, the same was not brought today, and requested to include this matter with issues of Pan Masala etc, and requested that the issue may be taken at the next meeting of the GST Council. The Hon'ble Chairperson assured the same.

29.13 The Hon'ble Chairperson stated that few members raised the point about the available cess amount and she assured that the Centre is committed to disburse the money to the States. She further stated that because of the lockdown, there was no substantial collection of the Cess till August 2020 but at present, there was around Rs.20,000 crore which would be distributed by late that evening. The Hon'ble Members from Gujarat, Karnataka, Uttar Pradesh, Madhya Pradesh, Puducherry thanked the Hon'ble Chairperson.

29.14 The Hon'ble Chairperson reiterated that the cess collection would be disbursed immediately and the amount of excess compensation cess credited to the Consolidated Fund was also being reversed and that

was how the compensation of around Rs.1,60,000 crore was given to the States, despite the collection being around Rs.96,000 crore in the previous year. She stated that she was aware of the difficult times the Centre and the States were facing and that the actual fight against Covid was being undertaken by the States. She stated that since she took charge, with due process, she had given time to address all the long pending issues. She thanked all the members of the Council for being positive in solving the three problems. She further stated that she was always willing to hear any views of the members whether it was suggestions or criticism and that she never hurried through when a member wants to put his point of view forward. The Hon'ble Chairperson further stated that she was not in favour of any code of conduct for the members as each member was a senior and experienced leader managing their States even during the current challenging times.

29.15 The Secretary, GST Council stated that borrowing program was discussed with the Secretary, Department of Expenditure and Secretary, Department of Economic Affairs who were in touch with the banks. He further stated that since Agenda Item 9 was approved, procedural formalities could be started within the next two days and that other States which had not exercised their options could also take a decision within the next two days. He stated that the Reserve Bank desired a borrowing calendar so that they can plan the logistics and go to the market and arrange for the money.

29.16 The Hon'ble Minister from Kerala stated that this went against the spirit that the Hon'ble Chairperson had just espoused. He stated that he welcomed the remarks of the Hon'ble Chairperson about Council being an open forum, and not making a code of conduct for Members. He disputed that Option-1 was the decision of the Council. He stated that he had mentioned earlier that both the options were unacceptable and along with the reasons and that he also said that they could have a discussion and possible to arrive at an alternative. The Council had not decided Option-1 as its final decision.

29.17 The Hon'ble Chief Minister of Puducherry stated that regarding Agenda Item 9A, some States had expressed that the Central Government had to borrow and give the compensation to the States and some States said they preferred Option-1, and thus there was no consensus regarding the Agenda Item 9A. He stated that since there was a division, the Hon'ble Chairperson had to arrive at a consensus before coming to a conclusion. He stated that he made his position clear that his State did not agree with Option-1.

29.18 The Hon'ble Minister from Chhattisgarh stated that he was in agreement with the view of the Hon'ble Member from Puducherry. If it had been decided as Option-1, he was making it clear that his State had not agreed with either of the options.

29.19 The Hon'ble Minister from West Bengal stated that along with Option-1 and Option-2 there was also a third Option which the Hon'ble Chief Minister of West Bengal had written to the Hon'ble Prime Minister, and as reiterated by the Hon'ble Members from Puducherry and the Hon'ble Member from Chhattisgarh agreeing to it i.e. for the Union Government to borrow from the RBI window and crediting the amount to the Compensation Cess Fund for further disbursement to the States. So there were three Options on the table. He stated that the Council should come to a conclusion and if there was a difference, more discussion could be held in next few days to arrive at a consensus.

29.20 The Hon'ble Minister from Punjab reiterated his remark about whether the law would be amended as he regarded that the options provided were not in accordance with law. He further mentioned that the

Article 279A (11) of the constitution provided a dispute resolution mechanism and that it could be activated. He further stated that if there was no consensus, a division could be called. The Hon'ble Member from Chhattisgarh also supported a division.

29.21 The Hon'ble Deputy Chief Minister of Gujarat stated that the matter which was being discussed was of immense importance for the States. He stated that the first priority was how to get the fund at the earliest. He further mentioned that as the Hon'ble Member from Karnataka and the Hon'ble Member from Assam discussed that once money was received, there would be spurt in economic activities. It was already stated by the Secretary to the Council, if they get approval, they would start the process of availing loan from tomorrow itself. He further stated that any delay would only hurt the States and not the Centre as the States were facing the shortfall of fund and their schemes were not working and requested all the members to choose Option-1 and start the borrowing procedure at the earliest. He stated that there was never a division in the GST Council earlier and it would not be appropriate to go for voting or division.

29.22 The Hon'ble Minister from West Bengal stated that his State was unable to accept Option-1 and if the Hon'ble Chairperson was not convinced, the Hon'ble Chairperson may call for division.

29.23 The Hon'ble Member from Assam stated that his State had chosen Option-1 and he was not in a position to accept any other alternative. He made request that proceedings should start for the States who had already chosen option-1, as they were in immediate need of money.

29.24 The Hon'ble Minister from Karnataka stated that the States should come to a practical solution that having the money at present was more important than receiving after six months by which time lot of damage would have been done to the people and the economy. He requested the Hon'ble Chairperson to state the sense of the house and take a call, stating the Consensus of the House.

29.25 The Hon'ble Minister from Chhattisgarh requested that the Chairperson may take more time to achieve consensus as voting was not preferred by the States and if unfortunately consensus was not forthcoming, tenets of the GST Act must be adhered to and a voting may be called where 75% or more members vote for a particular issue.

29.26 The Hon'ble Deputy Chief Minister of Bihar stated that he failed to understand the opposition when the Centre was guaranteeing in a way and making arrangements for borrowing, the States were not burdened. He stated that this issue about who should go for borrowing might go on but in the process, States which were in immediate need of money would suffer. He stated that another 5 days' time may be given and a meeting of the Council could be called next week and if the issue was unresolved, if required voting should be resorted to, for as was done in deciding the lottery issue. He pleaded that it may either be decided today or latest in next meeting. It should not be prolonged and States could not be deprived of funds. He stated that some States could not veto when most other States suffer because of unavailability of funds.

29.27 The Hon'ble Minister from Uttarakhand stated that he welcomed the proposal under Agenda Item 9A and the State had opted for Option-1.

29.28 The representative Officer from Rajasthan stated the State was in favour of Option-3 where the Centre would borrow and disburse the amount to the States.

29.29 The Hon'ble Minister from Kerala stated that he had earlier requested that there should be a compromise and a new formula could be arrived at within the broad contours he suggested earlier.

29.30 The Hon'ble Chairperson stated that she heard all the Hon'ble members, had been rightly reminded that there should be consensus in decision making. Therefore, upholding the tradition of the Council and going by the suggestion of the Hon'ble Member from Bihar, she proposed to hold another meeting on 12th October 2020. She was open to have another round of discussions on 12th October 2020 and then they would take a call that day. She further reiterated that States were on the forefront of fighting Covid, she had cleared disbursement to the States as soon as resources were available whether it was GST compensation or devolution in terms of Finance Commission's recommendation.

The meeting on 5th October 2020 ended with thanks to the Chair.

Agenda Item 9A: GST compensation options – ways of meeting the shortfall as discussed on 12th October, 2020.

30. The 42nd meeting of the GST Council resumed on 12th October 2020 with the Secretary of the GST Council welcoming the Hon'ble Union Finance Minister, the Chief Minister, the Union Minister of State (Finance), the Deputy Chief Ministers, and all the Hon'ble Members of the Council to the Council meeting.

31. The Secretary submitted to the Council that Agenda Item No.9 for 'Continuation of cess beyond transition period' had been approved, and Agenda Item No.9A 'GST Compensation Options – Ways of meeting the Shortfall' was under discussion. He requested the Chairperson to allow resumption of discussion on the said Agenda Item. He asked the Joint Secretary, DoR, to initiate with a brief recap.

32. The JS, DoR stated that the States had been given two options. 23 States / UTs had opted for Option-1, whereas no State had opted for Option-2 and 8 States had reservations against either of the two Options, the details of which are given in Annexure to the Agenda.

33. The Secretary stated that the details of the option one were communicated to the States by the Department of Expenditure, Ministry of Finance, Government of India. After the options were communicated by the Department of Expenditure to the States, there was a meeting held by him as the Finance Secretary, with the Expenditure Secretary and Finance Secretaries of the States and certain suggestions were received and thereafter various suggestions had also been being received from the States. He added that the Department of Expenditure examined all the suggestions in detail and agreed to modify Option-1, under which the entire Rs.97,000 crore shortfall was calculated assuming GST growth rate of 10%, but States had suggested that the real growth could be in the range of 7% to 8% depending upon the State so the assumed growth rate was reduced to 7% which meant amount to be borrowed under Option-1, would now become Rs.1.1 Lakh crore instead of Rs.97,000 crore.

34. On the question of as to how this entire debt would be serviced, the Secretary, stated that with the approval of Agenda Item 9, the cess had already been extended beyond June 2022. He stated that the Department of Expenditure had communicated to them, that the interest on the borrowing under the Special

Window would be paid from the Cess as and when it arises until the end of the transition period. After the transition period, principal and interest would also be paid from proceeds of the Cess, by extending the Cess beyond the transition period. However, as per discussions, it is now decided that at first stage, cess collected would be used for paying the interest and at the second stage, it will be used for repaying the principal and the remaining part would be used for meeting the remaining arrears of compensation. The Secretary submitted that this was the main item for discussion that had been communicated from the Department of Expenditure and requested the Hon'ble Members of the Council to express their views on the Agenda Item.

35. The Hon'ble Minister from Madhya Pradesh thanked the Hon'ble Finance Minister for announcing the special package. He stated that he was glad that Central Government had positively considered the Option-1 in respect of compensation cess and also considered the other two suggestions given by Madhya Pradesh State. Now, his State could borrow Rs.4,542 crores instead of Rs.4,056 crores under the special facilitation provisions of Central Government and RBI, which they could use for the development work of the State. He added that in last meeting, he also requested that when Central Government was pondering over the options of compensation cess so seriously and had also received the support of majority of States then remaining States should also think over it positively so that some solution could be arrived at, and amount is made available to the States so that the same could be utilized in the second half of this Financial Year.

35.1 The Hon'ble Chief Minister of Puducherry thanked the Hon'ble Chairperson for postponing the meeting so as to arrive at consensus on the issue of Agenda Item 9A. He stated that the issue was discussed in the previous two meetings and Hon'ble Chairperson was kind enough to hear views of all Hon'ble Members. Who would be borrowing and how it would be paid was elaborately discussed along with the learned AGI's view and also the views taken by various States. The points he liked to raise were the decisions that had been taken in previous meetings of the GST Council and the assurance that had been given by then Hon'ble Union Finance Minister, Late Shri Arun Jaitley that the Government of India would borrow and give to the States and whenever there would be short fall of compensation Cess, it would be honoured and implemented. How to implement this decision was the issue which the Hon'ble Members had to decide.

35.2 He added that from point of view of Puducherry, GST, especially the commercial tax, was one of the main components of their revenue. He mentioned that they are a small State and the taxation power which was there with the States, had been surrendered to the GST Council on certain conditions and certain assurances. Now, the State Governments would lose their revenue because of various factors including the tax equalisation which had affected his State very badly and also due to COVID-19 pandemic situation. The financial position of the State was in a very bad condition and they were not able to meet day to day expenses of the Government on various schemes, projects, and towards salary of Government employees. He requested the Hon'ble Chairperson that the borrowing from the open market or from RBI or issuance of Gold Bond was very easy for the Government of India to do instead of the State Governments doing it. Apart from that, his State had another difficulty as they were a Union Territory with legislature. Whenever they wanted to borrow, they had to approach through the Home Ministry, Government of India. Unless the Home Ministry concurs and the Finance Ministry gives the nod, it would be difficult for Puducherry to borrow.

35.3 He stated that they were grateful to the Hon'ble Chairperson who was hearing the views of the Hon'ble Members of the Council and trying to arrive at a solution. He requested that the disputes had to be resolved by give and take, all States had to agree because of present critical financial position in various States. Therefore, he requested the Government of India to borrow and pass it on to States and all problems associated with State borrowing such as State Governments approaching RBI, going to open market, in their case, State going to the Home Ministry, could be resolved. Borrowing by the Government of India would be very easy vis-à-vis State Government doing it because without the permission of the Government of India, the State Governments cannot borrow and therefore he wanted easy route to be followed. He requested the Hon'ble Chairperson to consider the third option proposed by the Hon'ble Finance Minister of West Bengal i.e. the Govt of India to borrow and give it to States.

35.4 The Hon'ble Minister from Assam congratulated the Hon'ble Union Finance Minister for declaring so many benefits for States in continuation to what had already been done for them. He stated that, in the last meeting held on 5th Oct 2020 also they had discussed this GST Compensation options issue at length and 23 States had already chosen the option. The Department of Expenditure had already deliberated the issue and States would be borrowing as it would be repaid by the Central Government out of the collection of the Cess. The mechanism of borrowing is being handled by the Department of Expenditure of Government of India and as the provisions of the Article 293 of the Constitution, the options have been worked out. The GST Council has jurisdiction to extend the levy of cess to compensate for shortfall in the compensation and in the last GST Council meeting held on 5th October, the GST Council exercised its authority to extend the levy of cess beyond June 2022. That decision was actually taken to ensure the States would get full compensation with respect to any shortfall in comparison to the projected revenue growth of 14%.

35.5 He was of the opinion that, so far as the borrowing was concerned, it was the decision of the individual State and the Centre in accordance with the Article 293 of the Constitution of India and he was of the opinion that it will fall outside the jurisdiction of the GST Council. As a matter of respect, the Central Govt. had brought this issue to the GST Council for information that in case of shortfall, one could go for borrowing under various options but it would not be ultimately decided by the GST Council. This decision had to be taken under the Article 293 by the Government of India independent of any decision which would be arrived at in the GST Council. He said over and above this, the Chairperson offered that if they had any immediate requirement of funds, they could approach the Central Govt. under Article 293 and choose from the options provided. He said the 23 States that have preferred Option-1 needed immediate funds and they could discuss under Article 293 with the Department of Expenditure, Government of India on borrowing and the GST Council need not discuss about borrowing which was not their mandate.

35.6 The Hon'ble Minister from Chhattisgarh thanked the Hon'ble Chairperson for allowing this discussion to continue and allowing them all to make an honest and concerted effort to come to a consensus and not get into options of division or voting and also thanked her for whatever releases had been done so far. He quoted para.6.3 of the Minutes of the 10th meeting of the GST Council held on 18th February 2017 wherein it is stated that:

“The Hon'ble Minister from Telangana stated that the Compensation Law should provide that if money fell short in the Compensation Fund, it could be raised from other sources. The Secretary stated that Section 8(1) of the draft Compensation Law provided that cess could be collected for a period of five years or such period as may be prescribed on the recommendation of the Council. He stated that this implied that the Central Government could raise resources by other means for compensation and this could be then recouped by continuation of cess beyond five years. He stated that the other decisions including the possibility of market borrowing for payment of compensation was part of the Minutes of the Meeting of the Council (held on 3rd and 4th January 2017) and need not be incorporated in the Law. The Council agreed to this suggestion.”

He stated that the then Hon'ble Chairperson of the GST Council assured that compensation to States shall be paid for 5 years in full. Within the stipulated period of 5 years, in case the amount of GST compensation fell short of compensation payable in any bi-monthly period, the GST Council may decide the mode of raising additional sources. In this regard he further referred to para 6.5 of the Minutes of the 10th meeting of the GST Council wherein it is mentioned that on pointing it out by the Hon'ble Minister from Karnataka, the words “such other revenues” in Section 10(1) of the GST (Compensation to States) Act 2017 were replaced with the words “such other amounts”. Thus, there was a commitment for Central Government to provide 100% compensation and how it would be done was for the Council to decide.

35.7 He then referred to the Section 18 of the Constitution (One Hundred and First Amendment) Act 2016 wherein it is mentioned that the Parliament shall, by law, on the recommendation of the Goods and Services Tax Council, provide for compensation to the States for loss of revenue arising on account of implementation of the goods and services tax for a period of five years. This was supported and brought into active mode through Section 8 of the GST (Compensation to States) Act 2017. These acts and laws and provisions are passed in the Parliament which were enshrined through deliberation in the GST Council. He further referred to Article 293(2) of the Constitution where it is stated that Government of India can give guarantee in respect of a loan raised by the State Government and sums required for this purpose shall be charged on the Consolidated Fund of India. It was GST cess amount which they had all agreed in Agenda Item 9, would be extended beyond June 2022. The GST Compensation Cess was under the GST regime and these Articles did not take into account of the same and thus the ways of meeting of the shortfall for GST compensation was under the purview of GST Council.

35.8 The Hon'ble Minister from Assam stated that for certain matters, the sovereignty lies with the Parliament and the Constitution of India and are out of purview for discussion in the GST Council. He requested the Hon'ble Chairperson to not allow, any decision to be taken, which did not fall within the mandate of the GST Council.

35.9 The Hon'ble Finance Minister of West Bengal put forth his submission that there was a historical context. As was discussed in the 10th meeting of the GST Council held on 18th February 2017 wherein the then Secretary of the GST Council in the presence of the then Hon'ble Union Finance Minister who was chairing the meeting, very clearly said that “...this implied that the Central Government could raise resources by other means for compensation and this could be then recouped by continuation of cess beyond five years...” (as mentioned in para.6.3 of the Minutes of the 10th meeting of the GST Council). In the same spirit after several years, on 14th March 2020, the Hon'ble Union Finance Minister said the same thing, “It

was the solemn commitment to the States that the Centre is duty bound to give compensation to the States". So his first point was that, it was the historical commitment that they were talking about and the matter of trust and faith in a federal system.

35.10 He further stated that the options of borrowing by the States were sent after day-long discussions in the 42nd meeting of the GST Council held on 05-10-2020. The GST Council Secretariat sent "Note regarding GST compensation borrowing option – please find attached note of borrowing options as discussed in the 41st meeting of the GST Council about GST Compensation" and thus it is within the scope of GST Council.

35.11 Then he discussed about Article 279A(11) of the Constitution for establishment of a dispute resolution mechanism within the GST Council. He requested that in a time bound manner, the dispute resolution mechanism may be set up in 7 days, with a request to come to a conclusion and then quickly bring it back to the GST Council. Alternatively, he suggested that the possibility of formation of GoM on the issue may also be explored.

35.12 He suggested that the third option which was that the Government of India may borrow, may be accepted. The Hon'ble Chief Minister of West Bengal had also written to the Hon'ble Prime Minister of India that they would allow indefinite extension of the cess so that when the Government of India borrowed, it did not have to repay from its own resources. The two options proposed require States to borrow from RBI. It may be noted that the Central Government already had such a window with RBI. The Centre could simply borrow and had no risk at all. States cannot borrow because they did not have such a window. He further added that the Secretary Expenditure, Ministry of Finance, Government of India, had clearly said that there was no such window possible for the States.

35.13 The Hon'ble Minister from Goa referred to the special assistance that the Hon'ble Union Finance Minister had provided to the States. Expectations by States were very high but the States could not recognize the fact that in spite of the COVID, the last quarter had shown that economy was picking up. He stated that at least in his State Goa they were concerned that they had no funds for payment towards the ongoing infrastructure work. And when the Centre had come out with this special package, certainly there should be some level of satisfaction. He stated that Goa was also a very small State which came in the planning process much later. He suggested that when certain amount remains pending with the Centre from compensation cess collected, the smaller States may be given preference to release that amount to them.

35.14 He felt that the GST Council may arrive at simple consensus since most of the States had already opted for Option-1. He pleaded that the GST Council had got the spirit to unite as well as had got the spirit of consensus. With the special assistance that had been announced by the Hon'ble Finance Minister, they would be able to keep the expenditure towards infrastructure, committed payments and building something that was necessary for the States. He hoped that all that would help to resolve the problem and by the end of the meeting they would be deciding that matter by consensus and to close that issue once for all.

35.15 The Hon'ble Deputy Chief Minister of Bihar stated that the first question which had been raised by some States was whether the GST Council had the jurisdiction to discuss the borrowing issue. He personally felt that they were stakeholders and in a federal structure they could discuss any issue in this GST Council

but not necessarily take a decision and go for voting on that particular issue. He recalled that earlier the issue of natural gas was discussed even though as on date GST is not levied on it. Similarly the issue of Stamp duty on securities was the second example that was presented to the Council. Third example was regarding CST Act where many States had raised the issue regarding C-Form on petrol and diesel. CST Act is not under the jurisdiction of the GST Council but still it discussed it. He stated that in this fiscal federal body, States could raise issues, they could discuss about the same but as far as voting was concerned, with respect to borrowing issue, it was not within the jurisdiction of the GST Council. It comes under the purview of Article 293 of the Constitution of India and it was between the States and the Centre to decide about the same.

35.16 He said, that in the last meeting, some States were urging for voting on the issue of borrowing. He referred to the Minutes of 20th meeting of the GST Council held on 5th August 2017 regarding amendment to the 'Procedure and Conduct of Business Regulations of the GST Council'. The Chairperson may convene a meeting of the Council through video conferencing but if a proposal under discussion is required to be decided by voting, then it shall be deferred and taken up in the next physical meeting of the Council. So, if some States want voting, the voting cannot take place through video conferencing as voting could only be done in physical meeting. Further, he said that some States suggested for constitution of the GoM. He felt that suggesting for GoM after two months is not proper and it would be difficult even for the GoM also to arrive at a consensus. It would only delay the process as they knew the views of everybody and majority of views were in favour of Option-1. Bihar was absolutely not in favour of constituting the GoM. He further referred to the Attorney General of India's opinion that within the parameters of Article 293, the States could borrow on the strength of the future receipts of the compensation cess. Even if a single State accepts the option and if the Government of India was ready, then other States could not prevent those States who wanted borrowing. He felt that there was no requirement of constituting the GoM and also there was no requirement to resorting to voting and opined that after taking everybody's opinion they should resolve the issue in that meeting.

35.17 The Hon'ble Finance Minister of Kerala stated that in the 42nd meeting of the GST Council held on 05.10.2020, he had distributed a fairly detailed written statement about his position on the issue. He relied upon the response to Question No.3 given by the Attorney General of India wherein it was stated that "this wouldn't permit extension or deferment of the period of 5 years for the payment of compensation to States. By law they had no right to extend it beyond 5 years". Then AGI further stated that "where all States come together, agree for a deferment or extension in regard to the payment of compensation to them, that one could adopt such a course of action". Keeping in view the above response from AGI, the Hon'ble Finance Minister of Kerala was opposed to both the Options suggested by Department of Expenditure, Ministry of Finance, Government of India. According to him, the Option-1 involved deferment of the compensation and there was no guarantee that it would be paid within 5 years. Therefore, he would say that the Attorney General had suggested that it required a consensus and there was no consensus regarding deferment of compensation cess. The Hon'ble Minister also drew attention to the AGI's opinion that "it is for the GST Council to decide on any other source from it may lawfully recommend crediting the necessary amounts to the GST compensation cess fund". The amount so borrowed has to come to the Compensation Fund and Compensation has to be paid from it. The Attorney General of India's opinion made it very clear that it could not be done without the agreement of the Centre. Thus, he again relied upon the Attorney General of India's response to Question No.2 that stated "the GST Council wouldn't be in a position to make

recommendation to which the Central Government was opposed. This has to be kept in mind”. He stated that the Council had sought the opinion of the Attorney General of India on this issue and the discussion in the Council may focus upon the opinion given by the AGI as mentioned above.

35.18 He stated that discussion on any issue does not necessarily mean voting on it. There could be difference of opinion but there is unity in diversity. In the GST Council meetings repeatedly they had said that they should try to have a consensus but not division at every point of time. Therefore, he is in support of Option-3 of borrowing by the Centre and they could discuss this proposal or they could go to Option-4 also, if any. He was against deferment and wanted compensation funds this year. Law was very clear that Compensation had to be paid every two months.

35.19 He also suggested to form a GoM on this issue which may take one more month, then discuss and come to consensus with mutual sense of accommodation. The functioning of the States would not be hindered because there was an accommodation provided in the additional borrowing which was already permitted. So within one month, this GoM could see how they reach an understanding and he promised that he would try to work towards consensus in a spirit of accommodation.

35.20 The Hon’ble Minister from Uttar Pradesh stated that Uttar Pradesh was with the Central Government, and with the decisions taken by the Central Government. His suggestion was for increasing revenue and they could impose cess on some other items too. He requested all to think over items on which they could increase their collection, to robust their mechanism and the items on which they could impose more cess so that their cess collection could increase over time. He completely agreed with the views of the Hon’ble Deputy Chief Minister Bihar that nothing new would come out of the GoM because opinion of all the States had already come.

35.21 The Hon’ble Minister from Punjab stated that Punjab had raised many pertinent questions both in writing and in the previous meetings. As far as Punjab was concerned, their issue was very simple, give them the compensation as per the law or if a pragmatic change was necessary then get the law amended. The word compensation was defined as difference between the projected revenue and the actual revenue. Thus, compensation could not be arbitrarily split into two parts. There was no basis to apply either 7% growth now or 10%. Compensation shall be paid out of the GST Compensation Fund as mentioned in Section 10 of the GST (Compensation to States) Act 2017. Any amount of compensation that comes from sources other than this Fund was not compensation. Thus, unless the Central Government borrowed and credited it to the GST Compensation Fund, it was not compensation. The Section 7 of the Act requires that compensation shall be paid to the States during the transition period which was 5 years. This was clarified in the opinion of the learned Attorney General of India. They needed to take note that in Option-1, a good part of the cess collected would be used to pay the interest on that borrowing of Rs.1.10 lakh crore. According to him, there should be some legal backing for that. The learned Attorney General of India had further pointed out that unless all States agree, the compensation could not be delayed beyond 5 years. Thus, majority voting would not matter unless all States agree.

35.22 He stated that he would not be talking about activating the dispute resolution mechanism because the Hon’ble Finance Minister of West Bengal had already highlighted it. Some Hon’ble Members even suggested that those who were willing to borrow should be allowed to borrow, leaving others to fend for themselves, which is not proper. He had suggested a GoM on the subject to look at the issue with the

calmness and in far greater spirit of accommodation of consensus of all. It would also serve as decent proxy for the dispute resolution mechanism. If the Group could be announced that day, it could give its report within 7 days. He stated that it is proposed to borrow Rs.1.10 lakhs crore. The balance amount that could be borrowed is only Rs.73,000 crores out of which Rs.13,000 crores has already been credited out of provisional IGST settlement. Thus, what is left over to be borrowed was now only of Rs.60,000 crores. This issue can be deliberated in a GoM which could submit its report to the Council. Punjab would rather have consensus on the issue than a split in the Council. He stated that he didn't have mandate from his Cabinet or from his Chief Minister but if they could consider part borrowing by the State and the balance borrowing by the Government of India, he was sure this third option would be acceptable to most of the States and if a GoM could be constituted, it would break the deadlock.

35.23 The Hon'ble Minister from Karnataka thanked the Hon'ble Chairperson for giving them the GST compensation as per all the States' demand from the Compensation fund collections, which reflected the earnest commitment towards helping the States in dire need. Centre was trying to arrive at consensus in the whole issue and they could understand the position of the Union Finance Minister and the Ministry of Finance in the given economic crisis. The Central Government had proposed extension of levy of cess which was agreed by all the States and welcomed by all the States. Thirdly, he stated that, the Centre even considered States request to reduce the growth from 10% to 7%. That was the accommodation by the Government of India. That showed the true spirit of coming to a consensus and everybody agreed to that. So all States had agreed that compensation would be paid in full, they had agreed that it would be through other means that are provided by the law i.e. by borrowing and they had agreed that there would be more amount available for the loans, they had agreed that the entire things would be paid through this compensation cess so there will be no burden on the States or on the Centre. So, these broad parameters had been agreed upon.

35.24 He stated that it had been very clear that the question of compensation had to be addressed immediately. The question was not only that compensation had to be paid; it had to be paid immediately. Further any improvement in terms of efficiency, in terms of broadening the tax net, in terms of procedure, in terms of ultimately increasing the revenue that could be thought over but at the same time, at present, States were in the dire need of money. So, his only humble suggestion was to allow them to operate Option 1.

35.25 The Hon'ble Minister from Karnataka earnestly requested not to stop their right to take loan and put that funds in the development activities of States. As most of the senior Members said there was no question of voting on it and if there was a GoM, it should be for further reforms rather than delaying the present options which they had already chosen. Therefore, they may be allowed to operate their options.

35.26 The Hon'ble Minister from Tamil Nadu stated that he was thankful to the Hon'ble Chairperson for taking initiative to come to a consensus on the matter of GST compensation to States. The background note that the Ministry of Finance had circulated at the 41st meeting of the GST Council held on 27.8.2020, there it had been specifically stated that the GST Council had to decide other modes of making good that shortfall. His Hon'ble Chief Minister had also written to the Hon'ble Prime Minister on that issue. Since, the Government of India appeared unwilling to borrow, they had no option other than to choose one of the two options offered. The Government of Tamil Nadu was conscious that reaching a common meeting

ground was the need of the hour amidst this COVID-19 pandemic. It was in this spirit that they had agreed to Option-1 in the previous meeting. He looked forward to early resolution of that issue so that the States get the fund that they so urgently needed for reviving the economy during this COVID-19 crisis.

35.27 The Hon'ble Minister from Telangana completely agreed with the views expressed by the Hon'ble Minister from Chhattisgarh regarding the aspect of borrowing to meet compensation requirement not falling within the ambit of Article 293 of the Constitution. Apart from which it might also be noted that Section 7(2) of the GST (Compensation to States) Act 2017 mandated release of compensation to States every two months in case of shortfall in revenue. This compensation shall be released from the GST Compensation Fund. Borrowing mentioned in Option-1 and Option-2 fell under 'such other amounts' as per Section 10(1) of the GST (Compensation to States) Act 2017. Hence, the discussion regarding the borrowing under Option-1 and Option-2 was very much within the framework of the GST Council. He added that as pointed out by his colleague, the Hon'ble Minister from Punjab, the Centre could also re-think to settle the issue at the earliest in a consensual manner as Option-1 was now revised to Rs.1.10 lac crores and Option-2 stood at Rs.1.83 lakhs crores and the gap was only around Rs.73,000 crores, out of which, the Chairperson was kind enough to release some amount since the last meeting of the GST Council. Hence, under Option-1, if the amount is revised to Rs.1.80 lakhs crores, consensus among States would be easy, and requested the Hon'ble chairperson to kindly consider the request at the earliest.

35.28 The Hon'ble Minister from Jharkhand stated that he was in agreement with what had been stated by the Hon'ble Members from Chhattisgarh, West Bengal and Punjab. When GST Act was framed, it was an Act of faith for them and they trusted in it. Jharkhand got its 70% indirect tax share subsumed in GST. Today they just had 30% and it was known that Jharkhand was extremely backward and poor State. It is difficult for the State to manage with 30% of the taxes of the erstwhile regime. They depended on GST share and GST compensation which was promised to be paid to them at 14% growth rate. He stated that both Option-1 and Option-2 were not acceptable to them. They are in favour of Option-3 by which they mean that the Government of India should borrow and give the amount to States. He is in agreement with the views expressed by the Hon'ble Member from West Bengal on provision of dispute resolution mechanism under Article 279A. He is in agreement with the views expressed by the Hon'ble member from Punjab about formation of a GoM on this issue. He noted that compensation amount of around Rs.3300 crores was due to Jharkhand, out of which the Hon'ble Chairperson had sanctioned Rs.318 crores. He thanked her for that and hoped that remaining compensation amount would also be released soon. He stated that decision needed to be taken early so that a poor State like Jharkhand could be benefitted and they could carry on with their welfare activities.

35.29 The Hon'ble Minister from Andhra Pradesh while appreciating the revision from 10% to 7%, he once again requested for a study to be done to arrive at more realistic figures closer to the actual that would have been. In view of the increasing cesses and surcharges which were affecting the resources of divisible pool directly reflecting on the transfer to States, he requested the Centre to be a little more magnanimous. Keeping in view the fact that this was a peculiar situation, it was imperative that the Centre and States come forward to arrive at consensus. He agreed with his counterpart from Karnataka where he had mentioned that most of the essential issues were almost agreed upon. He agreed with his counterparts from Bihar, Kerala & Karnataka where they had expressed that they could sit together and do a little more of the deliberation in order to arrive at consensus but in view of the situation where all the States were severely

starving for finances and resources to meet the regular expenditure as well as additional COVID expenditure, he requested Hon'ble Chairperson to provide some sort of temporary relief until such time that in a month or two where either by deliberation or by taking view point from various States in writing, a study could be made and more or less like majority of States were expressing their views of having a consensus only. So, with the spirit of federalism and the patience that everybody had faced this challenge, he requested the Hon'ble Chairperson to provide some immediate relief and go forward for deliberation to arrive a consensus.

35.30 The Hon'ble Minister from Rajasthan stated that, as provided in the Constitution and the GST (Compensation to States) Act 2017, the States were not getting compensation due to them. As mentioned by the Hon'ble Members from Punjab, Kerala, West Bengal and Jharkhand, whenever there was a problem in federal structure then the Central Government should come forward to resolve the problem of the State Governments. He believed that the Central Govt should borrow from RBI because they had window system and whoever borrowed, fiscal deficit would anyway be impacted. An amount of Rs.7,300 crore was due for Rajasthan till September 2020 as compensation from the Central Government. He supported the suggestion that if there was a dispute, the provisions of dispute resolution mechanism can be activated. He proposed the GoM option to give time of 7 days, GoMs would sit, reach at consensus and would take decision. Whatever decision it would be, at least States would feel that they were heard and decision was taken on consensus. He would not go for borrowing as it was the responsibility of the Central Government to pay compensation to States and reminded that the Central Government had guaranteed to pay it which was very much mentioned in the law.

35.31 The Hon'ble Minister from Himachal Pradesh said that they had opted for Option-1 and decision on Option-1 should be taken soon. Small States like them were facing lot of problems. He requested that as per their calculation his loan amount comes around Rs.1700 crores and that should be made available to them at the earliest.

35.32 The Hon'ble Deputy Chief Minister of Haryana stated that as Haryana had already chosen Option-1, he requested the Council, at least for the States who had chosen Option-1, to at least get their share of compensation because he thought it was the need of the hour. He is not in favour of formation of GoM. He requested the Council to unanimously approve Option-1 for the liquidity for the States to come up.

35.33 The Hon'ble Deputy Chief Minister of Tripura stated that he is in agreement with the Hon'ble Deputy Chief Minister of Haryana and the Hon'ble Deputy Chief Minister of Bihar that they should be allowed to borrow. He stated that the North-Eastern States were very small States and they were burdened with financial difficulties. So he pleaded with the Hon'ble Union Finance Minister not to delay any further and allow them to exercise Option 1.

35.34 The Hon'ble Minister from Meghalaya reiterated their stand and said that Meghalaya decided to opt for Option-1. He informed that he would stand by that option. He also thanked the Govt. of India for having considered the suggestions put forward by Meghalaya and requested to place their choice of Option-1 on record.

35.35 The Hon'ble Deputy Chief Minister of Gujarat stated that Gujarat had already made their stand clear in the last meeting that they would choose Option-1. He said that it would help all the States to receive funds needed urgently for going forward with their plans and fostering economic activities which would help people in that difficult situation. He also expressed that if it was not possible to reach a consensus amongst all the Hon'ble Finance Ministers of States, then it would be difficult to do so even if the GoM was formed and it would delay the matter. He proposed that the Government of India should initiate the process of giving loans through RBI to the 21 States that already gave their consent for Option-1. He said that the States which did not agree with Option-1 could discuss with the Hon'ble Finance Minister of India about other options available and it would not be appropriate to stop other States from getting loans for the sake of a few States. He opined that in the present situation, this matter should not be delayed any further and it was the responsibility of all the State Governments along with the Central Government to help the States' people and the matter needed a quick resolution. He also suggested that the amount of loan that the States would get should be based on the formula of net GST revenue and not gross GST income.

35.36 The Advisor to Hon'ble Lieutenant Governor of Jammu and Kashmir stated that they opted for Option-1 in view of their current financial resources and need of funds for the Govt. of J&K. He requested for the Council's consideration that Option-1 might be implemented on priority since J&K needed finances urgently.

35.37 The Hon'ble Chief Minister of Puducherry, while referring to the package and interest free loans for 50 years for the States especially for the North-Eastern States and other States based on the formula for devolution of funds under Central Finance Commission, pointed out that Puducherry and Delhi had been deprived of these package and loans as they did not come under the purview of the Central Finance Commission. He felt that the Central Government could borrow without certain limitations whereas States cannot borrow without the permission of the Centre. He further suggested that in addition to all the options considered so far, he proposed another option in which the Government of India can allow the GST Council to borrow. He mentioned that according to Article 293 of the Constitution of India, the Central Government can take a decision in the matter so that the issue could be resolved by the GST Council being authorized by the Central Government to borrow and disburse the funds to the States.

35.38 The Hon'ble Minister from Chhattisgarh sought clarification from the Hon'ble Chairperson on the points viz. (a) He mentioned that in the last meeting, the Finance Secretary had announced that the GST Council had decided that States could take a loan. The Hon'ble Minister asked whether the GST Council was within its rights to ask the States to take a loan. (b) Under Article 293, when an amount is borrowed by the Central Government the security was to be of the Consolidated Fund of India. Similarly, when the State Government borrowed, the security was to be the Consolidated Fund of the State or India. He asked, in the present proposal whether the security would be on the Consolidated Fund of the State or the GST Compensation Fund. (c) He further sought a clarification / guidance if the GST Council decides that States had to borrow, then do States have a choice whether to take loan or not.

35.39 The Hon'ble Finance Minister of Assam referred to the deliberations of the 10th meeting of the GST Council where the then Revenue Secretary had mentioned about market borrowing. He pointed out that the said meeting took place on 18th February 2017. However, the GST (Compensation to States) Act 2017 was passed in the Parliament on 12th April 2017. That meant whatever had been discussed in the

Council, even after that, the Parliament in its wisdom decided on 12th April 2017 to discuss about cess only in order to raise compensation. He stated that the question of borrowing which had been mentioned on the 18th February 2017 meeting was not reflected in the GST Compensation Act passed on 12th April 2017.

36.1 The Secretary clarified the issue raised by the Hon'ble Finance Minister of Punjab, by referring to the opinion given by the Attorney General of India that the levy of the Compensation Cess could be extended beyond five years. On the reference made by Hon'ble Member to the opinion of the Attorney General of India that unless and until all States agrees it could not be extended, Secretary clarified that what the Attorney General of India meant was that under the current Act, the compensation entitlement would be only for five years. However, actual levy and collection could go beyond five years if the Council recommended. That would not permit the extension or deferment of the period of five years for the entitlement of compensation to the States. In his opinion, therefore, AG has stated that only if the Council agrees to deferment or extension in regard to the payment of compensation to them (States), one could adopt such course of action. In the month of August 2020, the Attorney General of India has further clarified that extending the levy and collection of the cess beyond five years under Section 8(1) of the Act can be done on the recommendation of the GST Council which would require the decision by three fourths majority of the weighted vote. Since all States were represented in the GST Council, that could only be achieved if the requisite number of States supported such recommendations. That was clarified by the Attorney General of India that 'all States' meant 'requisite number of States that supported such recommendations'. In Agenda Item 9, the Council had recommended the levy of cess beyond five years.

36.2 On the issues raised by the Hon'ble Finance Minister of Chhattisgarh that if the borrowing was done then, whether the borrowing would be done on the strength of the Consolidation Funds of States, and also whether the States could be permitted to borrow, the Secretary clarified by drawing the kind attention of the Council to the opinion in the month of June 2020 by Attorney General of India. In the question No.4, the AGI was asked 'Can the States borrow on the future receipts of the compensation fund to meet the compensation gap either fully or partially?' The Secretary quoted the Attorney General of India's reply that 'this query can be answered with the reference to Article 292 and 293 of the Constitution. The entitlement of a State to borrow is set out in Article 293(1). And the Article 293(3) states that States can borrow on the basis of the Consolidation Funds of States'. The Secretary further quoted the Attorney General of India that 'Limitation on such right is found in clause (3), which prohibits a State from raising any loan, without the consent of the Government of India, if there is still outstanding any part of a loan which has been made to the State by the Government of India. Clause (2) of Article 292 authorised the Parliament to make loan to a State, subject to any limit which may have been fixed by law made by the Parliament. Thus, it is within these parameters that a State can borrow, even on the strength of future receipts from the compensation fund.'

36.3 The Hon'ble Minister from Chhattisgarh reiterated the contentions as already stated in above paras. About Article 293 which envisages or stipulates that security would be of the Consolidated Fund of State whereas the compensation cess fund does not have any specific share of the State. The Hon'ble Minister from Chhattisgarh further mentioned that the Compensation Cess would come after end June 2022, it was not known today, when and how much amount would come and in which time frame. Article 293 was an entirely different provision and it had no inclusion of compensation cess and the Consolidated Fund of a particular State has no fixed amount.

36.4 The Secretary clarified that the compensation cess goes to the States and it becomes the part of the Consolidated Fund of State and that was exactly the reason why the Attorney General said that under Article 293(1) States can borrow. As regards apprehension of Hon'ble Minister from Chhattisgarh that Compensation Fund was uncertain in comparison to CGST and SGST, Secretary mentioned that in this meeting itself they had approved Agenda Item 9 i.e. the GST Council approved that the levy of the compensation cess shall be extended to meet the entire gap. So, once Compensation Cess got extended, it was not an uncertain revenue and it becomes a certain source of revenue. Therefore, on the strength of that compensation fund, the loan or borrowing could be done under Article 293(1). The Hon'ble Minister from Chhattisgarh replied that the amount was uncertain for sure. If the collections of Compensation Cess were lower, amount would be lower, but the percentage of CGST and SGST are fixed.

36.5 The Hon'ble Minister from Odisha said that the law was elastic not fixed and GST Act or Compensation Act were by-product of the Constitution. He agreed with the submissions made by the Secretary to the Council that similar to a State budget, compensation was an estimate and estimate had already been made.

36.6 The Hon'ble Finance Minister of Kerala stated that it was possible to make an estimate of what would be the compensation for a State and it was complicated for States which was so simple and straight for the Centre to borrow. The Council had decided to extend the compensation cess but not to defer the compensation of the current year to future as it would require a decision of the Council and not a proposal of Option-1.

36.7 The Hon'ble Finance Minister of Tamil Nadu stated that Option-1 might be agreed upon by consensus. He proposed that a meeting of officers might be organized to sort out the modalities of borrowing of the loan and mode of repayment through cess based Compensation Fund, etc.

36.8 The Hon'ble Finance Minister of Assam stated that he wanted to add few lines to the opinion given by the learned Attorney General of India. He said that the Attorney General had clearly pointed out that the entitlement of a State to borrow would emerge from the authority the Constitution had given under Article 293(1) read with Article 292 and Article 293. He reiterated that the Council had no jurisdiction to advise the Hon'ble Union Finance Minister as and when she wanted to exercise her authority under these two Articles as the jurisdiction of GST Council did not extend to that.

37 The Hon'ble Chairperson mentioned with regard to the issues mentioned by the Hon'ble Minister from Chhattisgarh, that in continuation of the clarifications given by the Secretary to the Council, the Joint Secretary (DoR) would elaborate with regard to the estimates of compensation to States.

37.1 The Joint Secretary (DoR) mentioned that the figures were already shared with the States after meeting of the Finance Secretary and the Expenditure Secretary with the State Secretaries on various aspects of the borrowing options. The basis of calculation was also shared where it was said that the SGST with respect to the previous years' collection at 10% would be recalculated on 7%. The calculation was done for each State and S.No.22 showed the figure for Chhattisgarh. He stated that calculations would be redone at 7% for all States and would be communicated to all the States.

38. The Hon'ble Chairperson clarified that compensation to the States would be given only for the period pertaining to the first 5 years but the levy of compensation cess can be extended beyond 5 years in order to make up for the shortage. She stated that this is as per the existing law and this was clarified by the Attorney General of India. She informed that exercising the powers that were vested in the Council, Members had collectively agreed to extend the collection of cess beyond 5 years in the last meeting held on 05.10.2020. She asked the Secretary to the Council to read out the relevant portion from the opinion given by the Attorney General in this regard. The Secretary to the Council referred to the paragraph 2 of the answer given by the Attorney General of India to question No.(iii) on this issue.

39. The Hon'ble Deputy Chief Minister of Gujarat referred to the clarification sought by the Hon'ble Finance Minister of Chhattisgarh, and stated that if compensation cess collections increased, then the compensation to States would also decline. He further clarified that if in 2021, the market performs better and sales increases, compensation to States requirement would automatically be lower. Therefore, in his opinion, compensation to States was not fixed and it would decrease with an increase in economic activity. He referred to the Hon'ble Finance Minister of Odisha pointing out that it was elastic in nature. He said that the accounting procedures were regular exercises that could be done any time but Option-1 should be agreed upon and the matter should be resolved quickly by taking a decision.

39.1 The Hon'ble Finance Minister of Telangana reiterated his points of view and requested the Hon'ble Chairperson to take a decision. He expressed that Council should come to a decision and that should be implemented by all the States. Whether some States would accept or not, but collectively the Council needed to take a final decision, he emphasized.

39.2 The Hon'ble State Minister of Technical Education of Rajasthan requested the Centre to take loan and distribute to States.

39.3 The Hon'ble Finance Minister of Goa expressed that in the past also, whenever such a thing had happened and opinions had been divided, it was left to the wisdom of the Chairperson. He wanted to leave the decision to the Hon'ble Chairperson and he requested his fellow Ministers to agree to the final decision.

40. The Secretary to the Council answered the queries raised by the Hon'ble Finance Ministers of Chhattisgarh and the hon'ble State Minister of Technical Education of Rajasthan as to why the Centre could not borrow under Article 292. He stated that the Department of Expenditure circulated a note on Option-1 and Option-2 and also mentioned the background of those options. He said that ultimately the aim was that States should get the money on account of compensation. Since there was not enough collection of cess, the borrowing arrangement was being worked out by the Department of Expenditure and the Department of Economic Affairs. The borrowing decision by the Central Government was not taken in the Council but was taken by the aforementioned Departments based on their own constraints. He mentioned that after having considered all the constraints, they had worked out a solution where the entire borrowing would be tied up.

41. The Hon'ble Chairperson thanked all the Ministers for having gone through two extended days of discussion on the matter. She stated that there was absolutely no doubt that the GST collections have suffered and these are the things that everybody knows. She also said that however much all of the Members

had spoken, she did not see them having a dispute. She expressed that although there might be differences of opinion, they were not fundamentally denying one another's position. She stated that compensation and compensation in full was payable and there was no question about it. However, it was everybody's knowledge that compensation cess had not been yielding adequately. She requested everyone to look at how various views have been resolved in the past and have trust and confidence. She reminded that this was an extraordinary situation and the Members of the Council, including some who were in the Empowered Committee before the Council was formed, would not have foreseen a pandemic of this nature. Therefore, it was not only a problem for the States but the problem was for all of them.

42. While referring to the discussion as to why the Centre could not borrow, she explained that the Centre's borrowing beyond the calendar actually would adversely impact interest rates in the market and not only impact the Centre's case of borrowing but also of States as well as for the private sector. The impact would not be the same if the States were to borrow. She assured that even if the States borrow, the Government of India would work with the RBI to ensure that the States are able to raise the amount at equitable and fair rate. She explained that a balanced approach was followed after consulting State-level officials.

43. She explained that since the compensation cess had been extended to cover the entire shortfall in the compensation, she assured that full compensation would be released and other resources of the States would not be touched for the remaining loan that was being borrowed. Therefore, States need not have any apprehension that the burden would fall upon them. She appealed to the States to reach a solution quickly so that fund could reach them which they could spend on pandemic, development expenditure and other contingent expenditure of the States. She said that even if a consensus could not be reached, she would want the Centre to be engaged with the States outside the broader consensus to devise ways that could be mutually acceptable.

44. She stated that at some time she would like to sit with all the Ministers to discuss about improving the rates per se so that the cess collection could be improved. If she had to voice the views of the States which had chosen an option, it would not be proper for the Council to say to those States to keep waiting till everybody arrived at a consensus. She emphasized consensus was something all of them, including herself would honour. She questioned if she was unable to arrive at a consensus, did it mean she would ask the States to wait as much as time they would take to arrive at a consensus. She said States had got the collection of cess coming to them and if they wanted to go ahead and do something, should the Council take a view that till a consensus is arrived at, no State could go on with the borrowing. So, in order to voice everybody's views, she would only say that although a consensus on how to go about borrowing could not be reached, her humble appeal would be that the need of the hour is that money should go to States so that they could start spending.

45. The Hon'ble Finance Minister of West Bengal wanted to know from the Hon'ble Finance Minister of India about the conclusion. He appealed to the Hon'ble Chairperson that it would be solved if the Central Government agrees to borrow.

46. The Hon'ble Finance Minister of Assam stated that they had understood what the Hon'ble Finance Minister of India said. If any State wanted to borrow it could go ahead and other States should allow that. This was what he understood and he was grateful for that.

46.1 The Hon'ble Finance Minister of Kerala commented that at the end of the deliberations, two contentious issues are still not clear. One issue was to finalize whether the Central Government would borrow or individual States. The other issue was about the amount to be borrowed. He was totally against deferring part amount and how much to defer was something that was to be stated more significantly.

46.2 The Hon'ble Minister of Chhattisgarh thanked the Hon'ble Finance Minister of India for the complete openness she exhibited in bringing the facts and discussions in the Council. He congratulated her openness not only to listen and reach a consensus. He understood from the conclusion given by the Hon'ble Finance Minister of India that the issue was open under Article 293(1) and 293(2) and that nobody could stop anyone from borrowing.

47. The Hon'ble Chairperson responded that she had already explained the constraints for the Central Government borrowing the amount. She stated that there is no dispute but a difference of opinion on the approach. She further stated that while there was no consensus, she would urge all to be fair to one another. She stated that India was on a revival path and they could not have the Council deny the Indians an immediate catalytic effect required for the economy. She added that we needed the money to go down to the people, so that there is quick recovery. She hoped that revenue collections would probably be adequate next year. She again humbly appealed to all States to work out something that would benefit all states immediately.

48. After the above concluding remarks by the Chairperson of the Council, the Hon'ble Finance Ministers of West Bengal, Gujarat, Assam and Karnataka expressed their gratitude to the Hon'ble Finance Minister of India and appealed to her for doing the needful which would serve best the needs of the States.

Agenda Item 10: Review of Revenue position

49. The Council took note of the Revenue position.

Agenda Item 11: Enabling UPI and IMPS as a payment option for payments of Goods & Services Tax

50. The Secretary asked JS, DoR to take up Agenda Item 11. The JS, DoR briefed the Council that as on date, three or four modes of payment are available for GST payment. He emphasized that in the past few years digital payments through Unified Payment Interface (UPI) had seen a historic rise, so the proposal was to allow payment of GST through UPI in addition to the existing modes of payment. He highlighted that in this regard GSTN had already done test runs and the interface was ready, and if the Council approved it could be made functional.

50.1 The Secretary to the GST council added that this would greatly facilitate the taxpayers as currently only certain banks and certain modes of payment were available for payment of GST. The GST payments through UPI would provide taxpayers the facility to do business with banks that are not authorized to collect

GST with an instant and inter-operable payment option. In view of the reasons explained above, he submitted to the Council that GSTN may be permitted to allow UPI and IMPS as an option for GST payments.

51. For **Agenda Item 11**, the Council approved the proposal for including UPI and IMPS as an option for GST payment apart from the existing ones.

Agenda Item 12: Status report of creation of GRC Zone-wise (CBIC) and States / UTs.

52. The Secretary introduced the agenda and stated that the GST Council in its 38th meeting held on 18.12.2019 had decided that a structured grievance redressal mechanism should be established for the taxpayers under GST to tackle grievances of taxpayers on GST related issues of specific / general nature. The GST Council accordingly approved constitution of 'Grievance Redressal Committee' (GRC) at CBIC Zonal / State level consisting of both Central Tax and State Tax officers, representatives of trade and industry and other GST stakeholders.

52.1 Office Memoranda F.No.820/GRC/GSTC/2019 dt. 30.12.2019 and 07.02.2020 were issued by this GST Council Secretariat for constitution of GRC at CBIC Zonal / State level in accordance with CBIC letter F.No.20/10/16/2018-GST(Pt.I) dated 24.12.2019.

52.2 The present position of constitution of GRC on the basis of orders constituting Zonal / State level GRC which have been received in the GSTC Secretariat, was submitted to the GST Council. The details of constitution of these GRCs are being uploaded regularly on the GST Council website <http://www.gstcouncil.gov.in/grievance-redressal-committees-central-zone-state-level> under sub-menu "Public Grievance Redressal Committee (GRC)" under menu "Help" for creating awareness amongst the trade.

52.3 All State / UTs / CBIC Zones have constituted the GRCs, except the following 06 States / UTs / CBIC Zones which have not yet constituted GRC. The GST Council Secretariat reminded them vide OM dated 02.06.2020, 20.07.2020 24.08.2020 and 16.09.2020.

S. No.	State / UT	CBIC Zone	Status of constitution of GRC
1.	Andaman and Nicobar Islands	Kolkata	Pending
2.	Dadra Nagar Haveli, Daman and Diu	Vadodara	Pending
3.	Gujarat	Ahmedabad	Pending
4.	Haryana	Panchkula	Pending
5.	Puducherry	Chennai	Pending
6.	Tamil Nadu		Pending

It was requested that the above mentioned 06 States / UTs / CBIC Zones may constitute GRC and copy of orders of constitution of GRC may be sent on priority to the GST Council Secretariat.

52.4 The GSTN created a specific portal for uploading the grievances received in these meetings, for the purpose of escalating the same to the appropriate authority. The CBIC Zones / States / UTs have been requested to take Login credentials for the specific portal where the GRC is constituted.

52.5 The latest status of the constitution of GRC at Zonal / State level for redressal of grievance of taxpayers on GST related issues was placed before the GST Council for information.

53. For **Agenda item 12**, the GST Council took note of the latest status of the constitution of Grievance Redressal Committee at Zonal / State level for redressal of grievance of taxpayers on GST related issues.

Agenda Item 13: Performance Report of the NAA (National Anti-profiteering Authority) for the 1st quarter (April to June, 2020)

54. The Secretary introduced the Agenda Item and stated that in terms of provisions of clause (iv) of Rule 127 of the CGST Rules 2017, National Anti- Profiteering Authority (NAA) is required to furnish a performance report to the GST Council by 10th day of the close of each quarter. He placed the Quarterly Performance Report of NAA for the 1st quarter of the financial year 2020-2021 i.e. for the period from 01.04.2020 to 30.06.2020, before the GST Council, as under:

Opening Balance	No. of Investigation Reports received from DGAP during the quarter	Disposal of Cases (during Quarter)				Closing Balance
		Total Disposal during quarter	No. of cases Where Profiteering established	No. of cases Where Profiteering not established	No. of cases referred back to DGAP	
66	21	21	14	01	06	66

54.1 The NAA reported that due to Corona pandemic outbreak, the orders in cases where in the limitation was expiring between 20.03.2020 and 29.03.2020 might not be passed within a period of 06 months from the date of receipt of the report from the DGAP due to force majeure. Accordingly, the orders were passed in terms of the Notification No.35/2020-Central Tax dated 03.04.2020 issued by the Govt. of India, Ministry of Finance (Department of Revenue), CBIC under Section 168A of the CGST Act, 2017 as amended vide the Notification No.55/2020-Central Tax dated 27.06.2020. The NAA also reported that the hearings scheduled from 01.04.2020 to 31.05.2020 could not be held due to extended lockdowns in Delhi till 31.05.2020. Thereafter, personal hearing has been accorded only on the specific request by the interested parties preferably through video conferencing.

55 For **Agenda item 13**, the Council took note of the Quarterly Performance Report of the National Anti-Profiteering Authority for the 1st quarter of the financial year 2020-2021 i.e. for the period from 01.04.2020 to 30.06.2020.

Agenda Item 14(i): Minutes of the Meetings of GoM on IGST Settlement held on 22.09.2020 & 01.10.2020

56. The Secretary, GST Council taking up Agenda Item 14(i) briefed the Council that a GoM under the Chairmanship of the Hon'ble Deputy CM of Bihar was constituted which held meetings on the issue of IGST settlement. The report of the GoM had been circulated to all the Hon'ble Ministers of the GST Council. The Secretary submitted that the recommendations of the GoM were as under:

- (a) Centre should disburse net amount of Rs.24,400 crore due to States / UTs on account of apportionment of the entire year-end IGST balance available as on 31st March, 2018;
- (b) Before initiating recovery of the excess Compensation amount, Centre should consult the States from which recovery is to be made;
- (c) IGST settlement data arising on account of annual returns filed by the taxpayers for FY 2017-18, may be referred to the Law Committee for examination and recommendation; and
- (d) The matter would be placed before the 42nd meeting of the GST Council to be held on 5th October 2020.

The Hon'ble Chairperson invited comments of the Hon'ble Ministers on the same.

56.1 The Hon'ble Minister from West Bengal stated that he has no issue with the recommendations of GoM. But, he said that he would like to bring to the attention of the Chairperson that Rs.1,76,688 crores were received for IGST in 2017-18. As per set procedure, half of it, that is Rs.88,344 crores, has gone to the States and an equal amount remained with the Centre in the Consolidated Fund of India. As a second step, of the IGST amount received in the CFI, 42% of that should have been devolved to the States and thus a total amount of Rs.1,25,000 crores should have been devolved to the States. He said that miscalculation of IGST has resulted in shortfall of IGST devolved to the States and the compensation amount of Rs.33,000 crores was released in the earlier meeting. He said that CAG had made a very strong observation on this and it reflected poorly on the GST Council.

56.2 The Hon'ble Minister of Assam stated that GST Council was not the right forum to discuss the report of CAG as the CAG report would go to the Parliament and the Public Accounts Committee would discuss it. He advised to restrict the discussions to the report of GoM on IGST settlement.

56.3 The Hon'ble Minister from Telangana submitted that he would like to bring up an issue other than the Agenda being discussed. One was the issue of ineligible, reversed and lapsed IGST ITC not being settled to the States on monthly basis. In this regard when the settlement reports pertaining to annual returns filed upto 24-9-2020 were run by the GSTN, it was noticed that an amount of Rs.1,000 crores was due to State of Telangana which may be settled at the earliest. Secondly, him being a Member of the GoM, the GoM has unanimously agreed to the recommendations made in the report. As per the report, he requested that an amount of Rs.25,058 crores which was transferred to the CFI, may now be devolved to the States.

56.4 The Hon'ble Minister from Madhya Pradesh submitted that an IGST recovery of Rs.1,612 crores was due from the State and it was requested that in light of the shortage of GST and VAT revenues and the increased requirements due to the corona pandemic, the State had opted for Option-1 and that this amount may be settled with the compensation dues accruing to the State either through payments in form of instalments required to be made after a period of 5 years or may be with the dues accruing for FY 2021-22.

56.5 The Hon'ble Minister from Chhattisgarh, on the issue of IGST stated that the matter was brought up in the Council and then referred to GoM on IGST settlement ably led by the Hon'ble Deputy CM of Bihar that reached a unanimous decision. He also discussed about Compensation to States, loan to be taken and related issues. He also sought whether certain guidelines could be framed on Members of the Council interacting with the Media on the GST related issues being discussed in the Council meetings.

56.6 The Hon'ble Minister from Tamil Nadu requested the Hon'ble Chairperson that the payment of IGST settlement dues as recommended by the GoM should be made in one instalment and this month itself.

56.7 The Hon'ble Minister of Karnataka stated that as per the GoM's second recommendation that before initiating recovery of the excess Compensation amount, the Centre should consult the States from which recovery was to be made. He also mentioned that considering the hardships on finance front presently, it should not be recovered immediately and may either be settled at one time after five years or it could be done in instalments.

56.8 The Hon'ble CM of Puducherry stated that he had been attending meetings of the Council right from 2017 and it was through deliberations and broad consensus that decisions were being arrived at. He requested the Hon'ble Chairperson that each state had its typical problems and the Hon'ble Ministers represent the will of the people of the State. Centre and State had to work together in the spirit of cooperative federalism.

56.9 The Hon'ble Minister from Assam agreed with the views expressed by the Hon'ble CM of Puducherry and suggested that if any code of conduct is being finalized, then it shall be for all Members of the GST Council.

56.10 The Hon'ble Minister from Chhattisgarh requested the Chairperson to clarify what should be the stand of the Ministers of the Council in the Media and when the Council was not meeting, were they to keep silent. So if a public issue came forward, should they not express themselves in the public.

56.11 The Hon'ble Minister of Karnataka stated that more focus was required on the Agenda, and the Hon'ble Chairperson should take a call and sought greater clarity on the Compensation issue.

56.12 The Hon'ble Chairperson stated with regard to the issue of IGST settlement, she did not want to go back to the problem as to how it happened but she pointed that after she took over as the Chairperson, GST Council in 2019, some of these issues that had been festering the GST Council were (i) IGST issue related to a particular State with regard to fixing of base year revenue, (ii) the IGST settlement issue concerning all States, and (iii) the Compensation Cess issue that had been credited to CFI and had not been transferred

to public account. She stated that all the three issues were settled by following proper process within a period of 12 months. The issue of IGST Settlement concerning all States was looked into by the GoM on IGST settlement, headed by Sh. Sushil Modi, and the recommendations of the GoM are placed today before the GST Council. She stated that as per the recommendations of the GoM, the Centre would be disbursing net amount of Rs.24,400 crores due to States on account of apportionment of the entire year-end IGST balance available as on 31st March, 2018. Further, she assured that the entire IGST settlement amount of Rs.24,400 crore would be released within a week.

56.13 The Hon'ble Chairperson acknowledged the desperate financial need of States as they were frontliners in the fight against Covid. She said that in spite of Compensation Cess collections being only Rs.96,000 crores last year, the Central Government had released compensation of Rs.1,60,000 crores. Further, she clarified that on the issue of mechanism for recovery of excess IGST from States, it was not presently being pressed and could be recovered gradually.

56.14 The Hon'ble Chairperson further stated that she was grateful that the Hon'ble Finance Ministers of the States chose to write a personal letter thanking her. In response, she thanked all the Hon'ble Finance Ministers of the States for being positive about the resolution of each of these issues.

56.15 The Hon'ble Chairperson further stated that she had always been willing to hear every Minister who wished to speak and she had never asked any Minister to cut short or conclude. She has also assured that she was not going to prepare any code of conduct. She stated each one of them were very senior, experienced and managing their respective State's affairs during these challenging times. She stated that till today, there was never a meeting where it had been felt that a code of conduct should be formed and every meeting had gone with its due share of interaction and sharing of information.

57. For **Agenda 14(i)** the Council approved the recommendation of the GoM on IGST Settlement. **Agenda Item 14(ii): Exemption from GST on launch of satellites of Indian private enterprises, by ISRO, Antrix and NSIL.**

58. The Secretary introduced the Agenda Item 14(ii) regarding exemption of levy of GST on satellite launch services supplied by ISRO, Antrix Corporation Ltd. and New Space India Limited (NSIL) to Indian private enterprises. He mentioned that, recently certain Indian startups engaged in manufacturing and launch of nano / micro satellites opted for launch of their satellites by foreign space companies instead of ISRO, Antrix Corporation Ltd., or NSIL, the premier Indian agencies engaged in the activity of launching of satellites. One of the reasons for this was the GST applicable on the service of launch of satellite by an Indian Space agency such as Antrix or NSIL to an Indian service recipient.

58.1 According to the provisions of GST law, supply of satellite launch services by Antrix Corporation Ltd. or New Space India Limited (NSIL) to international customers against payment in foreign exchange constituted export of service and was zero-rated. However, supply of satellite launch services by ISRO, Antrix or NSIL to a person located in India was taxable. This position had been clarified vide Circular No.2/1/2017-IGST dated 29.9.2017.

58.2 The Council agreed that the satellite launch services supplied by ISRO, Antrix Corporation Ltd or NSIL may be exempted from GST.

59. For **Agenda Item 14(ii)**, the GST Council recommended that the satellite launch services supplied by ISRO, Antrix Corporation Ltd or NSIL be exempted from payment of GST.

60. After detailed discussion on the Agenda Item 9A on 12th October 2020, the Secretary to the Council thanked the Hon'ble Union Finance Minister, the Chief Minister, the Union Minister of State (Finance), the Deputy Chief Ministers, all the Hon'ble Members of the Council, and other participants of the meeting. With this, he announced the closure of the meeting.

Annexure-1			
List of Hon'ble Ministers who attended the 42nd meeting of the GST Council held on 05th October, 2020			
Sl No.	Centre/State	Name of Hon'ble Minister	Charge
1	Govt of India	Ms. Nirmala Sitharaman	Union Finance Minister
2	Govt of India	Shri Anurag Singh Thakur	Minister of State (Finance)
3	Andhra Pradesh	Shri Buggana Rajendranath	Minister for Finance, Planning and Legislative Affairs
4	Arunachal Pradesh	Shri Chowna Mein	Deputy Chief Minister
5	Assam	Dr.Himanta Biswa Sarma	Finance Minister
6	Bihar	Shri Sushil Kumar Modi	Deputy Chief Minister
7	Chhattisgarh	Shri T.S. Singh Deo	Minister, Commercial Tax
8	Delhi	Shri Manish Sisodia	Deputy Chief Minister
9	Goa	Shri Mauvin Godinho	Minister for Transport and Panchayat Raj, Housing, Protocol and Legislative Affairs
10	Gujarat	Shri Nitinbhai Patel	Deputy Chief Minister
11	Haryana	Shri Dushyant Chautala	Deputy Chief Minister
12	Himachal Pradesh	Shri Bikram Singh	Minister for Industries
13	Jammu and Kashmir	Shri K. K. Sharma	Advisor to Lt. Governor
14	Karnataka	Shri Basavaraj Bommai	Minister for Home Affairs
15	Kerala	Dr. T. M. Thomas Isaac	Minister for Finance & Coir
16	Madhya Pradesh	Shri Jagdish Devda	Minister for Finance and Commercial Taxes
17	Maharashtra	Shri Jayant Patil	Minister for Water Resource
18	Meghalaya	Shri James K. Sangma	Minister for Taxation
19	Manipur	Shri Yumnam Joykumar Singh	Deputy Chief Minister
20	Mizoram	Shri Lalchamliana	Minister for Taxation, Home, Disaster Management & Rehabilitation
21	Puducherry	Shri V. Narayanasamy	Chief Minister
22	Punjab	Shri Manpreet Singh Badal	Finance Minister
23	Odisha	Shri Niranjan Pujari	Minister, Finance & Excise

24	Rajasthan	Shri Shanti Kumar Dhariwal	Minister for Local Self Government, Urban Development & Housing, Law and Legal Affairs and Parliamentary Affairs
25	Sikkim	Shri B.S. Panth	Minister for Tourism & Industries
26	Tamil Nadu	Shri D. Jayakumar	Minister for Fisheries and Personnel & Administrative Reforms
27	Telangana	Shri T. Harish Rao	Finance Minister
28	Tripura	Shri Jishnu Dev Varma	Deputy Chief Minister
29	Uttarakhand	Shri Subodh Uniyal	Minister for Agriculture, Agricultural Marketing, Agricultural Processing, Agricultural Education, Garden and Fruit Industries, Silk Development
30	Uttar Pradesh	Shri Suresh Kumar Khanna	Minister for Finance, Parliamentary Affairs, Medical Education
31	West Bengal	Dr. Amit Mitra	Finance Minister

Annexure-2 List of Hon'ble Ministers who attended the 42nd meeting of the GST Council held on 12th October, 2020			
Sl.No	Centre/State	Name of Hon'ble Minister	Charge
1	Govt of India	Ms. Nirmala Sitharaman	Union Finance Minister
2	Govt of India	Shri Anurag Singh Thakur	Minister of State (Finance)
3	Andhra Pradesh	Shri Buggana Rajendranath	Finance Minister
4	Arunachal Pradesh	Shri Chowna Mein	Deputy Chief Minister
5	Assam	Dr. Himanta Biswa Sarma	Finance Minister
6	Bihar	Shri Sushil Kumar Modi	Deputy Chief Minister
7	Chhattisgarh	Shri T.S. Singh Deo	Minister, Commercial Tax
8	Delhi	Shri Manish Sisodia	Deputy Chief Minister
9	Goa	Shri Mauvin Godinho	Minister for Transport and Panchayati Raj, Housing, Protocol and Legislative Affairs
10	Gujarat	Shri Nitinbhai Patel	Deputy Chief Minister (Finance)
11	Haryana	Shri Dushyant Chautala	Deputy Chief Minister
12	Himachal Pradesh	Shri Bikram Singh	Minister for Industries
13	Jammu and Kashmir	Shri K. K. Sharma	Advisor to Lt. Governor
14	Jharkhand	Dr. Rameshwar Oraon	Minister for Planning cum Finance, Commercial Taxes, Food, Public Distribution & Consumer Affairs.
15	Karnataka	Shri Basavaraj Bommai	Minister for Home Affairs
16	Kerala	Dr. T. M. Thomas Isaac	Finance Minister
17	Madhya Pradesh	Shri Jagdish Devda	Minister for Finance and Commercial Taxes
18	Manipur	Shri Yumnam Joykumar Singh	Deputy Chief Minister (Finance in-charge)
19	Meghalaya	Shri James K. Sangma	Minister for Taxation

20	Odisha	Shri Niranjan Pujari	Minister, Finance & Excise
21	Puducherry	Shri V. Narayanasamy	Chief Minister
22	Punjab	Shri Manpreet Singh Badal	Finance Minister
23	Rajasthan	Shri Subhash Garg	Minister for Technical Education, Sanskrit Education, Medical & Health Ayurved, ESI & DIPR
24	Sikkim	Shri B.S. Panth	Minister for Commerce & Industries, Tourism and Civil Aviation
25	Tamil Nadu	Shri D. Jayakumar	Minister for Fisheries and Personnel & Administrative Reforms
26	Telangana	Shri T. Harish Rao	Finance Minister
27	Tripura	Shri Jishnu Dev Varma	Deputy Chief Minister
28	Uttarakhand	Shri Subodh Uniyal	Minister for Agriculture, Agricultural Marketing, Agricultural Processing, Agricultural Education, Garden and Fruit Industries, Silk Development
29	Uttar Pradesh	Shri Suresh Kumar Khanna	Minister for Finance, Parliamentary Affairs, Medical Education
30	West Bengal	Dr. Amit Mitra	Finance Minister

Annexure 3

List of officials who attended the 42nd meeting of the GST Council held on 05th October, 2020			
Sl No	State/Centre	Name of the Officer	Charge
1	Govt. of India	Dr. A B Pandey	Finance Secretary
2	Govt. of India	Shri M. Ajit Kumar	Chairman, CBIC
3	Govt. of India	Shri Sandeep M Bhatnagar	Member(Investigation & Customs), CBIC
4	Govt. of India	Shri Vivek Johri	Member (GST, IT, Tax Policy), CBIC
5	Govt. of India	Shri Ajay Jain	Member (Legal, CX & ST), CBIC
6	Govt. of India	Shri Dhruva Kumar Singh	CCA
7	Govt. of India	Shri Anil Kumar Jha	Additional Secretary, DoR
8	Govt of India	Shri Ritvik Pandey	Joint Secretary, DoR
9	GSTN	Shri Manish Kumar Sinha	Executive Vice President
10	Govt. of India	Shri G.D. Lohani	Joint Secretary, TRU I, DoR
11	Govt. of India	Shri Yogendra Garg	Pr. Commissioner (GST), CBIC
12	Govt. of India	Shri Vipul Bansal	PS to Union Finance Minister
13	GST Council	Shri Amitabh Kumar	Joint Secretary
14	GST Council	Shri S.K. Rahman	Joint Secretary
15	GST Council	Ms Ashima Bansal	Joint Secretary
16	Govt. of India	Shri Rajesh Malhotra	DG (M&C)
17	Govt. of India	Shri Astik Sinha	PS to MoS (Finance)
18	GST Council	Shri Rajesh Agarwal	Director
19	GST Council	Shri G.S. Sinha	Director

20	GST Council	Shri Jagmohan	Director
21	GST Council	Ms. Ujjaini Datta	Director
22	Govt. of India	Shri N Gandhi Kumar	Director, DoR
23	Govt. of India	Shri Amaresh Kumar	Addl. Comm., GST Policy Wing
24	Govt of India	Ms Nisha Gupta	Joint Commissioner, GST Policy Wing
25	Govt of India	Shri Nimba Ram	Joint Commissioner, GST Policy Wing
26	Govt of India	Shri Rakesh Dahiya	OSD, TRU-II, CBIC
27	Govt of India	Shri Gaurav Singh	Deputy Secretary (TRU)
28	Govt. of India	Shri Rahul Raja	OSD to Chairman, CBIC
29	Govt of India	Shri Vikash Kumar	DC, GST Policy Wing
30	Govt of India	Shri Kumar Asim Anand	DC, GST Policy Wing
31	Govt of India	Dr. Vikash Shukla	Media Advisor to Revenue Secretary
32	Govt of India	Shri Harsh Singh	OSD, TRU-II, CBIC
33	Govt of India	Ms. Rajni Sharma	OSD, GST Policy Wing
34	Govt of India	Ms. Rachna	OSD, TRU-II, CBIC
35	Govt of India	Shri Shikhar Pant	OSD, TRU-I, CBIC
36	Govt of India	Shri Aman Mittal	Assistant Comnr., GST Policy Wing
37	GST Council	Shri Arjun Meena	Under Secretary
38	GST Council	Shri Nitin Deepak Agarwal	Under Secretary
39	GST Council	Shri Mahesh Singarapu	Under Secretary

40	GST Council	Shri Krishna Koundinya	Under Secretary
41	GST Council	Shri Naveen Agrawal	Under Secretary
42	GST Council	Shri Karan Choudhary	Under Secretary
43	GST Council	Shri SaribSahran	Superintendent
44	GST Council	Ms Chanchal Soni	Superintendent
45	GST Council	Shri Abhishek Kumar	Superintendent
46	GST Council	Shri Rakesh Joshi	Inspector
47	GST Council	Shri Pankaj Bharadwaj	Inspector
48	GST Council	Shri Vijay Malik	Inspector
49	Andhra Pradesh	Dr Rajath Bhargava	Special Chief Secretary, Revenue
50	Andhra Pradesh	Shri Peeyush Kumar	Chief Commissioner of State Tax
51	Andhra Pradesh	Shri D. Venkateswara Rao	OSD to Special Chief Secretary
52	Andhra Pradesh	Shri K. Ravishankar	Commissioner State Tax GST (FAC)
53	Andhra Pradesh	Sri. J. V. M Sarma	Joint Commissioner State Tax, GST
54	Arunachal Pradesh	Shri Anirudh Singh	Secretary
55	Arunachal Pradesh	Shri Ando Pangkam	Deputy Commissioner
56	Arunachal Pradesh	Shri KenmiZirdo	Superintendent
57	Arunachal Pradesh	Shri TayemNamoh	Inspector
58	Assam	Shri Anurag Goel	Commissioner of Taxes
59	Assam	Shri Shakeel Saadullah	Joint Commissioner of Taxes
60	Assam	Shri BedabrataSaika	Inspector of Taxes

61	Bihar	Dr Pratima	State Tax Commissioner cum Secretary
62	Bihar	Shri Arun Kumar Mishra	Special Secretary
63	Chhattisgarh	Ms Maninder Kaur Dwivedi	Principal Secretary, Commercial Tax
64	Chhattisgarh	Ms RanuSahu	Commissioner, Commercial Tax
65	Delhi	Shri Sandeep Kumar	Secretary, Finance
66	Delhi	Shri Vivek Pandey	Commissioner, State Tax
67	Delhi	Shri Anand Kumar Tiwari	Additional Commissioner, State Tax
68	Delhi	Shri C. Arvind	Secretary to Dy CM
69	Goa	Shri Hemant Kumar	Commissioner, State Tax
70	Gujarat	Shri Pankaj Joshi	Additional Chief Secretary, Finance
71	Gujarat	Shri J. P. Gupta	Chief Commissioner, State Tax
72	Gujarat	Shri Milind Torawane	Secretary (Economic Affairs)
73	Haryana	Shri Anurag Rastogi	Principal Secretary, Excise & Taxation
74	Haryana	Shri Shekhar Vidhyarthi	Excise & Taxation Commissioner
75	Haryana	Shri Rajeev Chaudhary	Joint Excise and Taxation Commissioner
76	Himachal Pradesh	Shri Jagdish Chander Sharma	Principal Secretary (Excise & Taxation)
77	Himachal Pradesh	Shri Rohan Chand Thakur	Commissioner of State Tax and Excise
78	Himachal Pradesh	Shri Rakesh Sharma	Additional Commissioner of State Tax and Excise
79	Jammu and Kashmir	Dr. Arun Kumar Mehta	Financial Commissioner, Finance
80	Jammu and Kashmir	Shri P.K. Bhat	Commissioner, State Taxes

81	Jammu and Kashmir	Shri Waseem Raja	Assistant Commissioner, State Taxes
82	Jharkhand	Ms Vandana Dadel	Secretary, Commercial Tax
83	Jharkhand	Ms Akanksha Ranjan	Commissioner, CTD
84	Jharkhand	Shri Santosh Kumar Vatsa	Special Secretary, CTD
85	Jharkhand	Shri Brajesh Kumar	State Tax Officer
86	Karnataka	Shri M.S. Srikar	Commissioner, CT
87	Karnataka	Shri Padmakar Kulkarni	Additional Commissioner
88	Karnataka	Dr.Raviprasad	Additional Commissioner
89	Kerala	Shri Rajesh Kumar Singh	Additional Chief Secretary (Finance)
90	Kerala	Shri Anand Singh	Commissioner, State Tax
91	Kerala	Dr. Karthikeyan	Special Commissioner, State Tax
92	Kerala	Shri Abraham Renn	Additional Commissioner, State Tax
93	Madhya Pradesh	Ms Dipali Rastogi	Principal Secretary, Commercial Taxes
94	Madhya Pradesh	Shri Raghwendra Kumar Singh	Commissioner, Commercial Taxes
95	Madhya Pradesh	Shri Sudip Gupta	Joint Commissioner, Commercial Taxes
96	Maharashtra	Shri Manoj Saunik	Additional Chief Secretary, Finance
97	Maharashtra	Shri RajgopalDevara	Principal Secretary, Financial Reforms
98	Maharashtra	Shri Sanjeev Kumar	Commissioner, State Tax
99	Maharashtra	Shri Kiran Shinde	Deputy Commissioner, State Tax
100	Manipur	Shri Charchit Gaur	Commissioner of Taxes
101	Manipur	Shri YumnamIndrakumar Singh	Assistant Commissioner of Taxes

102	Meghalaya	Smt S. A. Synrem	Commissioner & Secretary, Excise, Registration, Taxation & Stamps
103	Meghalaya	Shri L. Khongsit	Additional Commissioner of Taxes
104	Meghalaya	Shri K. War	Deputy Commissioner of Taxes
105	Mizoram	Shri VanlalChhuanga	Commissioner & Secretary, Taxation Department
106	Mizoram	Shri HK Lalhawngliana	Joint Commissioner, State Tax
107	Mizoram	Shri Lalthansanga	Joint Commissioner, State Tax
108	Nagaland	Shri KesonyuYhome	Finance Secretary & Commissioner of State Taxes
109	Nagaland	Shri Y Mhathung Murry	Additional Commissioner of State Taxes
110	Nagaland	Shri WochamoOdyuo	Additional Commissioner of State Taxes
111	Odisha	Shri Ashok K. K. Meena	Principal Secretary, Finance
112	Odisha	Shri Sushil Kumar Lohani	Commissioner, CT & GST
113	Odisha	Shri N.K.Rautry	Special Secretary, Finance
114	Puducherry	Shri Shurbir Singh	Secretary (Finance)
115	Puducherry	Shri L. Kumar	Commissioner (ST)
116	Puducherry	Shri. K. Sridhar	Deputy Commissioner (ST)
117	Punjab	Shri V. K. Garg	Advisor (Financial Resources) to Chief Minister
118	Punjab	Shri A. VenuPrashad	Financial Commissioner (Taxation)
119	Punjab	Shri Nilkanth S. Avhad	Commissioner of State Taxes
120	Punjab	Shri Ravneet Khurana	Additional Commissioner (Audit)

121	Rajasthan	Dr. Prithvi Raj	Secretary, Finance (Revenue)
122	Rajasthan	Shri Abhishek Bhagotia	Chief Commissioner, State Taxes
123	Rajasthan	Shri Ketan Sharma	Special Commissioner (GST)
124	Sikkim	Shri Jigme Dorjee Bhutia	Secretary cum Commissioner, CT
125	Sikkim	Shri V.P. Pathak	Additional Chief Secretary, Finance
126	Sikkim	Shri Kumar Bardewa	Director (Budget), Finance
127	Sikkim	Shri Bikash Diyali	Deputy Director, CTD
128	Tamil Nadu	Shri S. Krishnan	Additional Chief Secretary, Finance
129	Tamil Nadu	Shri M. A. Siddique	Principal Secretary/Commissioner, Commercial taxes
130	Tamil Nadu	Dr.Beela Rajesh	Secretary, Commercial Taxes & Registration
131	Telangana	Shri Somesh Kumar	Chief Secretary
132	Telangana	Ms Neetu Prasad	Commissioner, CT
133	Telangana	Shri Laxminarayan Jannu	Additional CCT
134	Telangana	Shri N. Sai Kishore	Joint CCT
135	Tripura	SmtTanushree Deb Barma	Secretary, Finance
136	Tripura	Dr. Vishal Kumar	Chief Commissioner of State Tax
137	Tripura	Dr. Sudip Bhowmik	Deputy Commissioner of Taxes
138	Tripura	Shri Badal Baidya	Assistant Commissioner of Taxes
139	Tripura	Shri Ashish Barman	Nodal Officer, GST
140	Uttarakhand	SmtSowjanya	Secretary, Finance
141	Uttarakhand	Shri Anil Singh	Additional Commissioner, State Tax

142	Uttarakhand	Shri Anurag Mishra	Joint Commissioner, State Tax
143	Uttarakhand	Shri Pramod Joshi	Joint Commissioner, State Tax
144	Uttarakhand	Shri S.S.Tiruwa	Deputy Commissioner, State Tax
145	Uttarakhand	Shri Ranjeet Singh Negi	Assistant Commissioner, State Taxes
146	Uttar Pradesh	Shri Alok Sinha	Additional Chief Secretary, Commercial Tax
147	Uttar Pradesh	Ms Amrita Soni	Commissioner, Commercial Tax
148	Uttar Pradesh	Shri Sanjay Kumar Pathak	Joint Commissioner(GST), Commercial Tax HQ
149	Uttar Pradesh	Shri Anil Kumar Kannojiya	Deputy Commissioner(GST, Commercial Tax HQ
150	Uttar Pradesh	Shri Paritosh Mishra	Assistant Commissioner(TRU), Commercial Tax HQ
151	Uttar Pradesh	Ms Nidhi Srivastava	Assistant Commissioner(GST, Commercial Tax HQ
152	West Bengal	Shri H K Dwivedi	Additional Chief Secretary, Finance
153	West Bengal	Shri Manoj Pant	Finance Secretary
154	West Bengal	Shri Smaraki Mahapatra	Secretary, Finance
155	West Bengal	Shri Devi Prasad Karanam	Commissioner, CT
156	West Bengal	Shri Khalid Aizaz Anwar	Head, GST PPU

Annexure 4			
Officials who attended the 42nd meeting of the GST Council (continuation) held on 12.10.2020			
Sl No	Centre/State	Name of the Officer	Charge
1	Govt. of India	Dr. A B Pandey	Finance Secretary
2	Govt. of India	Shri M. Ajit Kumar	Chairman, CBIC
3	Govt. of India	Shri Sandeep M Bhatnagar	Member(Investigation & Customs), CBIC
4	Govt. of India	Shri Vivek Johiri	Member (GST, IT, Tax Policy), CBIC
5	Govt. of India	Shri Anil Kumar Jha	Additional Secretary, DoR
6	Govt of India	Shri Ritvik Pandey	Joint Secretary, DoR
7	Govt. of India	Shri G.D. Lohani	Joint Secretary, TRU I, DoR
8	Govt. of India	Shri Yogendra Garg	Pr. Commissioner (GST), CBIC
9	Govt. of India	Shri Vipul Bansal	PS to Union Finance Minister
10	GST Council	Shri Amitabh Kumar	Joint Secretary
11	GST Council	Shri S.K. Rahman	Joint Secretary
12	GST Council	Ms Ashima Bansal	Joint Secretary
13	Govt. of India	Shri Rajesh Malhotra	DG (M&C)
14	Govt. of India	Shri Astik Sinha	PS to MoS (Finance)
15	GST Council	Shri Rajesh Agarwal	Director
16	GST Council	Shri G.S. Sinha	Director
17	GST Council	Shri Jagmohan	Director
18	GST Council	Ms. Ujjaini Datta	Director
19	Govt. of India	Shri N Gandhi Kumar	Director, DoR
20	Govt. of India	Shri Rahul Raja	OSD to Chairman, CBIC
21	Govt of India	Dr. Vikash Shukla	Media Advisor to Revenue Secretary
22	GST Council	Shri Arjun Meena	Under Secretary
23	GST Council	Shri Nitin Deepak Agarwal	Under Secretary
24	GST Council	Shri Mahesh Singarapu	Under Secretary
25	GST Council	Shri Naveen Agrawal	Under Secretary
26	GST Council	Shri Karan Choudhary	Under Secretary
27	GST Council	Shri Sarib Sahran	Superintendent
28	GST Council	Ms Chanchal Soni	Superintendent
29	GST Council	Shri Abhishek Kumar	Superintendent
30	GST Council	Shri Rakesh Joshi	Inspector
31	GST Council	Shri Pankaj Bharadwaj	Inspector

32	GST Council	Shri Vijay Malik	Inspector
33	Andhra Pradesh	Dr Rajath Bhargava	Special Chief Secretary, Revenue
34	Andhra Pradesh	Shri Peeyush Kumar	Chief Commissioner of State Tax
35	Andhra Pradesh	Shri K. Ravishankar	Commissioner State Tax GST (FAC)
36	Andhra Pradesh	Sri. J. V. M Sarma	Joint Commissioner State Tax, GST
37	Arunachal Pradesh	Shri Anirudh Singh	Secretary, Tax and Excise
38	Arunachal Pradesh	Shri Ando Pangkam	DC (Legal)
39	Arunachal Pradesh	Shri Kenmi Zirido	ST GST Cell
40	Arunachal Pradesh	Shri T. Jamoh	Inspector
41	Assam	Shri Anurag Goel	Commissioner of Taxes
42	Assam	Shri Md. Shakeel Saadullah	Joint Commissioner of Taxes
43	Assam	Shri Bedabrata Saikia	Inspector of Taxes
44	Chhattisgarh	Ms Maninder Kaur Dwivedi	Principal Secretary, Commercial Tax
45	Chhattisgarh	Ms Ranu Sahu	Commissioner of State Tax
46	Delhi	Shri Sandeep Kumar	Secretary, Finance
47	Delhi	Shri Vivek Pandey	Commissioner GST, State Tax
48	Delhi	Shri C. Arvind	Secretary to Dy CM
49	Delhi	Shri Anand Kumar Tiwari	Additional Commissioner, State Tax
50	Goa	Shri Shashank Mani Tripathi	Commissioner of Excise
51	Goa	Ms Sarita S. Gadgil	Additional Commissioner, State Tax
52	Gujarat	Shri Pankaj Joshi	Additional Chief Secretary, Finance
53	Gujarat	Shri J. P. Gupta	Chief Commissioner of State Tax
54	Haryana	Shri Anurag Rastogi	Principal Secretary, Excise & Taxation
55	Haryana	Shri Shekhar Vidhyarthi	Excise & Taxation Commissioner
56	Haryana	Shri Rajeev Chaudhary	Joint Excise and Taxation Commissioner
57	Jammu and Kashmir	Dr. Arun Kumar Mehta	Financial Commissioner, Finance
58	Jammu and Kashmir	Shri P.K. Bhat	Commissioner, State Taxes
59	Jammu and Kashmir	Shri Waseem Raja	Assistant Commissioner, State Taxes
60	Jharkhand	Ms Vandana Dadel	Secretary, Commercial Tax
61	Jharkhand	Shri Santosh Kumar Vatsa	Special Secretary, CTD

62	Jharkhand	Ms Akanksha Ranjan	Commissioner, CTD
63	Jharkhand	Shri Brajesh Kumar	State Tax Officer
64	Kerala	Shri Rajesh Kumar Singh	Additional Chief Secretary (Finance)
65	Kerala	Shri Anand Singh	Commissioner of State Tax
66	Kerala	Dr. Karthikeyan	Special Commissioner, State Tax
67	Kerala	Shri Abraham Renn	Additional Commissioner, State Tax
68	Madhya Pradesh	Ms Dipali Rastogi	Principal Secretary, Commercial Taxes
69	Madhya Pradesh	Shri Raghendra Kumar Singh	Commissioner, Commercial Taxes
70	Madhya Pradesh	Shri Sudip Gupta	Joint Commissioner, Commercial Taxes
71	Maharashtra	Shri Manoj Saunik	Additional Chief Secretary, Finance
72	Maharashtra	Shri Rajgopal Devara	Principal Secretary, Financial Reforms
73	Maharashtra	Shri Sanjeev Kumar	Commissioner of State Tax
74	Maharashtra	Shri Kiran Shinde	Deputy Commissioner of State Tax
75	Manipur	Shri Charchit Gaur	Commissioner of Taxes
76	Manipur	Shri Yumnam Indrakumar Singh	Assistant Commissioner of Taxes
77	Meghalaya	Ms S. A. Synrem	Commissioner & Secretary, Excise, Registration, Taxation & Stamps
78	Meghalaya	Shri L. Khongsit	Additional Commissioner of Taxes
79	Meghalaya	Shri K. War	Deputy Commissioner of Taxes
80	Mizoram	Shri Vanlal Chhuanga	Commissioner & Secretary, Taxation Department
81	Mizoram	Shri HK Lalhawngliana	Joint Commissioner, Taxes
82	Mizoram	Shri Hrangthanmawia	ACT
83	Nagaland	Shri Y Mhathung Murry	Additional Commissioner of State Taxes
84	Odisha	Shri Ashok K. K. Meena	Principal Secretary, Finance
85	Odisha	Shri Sushil Kumar Lohani	Commissioner, CT & GST
86	Odisha	Shri N. K. Rautray	Special Secretary, Finance
87	Puducherry	Shri Shurbir Singh	Secretary (Finance)
88	Puducherry	Shri L. Kumar	Commissioner (ST)
89	Puducherry	Shri. K. Sridhar	Deputy Commissioner (ST)
90	Punjab	Shri V. K. Garg	Advisor (Financial Resources) to Chief Minister
91	Punjab	Shri A. Venu Prashad	Financial Commissioner (Taxation)
92	Punjab	Shri Nilkanth S. Avhad	Commissioner of State Taxes
93	Punjab	Shri Ravneet Khurana	Additional Commissioner (Audit)

94	Punjab	Ms Baldeep Kaur	Deputy Commissioner of State Taxes
95	Rajasthan	Shri Niranjan Arya	Additional Chief Secretary (Finance)
96	Rajasthan	Dr. Prithvi Raj	Secretary, Finance (Revenue)
97	Rajasthan	Shri Abhishek Bhagotia	Chief Commissioner, State Taxes
98	Rajasthan	Shri Ketan Sharma	Special Commissioner (GST)
99	Sikkim	Shri V.B. Pathak	Additional Chief Secretary, Finance
100	Sikkim	Shri J. D. Bhutia	Secretary/Commissioner, CT
101	Tamil Nadu	Shri S. Krishnan	Additional Chief Secretary, Finance
102	Tamil Nadu	Shri M. A. Siddique	Principal Secretary/Commissioner, Commercial taxes
103	Tamil Nadu	Dr.Beela Rajesh	Secretary, Commercial Taxes & Registration
104	Telangana	Shri Somesh Kumar	Chief Secretary
105	Telangana	Ms Neetu Prasad	Commissioner, CT
106	Telangana	Shri Laxminarayan Jannu	Additional CCT
107	Telangana	Shri N. Sai Kishore	Joint CCT
108	Tripura	Dr Vishal Kumar	Chief Commissioner of State Tax
109	Tripura	Dr Sudip Bhowmik	Deputy Commissioner of State Tax
110	Tripura	Shri Badal Baidya	Assistant Commissioner of State Tax
111	Uttarakhand	Shri Ahmed Iqbal	Commissioner of State Tax
112	Uttarakhand	Shri Anil Singh	Additional Commissioner
113	Uttarakhand	Dr Sunita Pandey	Joint Commissioner
114	Uttarakhand	Shri Anurag Mishra	Joint Commissioner
115	Uttarakhand	Shri S. S. Tiruwa	Deputy Commissioner
116	Uttarakhand	Shri Ranjeet Negi	Assistant Commissioner
117	Uttar Pradesh	Shri Alok Sinha	APS/ACS, State Tax
118	Uttar Pradesh	Ms Amrita Soni	Commissioner, Commercial Tax
119	Uttar Pradesh	Shri Sanjay Kumar Pathak	Joint Commissioner(GST), Commercial Tax HQ
120	West Bengal	Shri Manoj Pant	Principal Secretary, Finance
121	West Bengal	Ms Smaraki Mahapatra	Secretary (Budget)
122	West Bengal	Shri Devi Prasad Karanam	Commissioner of State Tax
123	West Bengal	Shri Khalid Aizaz Anwar	Joint Secretary, Finance

Annexure 5



Act/Rules	Notification/Circular/Order Nos.	Description/Remarks
CGST Act/CGST Rules	26 Central Tax Notifications No. 48-73/2020 & 1 Central tax Rate Notification issued	6 Amendments (2020) to CGST Rules, 2017, Giving effect to select provisions of Finance Act 2020, COVID relief Notification, Council Decisions etc.
UTGST Act	Union Territory Tax	1. Notification No. 02/2020 - Union Territory Tax dated 24.06.2020 2. Notification No. 04/2020 - Union Territory Tax (Rate) dated 30.09.2020
IGST Act	Integrated Tax	1. Notification No. 04/2020 - Integrated Tax dated 24.06.2020 2. Notification No. 05/2020 - Integrated Tax dated 24.06.2020 3. Notification No. 04/2020 - Integrated Tax (Rate) dated 30.09.2020
Circulars	CGST Act, 2017	Circular No. 141/11/2020 - GST dated 24.06.2020
Removal of Difficulty Order	CGST Act, 2017	Order No. 01/2020-Central Tax dated 25.06.2020

Agenda 3: GIC decisions post 41st Meeting of GST Council (1/6)

17 GIC decisions by circulation on:

4th June, 2020, 5th June, 2020, 19th June, 2020, 25th June, 2020, 29th June, 2020, 7th July 2020, 22nd July 2020, 23rd July 2020, 4th August 2020, 7th August 2020, 30th August 2020, 14th September 2020, 23rd September 2020, 24th September 2020, 25th September 2020, 29th September 2020 & 30th September 2020

- The important proposals placed before the GIC were regarding
 - (i) data sharing with the office of CAG
 - (ii) revised e-invoice schema
 - (iii) Late fee capping for GSTR-4 and GSTR-10
 - (iv) E-invoice - enabling provision for power to exempt issuance of e-invoice on the recommendation of the Council
 - (v) Extension of Dynamic QR Code on B2C Invoices
 - (vi) One time relaxation in e-invoice provisions for implementation during October 2020
 - (vii) GST exemption on transport of export goods by air and sea which is currently valid till 30.09.2020 was extended till 30.09.2021

Agenda 4: Cases recommended by IT GRC-Time for filing TRAN-1/TRAN-2

- Decisions / Recommendations of the 13th ITGRC (held on 1st September 2020) for information of the Hon'ble Council. (**Page No. 132 of Vol-1 of the Agenda Note**)
 - 26 Cases (including Court Cases) recommended by the IT GRC
 - 20 more cases pending with GSTN as on 21.09.2020
 - In terms of Rule 117(1A) read with Notification 35/2020-Central tax as amended, last date for allowing filing TRAN-1 / TRAN-2 declarations based on IT GRC was 31.08.2020
 - Law Committee considered the issue on 09.09.2020 and took a view that any extension may adversely affect Government stand in Brand Equity SLP
 - Issue placed before the GST Council for appropriate decision keeping in view
 - The cases approved by ITGRC & those pending with GSTN
 - There must be an end date for processing of TRAN-1 cases by GSTN and ITGRC as it is more than 3 years from appointed day and almost 3 years from the 27-12-2017;

Agenda 5: Return Enhancement and Advancement Project (REAP) (1/3)

- In order to smoothen the rollout and to ensure a better uptake of the new return system, the Council in the 39th Meeting held on 14th March, 2020 recommended that the transition in an incremental manner
- The following roadmap was suggested:-
- The tax liability be auto-populated in GSTR-3B from invoice wise details furnished in GSTR-1
- A new statement GSTR-2B to be introduced as an auto-drafted ITC statement on the basis of the GSTR-1s filed by the taxpayers between fixed dates
- The ITC to be auto-populated in GSTR-3B from GSTR-2B shall be- to be editable upto a particular limit
- Quarterly Returns with Monthly payment for small taxpayers (89% of the Taxpayers paying 13% revenue) needs to be revisited

Return Enhancement and Advancement Project (REAP) (2/3)

Item	Description	Date of implementation
Nil filing of GSTR 3B by SMS	To reduce the compliance burden of 20-22 lakh small taxpayers (20 – 22 lac taxpayers)	04-06-2020
Nil filing of GSTR-1 via SMS	To reduce the compliance burden of 20-22 lakh small taxpayers (20 – 22 lac taxpayers)	30-06-2020
Auto-population of liabilities from GSTR-1 to GSTR-3B for Monthly Taxpayer	To eliminate any error and as a help to the taxpayer.	03-09-2020
Documents considered for ITC computation for the month based on Cut-off date (GSTR-2B)	GSTR-2B introduced where irrespective of the date of invoices, all GSTR-1s filed by the 11 th of the month are auto-populated in the month's GSTR-2B. ITC passed on only reported invoices Crucial for auto-population and locking of ITC in GSTR-3B. This also includes IGST paid on imports.	28-08-2020
Enhancement of existing comparison report of auto-drafted and filed values for GSTR-3B	Reports on liability auto-populated on the basis of GSTR-1 and filed by the taxpayer in GSTR-3B along with ITC taken in GSTR3B and that accruing in GSTR2A/2B are shown here month-wise including ITC on imports (IGST paid on import).	21-08-2020
Matching Tool for matching GSTR2B and the Purchase register	This enables taxpayer to find out invoices not uploaded by supplier or invoices where some discrepancies exists vis-à-vis those in purchase register	13-09-2020
Import data as part of GSTR-2A download and GSTR-3B Auto-population	Import data now provided in GSTR-2A/2B- being auto-populated to GSTR-3B.	26-08-2020
Delinking of credit/debit notes with invoices in GSTR-1/GSTR-6	Law was amended to delink credit/debit notes with invoices. This has been provided in GSTR-1	03-09-2020
Providing detail of invoices considered for computation in table 8A of GSTR-9	This is a useful tool for taxpayers to reconcile their GSTR-2A data with credit taken by taxpayers in GSTR-3B.	16-08-2020

Agenda 5: Auto-Population of Returns-REAP (3/3)



- Flow of tax liability from GSTR1 to GSTR3B
- Flow of Input Tax Credit (ITC) from GSTR2B to GSTR3B.
- Flow of IGST paid on import.

Already in place

- Generate liability and ITC and show them to taxpayers.

From Oct 2020

- Auto-populate GSTR1 based in B2B e-invoice reported (first by large taxpayers)
- Later bring more taxpayers

From Dec 2020

- Auto-flow it to GSTR3B and allow editing



Agenda 5: Quarterly Return and Monthly Payment Scheme (QRMP)



- As part of the Return Enhancement and Advancement Project (REAP), a different approach to return system for small taxpayers needs to be adopted
- Proposal is that such taxpayers will have option to file quarterly GSTR-1 and GSTR-3B.
 - Quarterly Filer for Month M1 and M2 :
 - May either file a challan of their self assessed cash liability for the month (net of ITC) or file challan of 35% of their net cash liability filed in their last filed FORM GSTR-3B
 - Quarterly Filer for Month M3:
 - Mandatorily file FORM GSTR-1Q for the entire quarter
 - Mandatorily file FORM GSTR-3B for the entire quarter with complete self-assessed
 - Optional Facility to be provided to quarterly taxpayers to only file their invoices in month M1 and M2. However, return for the same will be file in month M3 only.

Quarterly Return and Monthly Payment Scheme (QRMP)

- QRMP proposed to be available from 01.01.2021-option to be made available from 01.12.2020
- **Proposal:** Principles outlined here are placed for in-principle approval of the GST Council:
 - For month M1 and M2 of the quarter they will file one challan PMT-06 for their liability (net of ITC)
 - Option to estimate tax liability or pay 30 or 35% of the cash paid in last quarter
 - Continuous invoice filing facility (IFF) to be made available in M1 and M2
 - Law Committee will work out the legal framework

Agenda 6: Law Committee Recommendations

6(i): Extension of Existing (GSTR-1 & GSTR-3B) Return System (1/2)

- GSTR 1 extension and GSTR 3B are valid till 30th September 2020 only.
- GST Council in the 39th Meeting decided on incremental approach to new return system by enhancing existing return system
- Return Enhancement and Advancement Project (REAP) to get completed by 1st April 2021
- **Proposal: GSTR 3B and GSTR 1 may be prescribed till 31.03.2020 by which the legal changes would be made**

6(i): Extension of Existing (GSTR-1 & GSTR-3B) Return System (2/2)

- Present law is based on GSTR 1/2/3 design and/or the GST new return design, both of which is not the true play of GST compliance.
- **Proposal: The law relating to GST return may be aligned with GSTR1 and GSTR3B based compliance**
- Also due date of quarterly GSTR-1 needs to be changed so that GSTR 2B in M4 can contain both monthly and quarterly data
- **Proposal: Due date for GSTR-1 for quarterly filers may be made 13th of the month succeeding the quarter from present position of last date of the month succeeding the quarter**

6(ii): Annual Return/Reconciliation Statement for 2019-20

- **Proposal:** Form for Annual Returns (FORM 9/9C) for FY 2019-20: same as for 2018-19 except
 - Filing of details of ITC availed on capital goods &
 - Tables 8A to 8D (ITC Data) -to be made mandatory.
- **Decision Point: Threshold for optional filing of GSTR-9/9C to be decided**
 - LC recommended status quo i.e. GSTR-9 optional for turnover upto Rs. 2 Cr. and GSTR-9C mandatory for turnover above Rs. 5 Cr.
 - 14,51,201 taxpayers would be required to file GSTR-9 and 7,21,808 taxpayers would be required to file GSTR-9C for 2019-20 if same limits as prescribed for 2018-19 are kept
 - It's noteworthy that 2,01,860 i.e. just 1.97% of the taxpayers having Turnover > Rs. 20 Cr. contributed 83.78% Tax in 2019-20
- **Proposal: Clarification regarding GSTR-9A for 2019-20 being optional in view of \annual return being optional for taxpayers having turnover upto Rs. 2 Cr.**

6(iii): GSTR 1 related issues (1/2)

- **GSTR 1 filing before GSTR 3B**
 - GSTR 1 is required to be filed before GSTR 3B but no discipline since GSTR 3B can be filed independently unlike the GSTR 1/2/3 design
 - Perception that non filing of GSTR 1 has no repercussions vis-à-vis the Tax Administration
 - Filing of GSTR-1 before GSTR 3B is required for ensuring matching of credit, auto population of credit and liability in GSTR 3B as proposed under REAP
- **Proposal:**
- **Take measures to ensure GSTR 1 filing mandatory before GSTR3B from 01.04.2021**
 - Waive the GSTR-1 late fee if the same is filed before GSTR-3B
 - Blocking of e-way bills to be enabled on system from 01.04.2021 if two consecutive GSTR-1s not filed

Agenda 6(iii): GSTR 1 related issues (2/2)

- GSTR 1 Late Fee and Interest recovery
 - Currently only GSTR 3B late fee is populated in GSTR 3B. Late fee is leviable on GSTR 1. Interest even on net basis is not being paid
 - Arrears of late fee and interest are difficult to collect afterwards and arrears are over Rs. 10000 Cr.
 - Proposal:
 - Populate GSTR-1 late fee in next GSTR 3B and
 - Populate interest for late payment of tax also in next GSTR-3B from 01.04.2021
 - For interest calculation assumption that the entire liability is for the current tax period.
 - Facility to add interest if part of the liability being declared in GSTR 3B pertains to earlier tax periods.

Agenda 6(iv): Change in HSN requirement

- GST council had decided to keep the HSN requirement relaxed for a period of 2-3 years. Further, data quality in Table 12 is also poor and sectoral analysis is very difficult.
 - Proposal:
 - Make 6 digit HSN for goods and 6 digit SAC for services mandatory for taxpayers above Rs. 5 Cr. turnover w.e.f. 01.04.2021
 - Make 4 digit HSN/SAC compulsory on B2B supplies by taxpayers below Rs. 5 Cr. turnover w.e.f. 01.04.2021
 - Power to notify 8 digit HSN on notified class of supplies by all taxpayers
 - Modify GSTR-1 to include Rate in Table 12 to have better sectoral data w.e.f. 01.04.2021

Agenda 6(v): Refund in validated Account

- Introducing concept of Validated account for Refunds
 - Bank account validation for those seeking refund of ITC or IGST
 - Validation based on PAN and Aadhaar used for registration
 - **Proposal:**
 - Refund to be given only in a PAN & Aadhaar linked Bank account of the claimant
 - Aadhaar revalidation at the time of filing refund application

Agenda 6(vi): Amendment in CGST Rules

- **Proposal: Waiver of blocking of e-way bill during COVID period**
 - Waiver of blocking of e-way bill during COVID period from **20.03.2020 to 14.10.2020** - to be given legal backing through a proviso in CGST Rule 138E
 - Blocking to be reinitiated from 15.10.2020 for taxpayers with turnover > Rs. 5 Cr.
- **Proposal: NIL filing of CMP-08 through SMS** from a date to be notified-change in CGST Rule 67
- **Proposal: Change in rule 142(1A)** making communication of demand ascertained by the officer in FORM DRC-01A optional
- **Proposal: Changes in forms-RFD-01, GSTR-5** (non-resident) to include reverse charge liability, **GSTR-5A (OIDAR)** to include place of supply and **Provision for declaring fee** in DRC-1,2,7,8,9,24,25 & ASMT-16

6(vii): Inclusion of GST Laws in Economic Offences (Inapplicability of Limitation) Act, 1974

- Offences under GST Laws subject to general Limitation under Chapter XXXVI of Cr. PC
- Existing Laws were listed in the Schedule to the Economic Offences (Inapplicability of Limitation) Act, 1974
- Proposal: GST Laws also to be included in Schedule to GST Laws in Economic Offences (Inapplicability of Limitation) Act, 1974 so as to exclude from said limitation
- Similar Acts exist in States also (Karnataka, Maharashtra etc.)
- Proposal: SGST Act to be included in the Schedule of respective Acts or if such an Act is not there, then proposal is to insert proviso to Section 134

Thank You

Agenda Item 2 – Deemed Ratification of Notifications and Circulars by the GST Council

In the 22nd meeting of the GST Council held at New Delhi on 06th 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 42nd meeting held on 05.10.2020 and 12.10.2020, the GST Council had ratified all the Notifications, Circulars, and Orders issued up to 30.09.2020.

2. In this respect, the following Notifications and Circulars issued after 30.09.2020 till 18.05.2021 under the GST laws by the Central Government, as available on www.cbic.gov.in, are placed before the Council for information and ratification: -

Act/Rules	Type	Notification/Circular/Order Nos.	Description/Subject
Notification under CGST Act/CGST Rules	Central Tax	1. Notification No. 73/2020-Central Tax dated 01.10.2020	Seeks to notify a special procedure for taxpayers for issuance of e-invoices in the period 01.10.2020 - 31.10.2020.
		2. Notification No. 74/2020-Central Tax dated 15.10.2020	Seeks to prescribe the due date for furnishing FORM GSTR-1 for the quarters October, 2020 to December, 2020 and January, 2021 to March, 2021 for registered persons having aggregate turnover of up to 1.5 crore rupees in the preceding financial year or the current financial year.
		3. Notification No. 75/2020-Central Tax dated 15.10.2020	Seeks to prescribe the due date for furnishing FORM GSTR-1 by such class of registered persons having aggregate turnover of more than 1.5 crore rupees in the preceding financial year or the current financial year, for each of the months from October, 2020 to March, 2021.
		4. Notification No. 76/2020-Central Tax dated 15.10.2020	Seeks to prescribe return in FORM GSTR-3B of CGST Rules, 2017 along with due dates of furnishing the said form for October, 2020 to March, 2021.
		5. Notification No. 77/2020-Central Tax dated 15.10.2020	Seeks to make filing of annual return under section 44 (1) of CGST Act for F.Y. 2019-20 optional for small taxpayers whose aggregate turnover is less than Rs 2 crores and who have not filed the said return before the due date.
		6. Notification No. 78/2020-Central Tax dated 15.10.2020	Seeks to notify the number of HSN digits required on tax invoice

Act/Rules	Type	Notification/Circular/Order Nos.	Description/Subject
		7. Notification No. 79/2020-Central Tax dated 15.10.2020	Seeks to make the Twelfth amendment (2020) to the CGST Rules.2017.
		8. Notification No. 80/2020-Central Tax dated 28.10.2020	Seeks to amend notification no. 41/2020-Central Tax dated 05.05.2020 to extend due date of return under Section 44 of CGST Act, 2017 till 31.12.2020.
		9. Notification No. 81/2020-Central Tax dated 10.11.2020	Seeks to notify amendment carried out in sub-section (1), (2) and (7) of section 39 vide Finance (No.2) Act, 2019.
		10. Notification No. 82/2020-Central Tax dated 10.11.2020	Seeks to make the Thirteenth amendment (2020) to the CGST Rules, 2017
		11. Notification No. 83/2020-Central Tax dated 10.11.2020	Seeks to extend the due date for FORM GSTR-1
		12. Notification No. 84/2020-Central Tax dated 10.11.2020	Seeks to notify class of persons under proviso to section 39(1) of CGST Act, 2017.
		13. Notification No. 85/2020-Central Tax dated 10.11.2020	Seeks to notify special procedure for making payment of 35% as tax liability in first two month
		14. Notification No. 86/2020-Central Tax dated 10.11.2020	Seeks to rescind Notification 76/2020-Central tax dated 15.08.2020.
		15. Notification No. 87/2020-Central Tax dated 10.11.2020	Seeks to extend the due date for furnishing of FORM ITC-04 for the period July- September 2020 till 30th November, 2020.
		16. Notification No. 88/2020-Central Tax dated 10.11.2020	Seeks to implement e-invoicing for the taxpayers having aggregate turnover exceeding Rs. 100 Cr from 01st January 2021.
		17. Notification No. 89/2020-Central Tax dated 29.11.2020	Seeks to waive penalty payable for noncompliance of the provisions of notification No.14/2020 – Central Tax, dated the 21st March, 2020.

Act/Rules	Type	Notification/Circular/Order Nos.	Description/Subject
		18. Notification No. 90/2020-Central Tax dated 01.12.2020	Seeks to make amendment to Notification no. 12/2017-Central Tax dated 28.06.2017.
		19. Notification No. 91/2020-Central Tax dated 14.12.2020	Seeks to extend the due dates for compliances and actions in respect of anti-profiteering measures under GST till 31.03.2021.
		20. Notification No. 92/2020-Central Tax dated 22.12.2020	Seeks to bring into force Sections 119,120,121,122,123,124,126,127 and 131 of Finance Act, 2020(12 of 2020).
		21. Notification No. 93/2020-Central Tax dated 22.12.2020	Seeks to waive late fee for FORM GSTR-4 filing in UT of Ladakh for Financial year 2019-20.
		22. Notification No. 94/2020-Central Tax dated 22.12.2020	Seeks to make the Fourteenth amendment (2020) to the CGST Rules, 2017.
		23. Notification No. 95/2020-Central Tax dated 30.12.2020	Seeks to extend the time limit for furnishing of the annual return specified under section 44 of CGST Act, 2017 for the financial year 2019-20 till 28.02.2021.
		24. Notification No. 01/2021-Central Tax dated 01.01.2021	Seeks to make amendment (2021) to CGST Rules, 2017.
		25. Notification No. 02/2021-Central Tax dated 12.01.2021	Notifying amendment to jurisdiction of Central Tax officers.
		26. Notification No. 03/2021-Central Tax dated 23.02.2021	Seeks to notify persons to whom provisions of sub-section (6B) or sub-section (6C) of section 25 of CGST Act, 2017 will not apply.
		27. Notification No. 04/2021-Central Tax dated 28.02.2021	Seeks to extend the time limit for furnishing of the annual return specified under section 44 of CGST Act, 2017 for the financial year 2019-20 till 31.03.2021.
		28. Notification No. 05/2021-Central Tax dated 08.03.2021	Seeks to implement e-invoicing for the taxpayers having aggregate turnover exceeding Rs. 50 crores from 01 st April 2021.

Act/Rules	Type	Notification/Circular/Order Nos.	Description/Subject
		29. Notification No. 06/2021-Central Tax dated 30.03.2021	Seeks to waive penalty payable for non-compliance of provisions of Notification No. 14/2020 dated 21st March 2020.
		30. Notification No. 07/2021-Central Tax dated 27.04.2021	Seeks to make second amendment (2021) to CGST Rules, 2017.
		31. Notification No. 08/2021-Central Tax dated 01.05.2021	Seeks to provide relief by lowering of interest rate for the month of March and April, 2021.
		32. Notification No. 09/2021-Central Tax dated 01.05.2021	Seeks to amend notification no. 76/2018-Central Tax dated 31.12.2018 in order to provide waiver of late fees for specified taxpayers and specified tax periods.
		33. Notification No. 10/2021-Central Tax dated 01.05.2021	Seeks to extend the due date for filing FORM GSTR-4 for financial year 2020-21 to 31.05.2021.
		34. Notification No. 11/2021-Central Tax dated 01.05.2021	Seeks to extend the due date for furnishing of FORM ITC-04 for the period Jan-March, 2021 till 31st May, 2021.
		35. Notification No. 12/2021-Central Tax dated 01.05.2021	Seeks to extend the due date of furnishing FORM GSTR-1 for the month of April, 2021.
		36. Notification No. 13/2021-Central Tax dated 01.05.2021	Seeks to make third amendment (2021) to CGST Rules, 2017.
		37. Notification No. 14/2021-Central Tax dated 01.05.2021	Seeks to extend specified compliances falling between 15.04.2021 to 30.05.2021 till 31.05.2021 in exercise of powers under section 168A of CGST Act, 2017.
		38. Notification No. 15/2021-Central Tax dated 18.05.2021	Seeks to make fourth amendment (2021) to CGST Rules, 2017.
	Central Tax (Rate)	1. Notification No. 05/2020-Central Tax (Rate), dated 16.10.2020	To amend notification No. 12/2017- Central Tax (Rate) so as to exempt satellite launch services provided by ISRO, Antrix Co. Ltd and NSIL as recommended by GST Council in its 42 nd meeting held on 05.10.2020.

Act/Rules	Type	Notification/Circular/Order Nos.	Description/Subject
Notifications under UTGST Act	Union Territory Tax	1. Notification No. 01/2021-Union Territory Tax dated 01.05.2021.	Seeks to provide relief by lowering of interest rate for the month of March and April, 2021.
	Union Territory Tax (Rate)	1. Notification No. 05/2020-Union Territory Tax (Rate), dated 16.10.2020	To amend notification No. 12/ 2017- Union Territory Tax (Rate) so as to exempt satellite launch services provided by ISRO, Antrix Co. Ltd and NSIL as recommended by GST Council in its 42 nd meeting held on 05.10.2020.
Notifications under IGST Act	Integrated Tax	1. Notification No. 06/2020 - Integrated Tax dated 15.10.2020	Seeks to notify the number of HSN digits required on tax invoice.
		2. Notification No. 01/2021 – Integrated Tax dated 01.05.2021	Seeks to provide relief by lowering of interest rate for the month of March and April, 2021
	Integrated Tax (Rate)	1. Notification No. 05/2020-Integrated Tax (Rate), dated 16.10.2020	To amend notification No. 9/ 2017- Integrated Tax (Rate) so as to exempt satellite launch services provided by ISRO, Antrix Co. Ltd and NSIL as recommended by GST Council in its 42 nd meeting held on 05.10.2020.
Circulars under CGST Act, 2017		1. Circular No. 142/12/2020-GST dated 09.10.2020	Clarification of issues relating to application of sub-rule (4) of rule 36 of the CGST Rules, 2017, cumulatively for the months of February, 2020 to August, 2020.
		2. Circular No. 143/13/2020-GST dated 10.11.2020	Clarification regarding the provisions relating to Quarterly Return Monthly Payment (QRMP) Scheme
		3. Circular No. 144/14/2020-GST dated 15.12.2020	Waiver from recording of UIN on the invoices for the months of April, 2020 to March, 2021.
		4. Circular No. 145/01/2021-GST dated 11.02.2021	Standard Operating Procedure (SOP) for implementation of the provision of suspension of registrations under sub-rule (2A) of rule 21A of CGST Rules, 2017.

Act/Rules	Type	Notification/Circular/Order Nos.	Description/Subject
		5. Circular No. 146/02/2021-GST dated 23.02.2021	Clarification in respect of applicability of Dynamic Quick Response (QR) Code on B2C invoices and compliance of notification 14/2020- Central Tax dated 21 st March, 2020.
		6. Circular No. 147/03/2021-GST dated 12.03.2021	Seeks to clarify certain refund related issues.
		7. Circular No. 148/04/2021-GST dated 18.05.2021	Seeks to prescribe Standard Operating Procedure (SOP) for implementation of the provision of extension of time limit to apply for revocation of cancellation of registration under section 30 of the CGST Act, 2017 and rule 23 of the CGST Rules, 2017.

3. The GST Council may grant deemed ratification to the Notifications and Circulars as detailed above.

Agenda Item 3: Decisions of the GST Implementation Committee (GIC) for information of the GST Council.

The GST Implementation Committee (GIC) took certain decisions between 9th September 2020 and 1st May 2021. Due to the urgency involved and due to prevailing Covid-19 situations most of the decisions were taken after obtaining approval by circulation amongst GIC members. There were only three meetings of GIC viz. the 36th meeting held on 03rd November 2020, the 37th GIC meeting held on 15th December 2020 and the 38th GIC meeting held on 12th January 2021. The details of the decisions taken are given below:

Decisions of GIC by circulation on 14 September 2020

Agenda Note 1: Reduction in late fee for non-filing of FORM GSTR-4 for the quarterly tax periods from July 2017 to March 2019 & FORM GSTR 10 - One-time amnesty to clean up pendency in return filing in GST regime

2.1 In the Agenda Note it had been mentioned that based on the recommendations of the GST Council, waiver/reduction in late fee for not furnishing FORM GSTR-3B for tax periods July 2017 to January 2020 has been provided vide Notification No.52/2020 -Central Tax dated 24.06.2020. It provides for:

- i. Zero late fee for taxpayers, who did not have any tax liability for the said tax periods and are thus required to file NIL return;
- ii. A late fee of fifty rupees per day (Rs. 25/- under CGST Act plus Rs 25/- under SGST Act) for non-filing of returns as currently applicable subject to a maximum of Rs 500/- (Rs. 250/- each for CGST & SGST) per return as against ceiling of Rs. 10000/- (Rs. 5000/- each for CGST & SGST) at present by taxpayers other than those having NIL liability; subject to the condition that the returns are filed between 01.07.2020 to 30.09.2020

2.2 It is stated that representations have been received from trade & industry seeking similar waiver/reduction of late fee for delay in filing return in FORM GSTR-4 by composition taxpayers. The filing percentage of FORM GSTR-4, as on 18th August 2020, is as below:

Quarter ending	Eligibility	Filed	%age of Filing
Sep'17	11,41,565	10,22,994	89.61%
Dec'17	17,24,344	15,33,819	88.95%
Mar'18	19,31,061	15,91,018	82.39%
Jun'18	17,66,630	15,69,195	88.82%
Sep'18	17,74,379	15,34,021	86.45%
Dec'18	17,57,919	14,92,068	84.88%
Mar'19	17,52,540	14,38,572	82.08%

2.3 It is noted that in the past late fee waiver of **GSTR-3B** and **GSTR-4** have been given together, GST Council may deliberate whether in view of such high percentage of **GSTR-4** filing, late fee waiver/capping at Rs. 500 is required at this stage. A request on these lines has been received from Tax Bar Association, Amravati, Maharashtra, and multiple such requests have been made through social media platforms also.

2.4 It is further noted that representations have also been received seeking waiver/reduction in late fee in furnishing **FORM GSTR-10** (final return). Under section 45, every registered person who is required to furnish a return under sub-section (1) of section 39 and whose registration has been cancelled shall furnish a final return within three months of the date of cancellation or date of order of cancellation, whichever is later, in **FORM GSTR-10**. For delay in filing final return in **FORM GSTR-10** also, a late fee is levied under section 47 amounting to one hundred rupees every day for each of CGST and SGST subject to a maximum amount of five thousand rupees for each tax thus applicable late fee is Rs. 200 per day, subject to a maximum of Rs. 10,000.

2.5 These requests were deliberated by the Law Committee in its meeting held on 02.09.2020, wherein following has been recommended:

- late fee for non-filing of **FORM GSTR-4** for 2017-18 and 2018-19 be capped to a maximum of Rs 500/- (Rs. 250/- each for CGST & SGST) per return and completely waived for taxpayers filing NIL **FORM GSTR-4**, subject to the condition that the returns are filed between 20.09.2020 to 31.10.2020;
- late fee for non-filing of **FORM GSTR-10** (Final Return) be capped to a maximum of Rs 500/- (Rs. 250/- each for CGST & SGST), subject to the condition that the returns are filed between 20.09.2020 to 31.12.2020.

Agenda Note 2: One time extension for the time limit under Section 31(7) of the CGST Act 2017 for the purpose of Re-import of goods exported on consignment basis

3.1 In the said Agenda Note reference was invited to representations received from Gems and Jewellery Export Promotion Council [GJEPC] requesting an extension of time for issue of invoice in respect of consignment exports/sales on approval basis, specially where such goods were sent abroad and where it hasn't been possible to get the same back within prescribed time limits due to non-availability of regular flights. The related provisions are contained in sub-section (7) of section 31 of the CGST Act 2017. The same is reproduced hereunder:

“(7) Notwithstanding anything contained in sub-section (1), where the goods being sent or taken on approval for sale or return are removed before the supply takes place, the invoice shall be issued before or at the time of supply or six months from the date of removal, whichever is earlier.

Explanation.—For the purposes of this section, the expression “tax invoice” shall include any revised invoice issued by the supplier in respect of a supply made earlier.”.

3.2 It is noted that GJEPC has represented that due to the current situation of outbreak of COVID-19 pandemic, import and export activities are disrupted everywhere, and it has become practically impossible to re-import the goods sent on consignment/approval basis within the stipulated period of six months. A Similar challenge is being faced in respect of goods sent locally on approval basis, which are not sold. The compliance related relaxation provided by the Government under section 168A of the CGST Act has

excluded section 31 from its ambit, and therefore they have requested that compliances relating to section 31(7) may be relaxed starting from 1st February, 2020.

3.3 It is further submitted that notification No. 35/2020-Central Tax, dated 03.04.2020, which was issued under section 168A of the CGST Act to provide an extension in the due date of compliances due to the Covid-19 pandemic, contained an exclusion clause wherein, inter-alia, Chapter IV (time and value of supply) and section 31 are excluded. Accordingly, if any goods sent on approval for sale basis are not returned within a period of six months, then the invoice shall be issued on completion of six months from the date of removal. Further, the lockdown, resulting in restriction in movement of persons / goods was ordered by the Government with effect from 20th March, 2020.

3.4 The issue was deliberated by the Law Committee in its meeting held on 19.08.2020 and 02.09.2020. The Law Committee recommended that the relaxation in compliances under section 31(7) be restricted to goods which have been sent out of India for sale on approval basis, and the said relaxation may not be extended to goods sent on approval basis within India. The Law Committee further recommended that the relaxation may be provided to all goods and may not be limited to Gems and Jewellery alone. The Law Committee has recommended extension of compliances under section 31(7) till 31.10.2020

3.5. The proposals were put before the GIC and the GIC approved the proposals.

Decisions of GIC by circulation on 23 September 2020

Agenda Note 1: GST exemption on transport of goods by air which is currently valid till 30.09.2020 may be extended till 30.09.2021.

4.1 In the Agenda Note it had been mentioned that Air Cargo Agents Association of India has requested that GST exemption on transport of goods by air which is currently valid till 30.09.2020 may be extended till 30.09.2021.

4.2 The services by way of transportation of goods by air or by sea from customs station of clearance in India to a place outside India are currently exempt from GST till 30.09.2020 [entry 19A & 19B of notification No. 12/2017-CT(R) refer]. Upon the recommendation of the 25th GST Council held on 18.01.2018 the exemptions were initially given on 25.01.2018 valid till 30.09.2018 in view of the reported delays faced by exporters in getting refund of GST paid on the transport of export goods.

4.3 The validity of the exemptions was subsequently extended twice by one year on each occasion as recommended by the 28th and 37th GST Council Meetings and the same are currently valid till 30.09.2020.

4.4 Keeping in view the present situation, post Covid, withdrawal of this exemption at this stage would cause hardship to exporters in terms of cash flow with no significant gains to revenue as the GST so collected shall have to be refunded to exporters, being as it relates to exports. Further, civil aviation sector is going through rough patch and airlines have defaulted in payment of GST. Hence, at this stage it would be appropriate to extend the exemption by another year, i.e. upto 30th September 2021. As such there is no revenue implication of the proposal as the services are creditable and the exporter is entitled to take refund of GST paid on them.

4.5 Therefore, an agenda note was circulated to the Fitment Committee on 10.09.2020 for comments on the proposal to extend GST exemption on services by way of transportation of goods by air or by sea from customs station of clearance in India to a place outside India by one more year upto 30th September, 2021. All member-states of the fitment committee have expressed their concurrence to the proposal.

4.5.1 Maharashtra while approving the proposal has stated as under:

“This exemption has been extended twice in the past. As explained aforesaid if there is no revenue implication then it is the considerate view of the State Tax Department that instead of extending the exemption benefit every year, we should grant permanent exemption on such services.”

4.6 Exporters are entitled to refund of GST paid on export freight. As such there is no loss on account of the said exemption. However, this does affect the cash flow and interest income of the Government. Moreover, it is always desirable in a VAT system to keep exemptions to the minimum and ensure integrity of the ITC chain. Therefore, it is proposed that for the time being, on account of the unprecedented situation due to Covid, we may extend the exemption by one more year upto 30.09.2021.

4.7 Since the present exemptions were expiring on 30.09.2020 and the next GST Council meeting was scheduled on 05.10.2020, it was proposed that GIC may recommend extension of the exemptions in question by one year, i.e. upto 30.09.2021.

4.8. The proposal was put before the GIC and the GIC approved the proposal.

Agenda Note 2: E-invoice: Enabling provision for power to exempt issuance of e-invoice on the recommendation of the Council and related issues.

5.1 In the said Agenda Note, reference was invited to Sub-rule (4) and (5) of rule 48 of the Central Goods and Services Tax Act, 2017 (CGST Act) which prescribe for issuance of e-invoice. The same are reproduces hereunder:

*“(4)The invoice shall be prepared by such class of registered persons as may be notified by the Government, on the recommendations of the Council, by including such particulars contained in **FORM GST INV-01** after obtaining an Invoice Reference Number by uploading information contained therein on the Common Goods and Services Tax Electronic Portal in such manner and subject to such conditions and restrictions as may be specified in the notification.*

(5)Every invoice issued by a person to whom sub-rule (4) applies in any manner other than the manner specified in the said sub-rule shall not be treated as an invoice.”

5.2 GSTN has conducted various webinars on the e-invoice and has presented various issues raised by the stakeholders before the Law committee. One of the concerns raised was that in the existing rule there is no provision of exemption from e-invoice if there is interruption on account of internet connectivity or some other reasons.

5.3 The issue was deliberated in the Law Committee in its meeting held on 19.08.2020. It was discussed that the temporary glitches like internet connectivity, power failure etc. would not be a cause of concern for taxpayers as the details of the invoices can be submitted on IRP portal within 24 hours. The concern is when there are issues related to natural calamities like flood, cyclone etc. where the disruption is for a longer period. Law Committee recommended to have provision in the rule to cater to such situations and accordingly recommended to insert a proviso to sub-rule (4) of rule 48 whereby Government may issue notification to exempt such class of registered person from e-invoicing for specified time period. The draft proviso proposed to be inserted is as below:

“Provided that the Commissioner may, on the recommendations of the Council, by notification, exempt a person or a class of registered persons from issuance of invoice under this sub-rule for a specified period, subject to such conditions and restrictions as may be specified in the said notification.”.

5.4 It was further mentioned that notification under sub-rule (4) of rule 48 was issued vide notification No. 13/2020-Central Tax, dated 21.03.2020, to specify the class of taxpayers required to issue e-invoice. It was amended vide notification No. 61/2020 - Central Tax, dated the 30.07.2020. The notification as amended is reproduced as below:

*“In exercise of the powers conferred by sub-rule (4) of rule 48 of the Central Goods and Services Tax Rules, 2017(hereinafter referred as said rules), the Government on the recommendations of the Council, and in supersession of the notification of the Government of India in the Ministry of Finance, Department of Revenue No. 70/2019-Central Tax, dated the 13th December, 2019, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 926(E), dated the 13th December, 2019, except as respects things done or omitted to be done before such supersession, hereby notifies registered person, other than a Special Economic Zone unit and those referred to in sub-rules (2), (3), (4) and (4A) of rule 54 of the said rules, whose **aggregate turnover in a financial year** exceeds five hundred crore rupees, as a class of registered person who shall prepare invoice and other prescribed documents, in terms of sub-rule (4) of rule 48 of the said rules **in respect of supply of goods or services or both to a registered person.***

2. This notification shall come into force from the 1st October, 2020.”

5.5 While discussing various doubts raised by taxpayers during webinars conducted by GSTN, the following issues have been noticed in the notification No 13/2020-CT which were deliberated in the Law committee:

- i. The Eligibility i.e. “aggregate turnover in a financial year” will include present financial year also and hence is a dynamic concept. This will be difficult to monitor, and therefore, Law Committee recommended that “aggregate turnover in a financial year” may be substituted with “aggregate turnover in any preceding financial year since 2017-18”. Therefore, notification may be amended to this effect.

ii.E-invoice is required for supply of goods or services or both to a registered person i.e. for B2B transactions. Law committee has recommended **export invoice** may be explicitly be mentioned in the notification itself. Accordingly, notification may be amended to this effect.

5.6 Accordingly, it was proposed to amend the said Notification. The proposed draft amendment in the notification is shown (in red) as below:

*“In exercise of the powers conferred by sub-rule (4) of rule 48 of the Central Goods and Services Tax Rules, 2017(hereinafter referred as said rules), the Government on the recommendations of the Council, and in supersession of the notification of the Government of India in the Ministry of Finance, Department of Revenue No. 70/2019-Central Tax, dated the 13th December, 2019, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 926(E), dated the 13th December, 2019, except as respects things done or omitted to be done before such supersession, hereby notifies registered person, other than a Special Economic Zone unit and those referred to in sub-rules (2), (3), (4) and (4A) of rule 54 of the said rules, whose aggregate turnover in ~~a financial year~~ **any preceding financial year since 2017-18** exceeds five hundred crore rupees, as a class of registered person who shall prepare invoice and other prescribed documents, in terms of sub-rule (4) of rule 48 of the said rules in respect of supply of goods or services or both to a registered person **or for exports**”.*

5.7. The proposals were put before the GIC and the GIC approved the proposals.

Agenda Note 3: Extension of due date for filing Annual Return for Financial Year 2018-19.

6.1 In the Agenda Note it had been mentioned that the last date for filing Annual returns specified under section 44 of the CGST Act for the Financial year **2018-19** was extended till **30th September, 2020** vide Notification No. 41/2020 – Central Tax dated 5th May, 2020.

6.2 An agenda note was placed before the Law Committee in its meeting held on 17th September, 2020 regarding extension of due dates for filing of Annual Return for Financial Year 2018-19. A comparison of the Annual Return filing data (as on 17.09.2020) for Financial Years 2017-18 and 2018-19 is detailed in the table below:

GSTR – 9 (as on 17.09.2020)		FY 2017-18	FY 2018-19
	Eligibility	92,58,899	92,58,899*
	Returns Filed	42,86,584	514167
	Return Filing %	46.30%	5.55%

6.3 It was observed from the relevant data that for the FY 2017-18, as on 17.09.2020, approximately 46.3% of the eligible taxpayers have furnished their Annual Return. Further, the return filing percentage of the FY 2018-19, as on 17.09.2020, was comparatively very low, 5.55 % of eligible taxpayers i.e. only

5,14,167 taxpayers have furnished their Annual Returns in FORM GSTR-9. As detailed above, the due date for furnishing Annual Return for FY 2018-19 is **30th September, 2020**.

6.4 The Law Committee in its meeting held on 17th September, 2020 (via Video Conferencing) deliberated on the issue of extension of due dates for filing of Annual Return for the Financial Year 2018-19. Considering the low annual return filing percentage for the Financial Year, 2018-19, the Law Committee recommended that the due date for filing of Annual Return for Financial Year 2018-19 may further be extended to **31st October, 2020**.

6.5. The proposals were put before the GIC and the GIC approved the proposals.

6.6 On 23-10-2020 a proposal was moved by the Principal Commissioner, GST Policy Wing, CBIC, that:

“Madam/Sir,

In view of the challenges faced by taxpayers and tax auditors in furnishing Annual Return and Reconciliation Statement for 2018-19 in FORM GSTR 9 and GSTR 9C due to pandemic related lockdown in various parts of the country since March 2020, it is proposed to extend the due date further beyond 31st October 2020 to 31st December 2020. Request your concurrence asap.

Regards

Yogendra Garg”

6.7 All the Members of GIC concurred with the proposal to extend the due date further upto 31-12-2020. Due to urgency, a Press release in this regard was issued on 24-10-2020.

6.8 The proposal was reduced to writing and formal approval of the Competent Authority was taken on 27-10-2020.

6.9 The proposal was put before the GIC and the GIC approved the proposal.

GIC Decision by Circulation- 25 September 2020

Agenda Note: Rules amendments for the smooth implementation of e-invoice.

7.1 In the Agenda Note it has been mentioned that Under rule 48(4) of CGST Rules, 2017, it has been prescribed that supplier before issuance of an invoice will send certain specified particulars of it included in Form INV-01 to Invoice Reference Portal (IRP) and will obtain Invoice Reference Number (IRN), for the invoice.

7.2 When the rule for e-way bill was framed, under 138A(2) of CGST Rules, 2017 it was envisaged that there will be a portal on which any invoice would get reported, and an IRN for that invoice will be generated. In such case, no physical copy of such reported invoice will be required to be carried along with conveyance during movement, and such IRN will be valid only for 30 days from the day it was reported. However, with the burgeon of rule 48(4), the formulation of rule 138A(2) itself has become infructuous. Therefore, the sub rule (2) of rule 138A may be redrafted in order to remove contradiction with rule 48(4) and the requirement of carrying physical copy of invoice issued in a manner prescribed under rule 48(4) of the said rule may be waived off.

7.3 In case invoice is issued in a manner prescribed under rule 48(4) of said rule, the notified supplier gets IRN after uploading certain specified particulars of it in Form INV-01 to Invoice Reference Portal (IRP). During the Law Committee meeting held on 19.08.2020, it was recommended that rule 138A(2) may be redrafted in view of the QR code, having embedded IRN in it so that in lieu of the physical copy of the such invoice, producing QR code for verification shall be sufficient. Draft approved by the Law Committee for the rule 138A(2) is as follows:

'In case, invoice is issued in the manner prescribed under sub-rule (4) of rule 48, the Quick Reference (QR) code having an embedded Invoice Reference Number (IRN) in it, may be produced electronically, for verification by the proper officer in lieu of the physical copy of such tax invoice.'

7.4 It was proposed that rule 138A(2) may be substituted as proposed above.

7.5 Further, During the Law Committee meeting on 13.08.2020 FAQs on e-invoice were discussed, wherein it was learnt that IRN is a unique 64-character hash, typically it looks like *e.g.*

35054cc24d97033afc24f49ec4444dbab81f542c555f9d30359dc75794e06bbe

Hence manual feeding of the same in machine for the purpose of printing of the same on the invoice or for verification may lead to human errors. Therefore, Law Committee vide FAQ no. 35 had recommended that printing of QR code may be made mandatory in place of IRN in case of e-invoice.

7.6 Rule 46 of CGST Rules, 2017 prescribes all particulars which are required to be included on the invoice. In view of the above, it was proposed that a clause (r) may be inserted in rule 46 below clause (q) for the same. Draft for clause (r) is as follows:

(r) Quick Reference code, having embedded Invoice Reference Number (IRN) in it, in case invoice has been issued in the manner prescribed under sub-rule (4) of rule 48.

7.7. The proposal was put before the GIC and the GIC approved the proposal.

GIC Decision by Circulation- 29 September 2020

Agenda Note: Date extension for the implementation of Quick Response (QR) Code in B2C invoice.

8.1 In the Agenda Note it has been mentioned that vide notification No. 72/2019-Central Tax dated 13.12.2019 it was notified that every registered person whose aggregate turnover exceeds ₹ 500 Crores in a financial year, is mandatorily required to capture a Quick Response ('QR') code on every tax invoice issued to unregistered customers, i.e. for B2C supplies, along with other mandatory fields required on such tax invoices with effect from 1st April, 2020.

8.2 For the smooth implementation of QR code, National Payment Corporation of India (NPCI) was required to come up with detailed guidelines for QR code generation. NPCI was also mandated to create awareness among the trade about the implementation of QR code in B2C invoices. It has been brought to the notice that NPCI hasn't had an adequate engagement in this regard with the trade. In view of the above on the recommendations of GST Council in its 39th meeting held on 13-14th March 2020 the date of

implementation of QR code was deferred till 01st October 2020 vide issuance of notification no. 14/2020-Central Tax dated 21st March 2020 in this effect. This issue had been discussed with NPCI and also in the GST Core Group meeting multiple times.

8.3 As the trade had still been representing, as directed by the Finance Secretary a meeting was taken by the Chairman CBIC with NPCI and Banks on 23.09.2020. NPCI informed that:

(i) The technology/APIs for the same were to be shared by NPCI which they have shared with respective banks way back on 14th February 2020;

(ii) The Banks need to integrate and send on software for this purpose which they are not willing in the absence of MDR;

(iii) The requirement to generate a dynamic QR code by the POS machine of the supplier is software updation and alignment between the acquirer's bank software, payee bank software and NPCI software.

(iv) Till date, only Axis Bank had started the integration and certification with NPCI and, no other bank had completed the certification process with NPCI.

8.4 NPCI further informed that the integration process might take 30 days' time and the process of QR code for B2C invoice can be implemented even if 10 banks are onboard.

8.5 Almost all the bankers present in the meeting informed that they had initiated the process but that they would take time to complete the integration and certification process. Punjab National Bank informed that they would initiate the process after their merger process gets completed sometimes in December 2020.

8.6 It also came out in the meeting that changes would also need to be made in the third-party UPI applications used by the consumers for making payments. As such, it came out that the rolling out of dynamic QR code on the B2C invoices would take some more time- at least 2 months at the bare minimum.

8.7 The issue was earlier discussed in the Law committee held on 13th August 2020, and the committee had recommended the deferment of the same. In view of the above, it was felt that the date of implementation of QR code on B2C invoices might be deferred by at least two more months i.e. **till 1st December 2020.**

8.8 Furthermore, Notification No. 72/2019-Central Tax dated 13.12.2019 was issued to specify the class of taxpayers required to issue QR Code. It was amended vide notification No. 14/2020 - Central Tax, dated the 30.07.2020. The notification as amended is reproduced as below:

*“.....hereby notifies that an invoice issued by a registered person, whose aggregate **turnover in a financial year** exceeds five hundred crore rupees, other than those referred to in sub-rules (2), (3), (4) and (4A) of rule 54 of said rules, and registered person referred to in section 14 of the Integrated Goods and Services Tax Act, 2017, to an unregistered person (hereinafter referred to as B2C invoice), shall have Dynamic Quick Response (QR) code*

Provided that where such registered person makes a Dynamic Quick Response (QR) code available to the recipient through a digital display, such B2C invoice issued by such registered person containing cross-reference of the payment using a Dynamic Quick Response (QR) code, shall be deemed to be having Quick Response (QR) code.

2. *This notification shall come into force from the 1st day of October, 2020.*”

8.9 While discussing various doubts raised by taxpayers during webinars conducted by GSTN in the context on e-invoice, it was deliberated in the Law committee that the Eligibility i.e. “aggregate turnover in a financial year” will include present financial year also and hence is a dynamic concept. This will be difficult to monitor, and therefore, Law Committee recommended that “aggregate turnover in a financial year” may be substituted with “aggregate turnover in any preceding financial year since 2017-18”. Therefore, the notification may be amended to this effect.

8.10 The proposal was put before the GIC and the GIC approved the proposal.

Decision by Circulation – 09 October 2020

Agenda Note 1: Clarification relating to application of sub-rule (4) of rule 36 of CGST Rules, 2017 for the months of February 2020 to August, 2020.

9.1 In the Agenda Note it has been mentioned that vide Circular No. 123/42/2019 – GST dated 11th November, 2019, various issues relating to implementation of sub-rule (4) of rule 36 of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as the CGST Rules) regarding availment of input tax credit (ITC) in respect of invoices or debit notes, the details of which have not been uploaded by the suppliers under sub-section (1) of section 37 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the CGST Act) were clarified.

9.2 Considering the situation prevailing in view of measures taken to contain the spread of COVID-19 pandemic, it had been specified, vide notification No. 30/2020-CT, dated 03.04.2020, that the condition made under rule 36(4) of the CGST Rules shall apply cumulatively for the tax period February, March, April, May, June, July and August, 2020 and that the return in **FORM GSTR-3B** for the tax period September, 2020 should be furnished with the cumulative adjustment of input tax credit for the said months.

9.3 To ensure uniformity in the implementation of the said provisions across the field formations, it was proposed to issue a Circular to clarify various issues arising out of implementation of the said Notification. It was proposed to re-iterate that the clarifications issued earlier vide Circular No. 123/42/2019 – GST dated 11.11.2019 shall still remain applicable, except for the cumulative application as prescribed in proviso to sub-rule (4) of rule 36 of the CGST Rules. Accordingly, all the taxpayers should be advised to ascertain the details of invoices uploaded by their suppliers under sub-section (1) of section 37 of the CGST Act for the periods of February, March, April, May, June, July and August, 2020, till the due date of furnishing of the statement in FORM GSTR-1 for the month of September, 2020 as reflected in GSTR-2As.

9.4 Taxpayers may also be advised to reconcile the ITC availed in their FORM GSTR-3Bs for the period February 2020 to August, 2020 with the details of invoices uploaded by their suppliers for the said months, till the due date of furnishing **FORM GSTR-1** for the month of September, 2020. The cumulative

amount of ITC availed for the said months in **FORM GSTR-3B** should not exceed 110% of the cumulative value of the eligible credit available in respect of invoices or debit notes the details of which have been uploaded by the suppliers under sub-section (1) of section 37 of the CGST Act, till the due date of furnishing of the statements in **FORM GSTR-1** for the month of September 2020.

9.5 It was also proposed to clarify that availability of 110% of the cumulative value of the eligible credit available in respect of invoices or debit notes the details of which have been uploaded by the suppliers under sub-section (1) of section 37 of the CGST Act does not mean that the total credit can exceed the tax amount as reflected in the total invoices for the supplies received by the taxpayer i.e. the maximum credit available in terms of provisions of Section 16 of the CGST Act. Also the excess ITC availed arising out of reconciliation during this period, if any, shall be required to be reversed in Table 4(B)(2) of **FORM GSTR-3B**, for the month of September, 2020. Failure to reverse such excess availed ITC on account of cumulative application of sub-rule (4) of rule 36 of the CGST Rules would be treated as availment of ineligible ITC during the month of September, 2020.

9.6 The proposal was put before the GIC and the GIC approved the proposal.

Agenda Note 2: Annual Return (GSTR-9) and Reconciliation Statement (GSTR 9C) for FY 2018-19

10.1 In the Agenda Note it has been mentioned that vide Notification No. 69/2020 – Central Tax, dated 30.09.2020, the due date for furnishing of the Annual return for the FY 2018-19 had been extended till 31.10.2020.

10.2 Certain representations have been received stating that the auto populated GSTR 9 for the year 2018-19 (Tables 4, 5, 6 and 7) also includes the data for FY 2017-18. However, this information for FY 2017-18 had already been furnished by the taxpayers in the annual return (GSTR9) filed for FY 2017-18 and there was no mechanism to show the split of two years (2017-18 & 2018-19) in FORM GSTR-9 for 2018-19.

10.3 In this regard, it was proposed to clarify through issuance of a press release that the taxpayers are required to report only the values pertaining to Financial Year 2018-19 in the annual return for FY 2018-19 and that values pertaining to Financial Year 2017-18, which might have already been reported or adjusted, were to be ignored. No adverse view should be taken in cases where there are variations in returns for taxpayers who have already filed their **GSTR-9** of Financial Year 2018-19 by including the details of supplies and ITC pertaining to Financial Year 2017-18 in the Annual return for FY 2018-19. It was also proposed to emphasize that furnishing of the Annual return in FORMGSTR-9/9A is mandatory only for taxpayers with aggregate annual turnover above Rs. 2 Cr. while reconciliation statement in FORM GSTR-9C is to be furnished only by the registered persons having aggregate turnover above Rs. 5 Cr.

10.4 The proposal to issue the press release was placed before the GIC and the GIC approved the proposal.

Decisions and Minutes of the 36th GIC Meeting held on 03rd November 2020

11. The 36th Meeting of the GST Implementation Committee (GIC) was held via Cisco WebEx on 03rd November 2020 from 11:00 am onwards

12. The agenda items were circulated through email among Members of GIC, were discussed and decisions taken are as under:

Agenda Item 1: Quarterly Return and Monthly Payment Scheme

13.1 The proposal before the GIC for approval was based on the recommendation of the GST Council. In its 42nd meeting held on 5th October 2020, the GST Council had recommended a Quarterly Return and Monthly Payment Scheme for registered persons having turnover up to Rs.5 Crore, with a slightly modified approach based on existing return system itself. It was recommended that the scheme be implemented with effect from **01.01.2021**. As approved by the council earlier in this regard, under the proposed approach also such registered persons will have option to file quarterly **GSTR-1** and **GSTR-3B**. Payment of tax for month M1 and M2 of the quarter will be through normal challan PMT-06 representing their liability (net of ITC) for the month.

13.2 Agenda note was placed before the GIC for deliberation and approval of Rules, Notifications and Circular for implementation of the recommendations of the GST Council. It was proposed to issue Rules, Circular and notifications at an early date so that all the taxpayers were informed well in advance before the scheme gets rolled out. Any feedback received, within the contours of the scheme, could then be deliberated and resolved before 1st January 2021.

13.3 **Decision:** The GIC approved the five draft Notifications and draft amendments to Rules dealing with return subject to vetting by Ministry of Law & Justice. GIC also approved the draft Circular on Quarterly Return and Monthly Payment Scheme.

Agenda Item No.2: Agenda for mandatorily furnishing HSN Code at 8-digit level in invoice and Form GSTR-1 for 32 scheduled chemicals of Chemical Weapon Convention

14.1 The proposal before the GIC for approval was based on the recommendation of the Law Committee meeting held on 25.06.2020 that mandate 8-digit HSN Code for all categories of notified supplies for all classes of taxpayers both in invoice and in **FORM GSTR-1**. Further, GST Council in its 42nd meeting held on 05.10.2020 recommended to amend proviso to rule 46 of the CGST Rules, 2017 to seek HSN Code for a class of supplies irrespective of turnover in the invoice. The said amendment was done vide Notification No. 79/2020-Central Tax dated 15.10.2020.

14.2 In view of the above it was proposed to –

- (i) issue a notification under proviso of rule 46 to notify that for the said chemicals, HSN Code at 8-digit level shall be provided in the invoice.
- (ii) amend instruction no. 16 & 17 of **FORM GSTR-1** so as to make HSN code at 8-digit level made mandatory for the supply of said chemicals.

14.3 **Decision:** The GIC, approved to:

- (i) issue a notification under proviso of Rule 46 of CGST Rules 2017 to notify that for the said chemicals, HSN Code at 8-digit level shall be provided in the invoice, and

(ii) amend concerned instruction in Form GSTR-1 so as to make HSN code at 8-digit level made mandatory for the supply of said chemicals.

Agenda Item No.3: Extension of due date for filing Form GST ITC-04 for the July 2020-September 2020.

15.1 The proposal before the GIC for approval was that GSTN has *vide* email dated 25th October, 2020 informed that the taxpayers are not able to file their quarterly statement **GST ITC-04** under rule 45 of the CGST Rules 2017, for furnishing details of goods sent for job work, received back or supplied from the premises of job worker etc for the quarter **July, 2020 - September 2020** which was due date on **25th October, 2020**.

15.2 Hence, in view of above, it was proposed that the **due date for filing of FORM ITC-04** for the July- September 2020 may be extended till **30th November 2020** so that taxpayers are able to file the said statement. Accordingly, the approval of GIC was sought for the proposal above.

15.3 **Decision:** The GIC approved the proposal and the Draft Notification for extension of the due date for filing of Form ITC-04 for the Quarter July-September 2020, to 30th November 2020.

Agenda Item No.4: Roll out second phase of e-invoicing for the taxpayers having aggregate turnover exceeding Rs.100 crores from 01st January 2021.

16.1 In the agenda note before GIC, it was mentioned that e-invoicing for B2B supplies by taxpayers having aggregate turnover above Rs 500 crore in any of the preceding financial years from 2017-18 onwards, with few exemptions, has already been mandated with effect from 1st October 2020 *vide* Notification no. 13/2020-Central Tax dated 21st March, 2020 read with Notification 61/2020-Central Tax, dated 30th July, 2020.

16.2 It was proposed that from 01st January 2021 second phase of e-invoicing may be rolled out for the taxpayers having aggregate annual turnover exceeding Rs. 100 Cr. in any of the preceding financial years from 2017-18 onwards. It was further proposed that a press release may be issued to inform taxpayers of next phase well in advance.

16.3 The proposal was put before the GIC and the GIC approved the proposal.

Decision by Circulation – 29 November 2020

Agenda Note: Waiver of penalty for issuing invoice without dynamic QR Code from 01.12.2020 to 31.03.2021.

18.1 In the Agenda Note it has been mentioned that *vide* notification No. 72/2019-Central Tax dated 13.12.2019 it was notified that every registered person whose aggregate turnover exceeds 500 Crores in a financial year, was mandatorily required to capture a Quick Response ('QR') code on every tax invoice issued to unregistered customers, i.e. for B2C supplies, along with other mandatory fields required on such tax invoices with effect from 1st April 2020.

18.2 It was further stated that the requirement of issuing invoice having QR code emanates from the sixth proviso to rule 46, which reads as below:

“Provided also that the Government may, by notification, on the recommendations of the Council, and subject to such conditions and restrictions as mentioned therein, specify that the tax invoice shall have Quick Response(QR) Code.”

18.3 Accordingly, notification No 14/2020-Central Tax, dated 21st March 2020 had been issued which requires dynamic QR code on B2C invoice issued by taxpayers having aggregate turnover more than 500 crore rupees, w.e.f 01.12.2020. Non-issuance of B2C invoice with QR code by the said class of registered person u/s 125 of the CGST Act, 2017 would result in a general penalty up to twenty-five thousand rupees. However, the Government has the power to waive the penalty under section 128 of the CGST Act, 2017 that reads as stated below:

“128. The Government may, by notification, waive in part or full, any penalty referred to in section 122 or section 123 or section 125 or any late fee referred to in section 47 for such class of taxpayers and under such mitigating circumstances as may be specified therein on the recommendations of the Council.”

18.4 Accordingly, it was proposed that:

(i) The date of implementation of dynamic QR code on B2C invoice may not be extended from 01.12.2020

(ii) The penalty payable under section 125 of the CGST Act, 2017 for non-compliance of the provisions of the notification No. 14/2020- Central Tax, dated 21st March 2020 as amended may be waived for the period from 01.12.2020 to 31.03.2021, subject to the condition that the said persons comply with the provisions of the said notification from 01.04.2021.

18.5 The proposal was put before the GIC and the GIC approved the proposal.

Decision by Circulation – 04 December 2020

Agenda Note: Waiver of Recording of UIN for Foreign Diplomatic Missions/UN Organizations

19.1 In the Agenda Note it had been mentioned that section 55 of the CGST Act, 2017 read with Rule 95 of the CGST Rules, 2017 provides special status to Foreign Diplomatic Missions/UN organizations, whereby UIN entities were granted UIN which was different from GSTIN. Refund for the Foreign Diplomatic Missions/UN Organizations was given to them for the tax paid by them on their purchases based on the terms of reciprocity which were specific to countries. UIN entities provide a statement of invoices while filing quarterly returns in their FORM GSTR-11. It was stated that recording of UIN on the invoice was a necessary condition under Rule 46 of the CGST Rules, 2017.

19.2 Further, it was stated that in the past it had been reported that many of the retailers/vendors to Foreign Diplomatic Missions/UN Organizations had 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. Due to this non-compliance, UIN entities weren't eligible for a refund as per Section 55 of CGST Act, 2017. In order to facilitate refunds to Foreign Diplomatic missions/UN Organizations, a waiver of non-recording of UINs on invoices issued by the retailers/other suppliers, has been given earlier from time to time. The latest waiver was extended till 31st March 2020 issued vide

corrigendum dated 06.09.2019 to the circular no 63/37/2018-GST dated 14.09.2018 with adequate safeguards.

19.3 Besides, it was also stated that the matter was discussed with MEA on 6th October 2020 with Retailers Association of India (RAI) & MEA on 8th October 2020 in a joint meeting. In the said meeting, RAI had informed that since the format of UIN & GSTIN was different and the latter had prefixed alphanumeric arrangement, the retailers, in general, were not able to accommodate UIN format in their systems. RAI requested that UIN format could also be changed on the lines with GSTIN format. Further MEA suggested for issuance of Sub-UIN to only those diplomats/consular who hold a diplomatic card which was issued by MEA.

19.4 Also, it was mentioned that the refund claims from the period April 2020 onwards, involving invoices without having UIN, were put on hold. The same grievances were also informed by MEA in the recent meeting. Therefore, it was proposed that a waiver from the recording of UIN on invoices may be given for one more year from 1st April 2020 to 31st March 2021 with the adequate safeguard that the hard copy of invoice submitted for a claim of refund shall be attested by the authorised representative of Foreign Diplomatic missions/UN Organizations.

19.5 It was further mentioned that a draft circular regarding the above matter was placed before the Law Committee in its meeting on 11.11.2020. The draft circular was recommended by LC for extension of the waiver of the recording of UIN for Foreign Diplomatic Missions/UN Organizations from 1st April 2020 to 31st March 2021 with the adequate safeguard as mentioned above. LC also observed that GSTN might subsequently undertake discussion with MEA to find a solution on the above stated matter.

19.6 The proposal was put before the GIC and the GIC approved the proposal.

Decision by Circulation – 07 December 2020

Agenda Note: Extension of Due Dates for Compliances and Actions in Respect of Anti-Profiteering Measures under GST

20.1 In the Agenda Note it had been mentioned that a reference dated 24.11.2020 has been received from the Chairman, National Anti-Profiteering Authority (GST) on the above subject wherein it has been said that there had been a delay in granting Personal Hearing (PH) to parties being investigated for profiteering on account of COVID-19 pandemic. Due to Pan-India restrictions on the movement and non-availability of video-conferencing infrastructure or know-how with the parties concerned, PH could not be held in around 60 cases. Also, the parties were not able to share the data summoned by the DGAP (Directorate General of Anti-profiteering) for investigation due to closure of the offices of the parties or the absence of requisite staff at their disposal. Accordingly, NAA has requested to grant a further extension from the current deadline of 30.11.2020 to 31.03.2021) in respect of statutory deadlines under anti-profiteering law.

20.2 In this regard, reference was invited to notification No. 35/2020 – Central Tax dated 03.04.2020 as amended by notification No. 55/2020 – Central Tax dated 27.06.2020 and further amended by notification No. 65/2020 – Central Tax dated 01.09.2020 *vide* which any time limit for completion or compliance of any action, by any authority or by any person, under section 171 of the GST Act, which falls during the period from the 20th day of March, 2020 to the 29th day of November, 2020 was extended up to the 30th day of November, 2020.

20.3 It was further mentioned that the provisions related to anti-profiteering measures were contained in section 171 of the CGST Act read with rules 122 to 137 of the CGST Rules. Sub-rule (6) of rule 129 deals with the timelines of initiation and conduct of proceedings and specifies that investigation should be completed within a period of six months from the receipt of the reference, which might be extended by a period of three months.

20.4 Further, it was also stated that if the request for an extension was granted, it would require the issuance of notification in exercise of powers conferred by section 168A of the CGST Act, 2017 in order to carry out the following changes to the proviso to clause (i) of the first para of notification No. 35/2020 – Central Tax dated 03.04.2020 read with Notification No.65/2020-CT dated 01-09-2020:

“where, any time limit for completion or compliance of any action, by any authority or by any person, has been specified in, or prescribed or notified under section 171 of the said Act, which falls during the period from the 20th day of March, 2020 to the 30th day of March, 2021, and where completion or compliance of such action has not been made within such time, then, the time limit for completion or compliance of such action, shall be extended up to the 31st day of March, 2021.”.

20.5 The proposal was put before the GIC and the GIC approved the proposal.

Decision in the 37th Meeting of GIC – 15 December 2020

Agenda item 1: Notifying provisions of the Finance Act, 2020 relating to amendment of various sections of the CGST Act.

21.1 The proposal before the GIC for approval was that *vide* the Finance Act, 2020 (No. 12 of 2020), various sections of the CGST Act and Section 25 of Integrated Goods and Services Tax Act, 2017 (IGST Act) had been amended. A specific reference was invited to sub-section (2) of section 1 of the Finance Act, 2020, along with corrigenda, which states that sections 118 to 131 and 134 of the Finance Act, 2020 shall come into force on such date as the Central Government may appoint by way of a notification in the official Gazette. The Sections 118, 125, 128, 129 and 130 of the Finance Act, 2020 have already been enacted. In view of the same, it was proposed that the following remaining provisions of the Finance Act, 2020 (No. 12 of 2020) may be notified with effect from 01.01.2021:

S.No.	Finance Act 2020 section	CGST/IGST Act 2017 section	Purpose of Amendment and reason for carrying out the amendment
1.	119	10 of CGST	Clauses (b), (c) and (d) of sub-section (2) of the section 10 of the CGST Act is amended to harmonize the conditions for eligibility for the Composition scheme under sub-section (1) and sub-section (2A) of section 10 of the CGST Act
2.	120	16 of CGST	Sub section (4) of the section 16 of the CGST Act is amended to delink the date of issuance of debit note from the date of issuance of the underlying invoice for purposes of availing input tax credit.

S.No.	Finance Act 2020 section	CGST/IGST Act 2017 section	Purpose of Amendment and reason for carrying out the amendment
3.	121	29 of CGST	Clause (c) of sub-section (1) of section 29 of the CGST Act is amended to provide for cancellation of registration which has been obtained voluntarily under sub-section (3) of section 25.
4.	122	30 of CGST	A proviso to sub-section 1 of section 30 of the CGST Act is inserted to empower the jurisdictional tax authorities to extend the date for application of revocation of cancellation of registration in deserving cases.
5.	123	31 of CGST	Section 31 of the CGST Act is amended to provide enabling provision to prescribe the manner of issuance of invoices in case of supply of taxable services.
6.	124	51 of CGST	Section 51 of the CGST Act is amended to remove the requirement of issuance of TDS certificate by the deductor; and to omit the corresponding provision of late fees for delay in issuance of TDS certificate.
7.	126	122 of CGST	Section 122 of the CGST Act is amended by inserting a new sub-section to make the beneficiary of the transactions of passing on or availing fraudulent Input Tax Credit liable for penalty similar to the penalty leviable on the person who commits such specified offences.
8.	127	132 of CGST	Section 132 of the CGST Act is amended to make the offence of fraudulent availment of input tax credit without an invoice or bill a cognizable and non-bailable offence; and to make any person who commits, or causes the commission, or retains the benefit of transactions arising out of specified offences liable for punishment.
9.	131	Schedule II	Entries at 4(a) & 4(b) in Schedule II of the CGST Act are amended w.e.f. 01.07.2017 to make provision for omission of supplies relating to transfer of business assets made without any consideration from Schedule II of the said Act.

The enactment of the corresponding amendments was still pending as on 15-12-2020 only with 3 States namely West Bengal, Arunachal Pradesh & Nagaland.

21.2 **Decision:** It was decided that the provisions of Finance Act, 2020 (No. 12 of 2020) as enumerated in paragraph 3 above be notified with effect from 01.01.2021.

22. Remaining three States, if they did the amendment later than the given date, would be requested to do it with retrospective effect so that the date of implementation remains 01.01.2021.

Agenda Item No.2: Agenda note for the approval of the GIC regarding Waiver of Late Fee for FORM GSTR-4 filing in UT Ladakh for the Financial Year 2019-20

23.1 The proposal before the GIC for approval was that late fee in delay in furnishing return in **FORMGSTR-4** for the registered person having principal place of business in Union Territory of Ladakh may be waived for the period 01st November 2020 to 31st December 2020. Implementation of the decision would require issuance of notification for waiver of late fee in filing **FORMGSTR-4** return to the taxpayers for Financial Year 2019-20.

23.2 **Decision:** GIC approved the waiver of Late Fee for delay in furnishing **FORM GSTR-4** for the registered persons having principal place of business in UT of Ladakh for the Financial Year 2019-20 for the period 01st November 2020 to 31st December 2020 and approved issuance of notification to this effect

Agenda Item No.3: Proposal for amendment in CGST Rules, 2017

24. The proposal before the GIC for approval was that Law Committee (LC), in its various meetings had deliberated upon several issues and recommended changes in various provisions viz. Rule 8, 9, 21, 21A, 22, 36, 59, 86B, 138, 138E of the Central Goods and Services Tax Rules, 2017. These changes were primarily arising out of following two Agenda Notes placed before the Law Committee stated as under:

- (a) Agenda note on countermeasures against fake invoices
- (b) Agenda Note brought by UP on provisions of e-way Bill

25.1 **Amendment to rule 8:**

25.1.1 The proposal before the GIC for approval was that in case the applicant had opted for Aadhaar authentication, he must undergo biometric-based Aadhaar authentication at one of the Facilitation Centres notified by the Commissioner. In case the applicant has not opted for Aadhaar authentication, the application must be followed by taking biometric information and verification of such other KYC documents, as notified, at verification centres. This verification process may also include taking photograph and verification of the original copy of the documents uploaded with the application in **FORM GST REG-01. The amendment shall come into effect from a date to be notified.**

25.1.2 **Decision:** The GIC agreed to the Amendments in Rule 8 for in person verification as proposed and the same to be made effective from a date to be notified.

25.2 **Amendment to rule 9:**

25.2.1 The proposal before the GIC for approval was that even in cases where a person successfully undergoes authentication of Aadhaar number, physical verification may be carried out in certain cases with the approval of an officer, authorized by the Commissioner. Thus, in Rule 9 the proposal for Amendment of (a) Sub-rule (1): 7 working days in place of 3 working days (b) Proviso to Rule 9(1): the word “only” to be deleted (c) Sub-rule (2): 30 days in place of to 21 days, and (d) Sub-rule (5): both 7 working days and 30 days in place of the earlier versions, was submitted to GIC.

25.2.2 The proposal was put before the GIC and the GIC approved the proposal.

25.3 **Amendment to rule 21:**

25.3.1 The proposal before the GIC for approval was that the registration to be also liable for cancellation in cases where input tax credit was availed in violation of Section 16 of Central Goods and Services Tax Act, 2017. Further, it was proposed that in cases where the details of outward supplies in FORM GSTR-1 were in excess than the outward supplies declared in FORM GSTR-3B, for one or more tax periods, such cases may be added to the grounds of cancellation of registration. It was proposed that violation of provision of the proposed rule 86B shall also be a ground for cancellation of registration

25.3.2 **Decision:** The Members of GIC agreed to the Amendments in Rule 21 as proposed

25.4 **Amendment to rule 21A and 22:**

25.4.1 The proposal before the GIC for approval was that Rule 21A may be amended by inserting sub-rule (2A) which would provide certain additional grounds for suspension of registration. It was proposed that where on comparison of the returns furnished by a registered person under Section 39 with: -

(a) the details of outward supplies furnished in **FORM GSTR-1**; or

(b) the details of inward supplies derived based on the details of outward suppliers furnished by his suppliers in their **FORM GSTR-1** or such other analysis, as may be carried out on the recommendations of the Council, show that there are significant differences his registration shall be suspended. However, the suspension of registration issued under this rule may be revoked by the proper officer in case the difference is justified by the person.

25.4.2 During the period when the registration is suspended under this rule, it was proposed that no refund be sanctioned to the taxpayer whose registration was suspended. Moreover, suspension needed to be immediate to prevent passing on of fake input tax credit. Since Rule 22 for cancellation of registration already provided adequate safeguard in form of requirement of issuance of a notice to the person before registration is cancelled, opportunity to be heard may not be given before suspension.

25.4.3 It was further proposed that since Rule 21A is proposed to be amended as discussed above, suitable consequential amendment is required in Rule 22 which lists the procedure for cancellation of registration.

25.4.4 **Decision:** GIC approved the Amendments to Rule 21A and Rule 22 as proposed.

25.5 **Amendment to Rule 36:**

25.5.1 The proposal before the GIC for approval was that limit of 10 percent in Rule 36(4) may further be reduced to 5 percent w.e.f. 01.01.2021. Further, consequent to the implementation of QRMP scheme and facility of IFF with effect from 01.01.2021, reference to IFF has also been proposed to be incorporated in this rule.

25.5.2 **Decision:** GIC approved the amendments to Rule 36 as proposed.

25.6 Amendment to Rule 59:

25.6.1 The proposal before the GIC for approval was that a registered person shall not be allowed to furnish **FORM GSTR-1**, if he had not furnished the return in **FORM GSTR-3B** for preceding two months. This was one of the spike rules proposed by GSTN in the Law Committee which was agreed by the Committee members. Similar restriction was proposed to be placed on taxpayers filing quarterly return, with a deviation that restriction on furnishing details of outward supplies in **FORM GSTR-1** shall be imposed if return in **FORM GSTR 3B** was not filed by the taxpayer for the preceding one tax period. It was also proposed to have this restriction for taxpayers covered under rule 86B if he does not file return for preceding tax period.

25.6.2 **Decision:** GIC approved the amendments to Rule 59 as proposed.

25.7 Insertion of Rule 86B:

25.7.1 The proposal before the GIC for approval was that a registered person shall not use the amount available in electronic credit ledger to discharge his liability towards output tax in excess of **ninety-nine per cent** of such tax liability, in cases where the value of taxable supply other than exempt supply and zero-rated supply, in a month exceeds **fifty lakh rupees**. However, if the said person or specified number of partners / directors etc paid more than one lakh rupees as income tax in each of the last two financial years or person had received a refund amount of more than one lakh rupees in the preceding financial year on account of unutilized input tax credit on zero rated supply or on account of inverted duty structure or had discharged his liability towards output tax through the electronic cash ledger for an amount which is in excess of 1% of the total output tax liability, applied cumulatively upto the said month in the current Financial Year, he shall be exempted. Further, Government Department, Public Sector Undertaking; a local authority; statutory body were also exempted.

25.7.2 **Decision:** GIC approved the proposal, subject to approvals from West Bengal and Haryana, who sought time till 18th December 2020. Subsequently, both the States also accorded their approval to the proposed rule 86B.

25.8 Amendments to Rule 138E and 138 (10):

25.8.1 The Commissioner, GSTPW stated that the amendments as proposed in rule 21A would have a consequential amendment in rule 138E relating to restriction on furnishing of information in PART A of FORM GST EWB-01 during the period of suspension of registration, as recommended by the Law Committee.

25.8.2 Further, he added that various issues and suggestions regarding validity period of E-Way bill had been brought before the LC by Uttar Pradesh to plug the revenue leakages in the GST regime. It had been observed that the validity provided under the Rule 138(1) was very wide and it was possible that a single set of documents and e-way bill may be used for more than one time for transportation of goods. It was noticed by the officers of UP Govt. that in number of cases, a vehicle was intercepted using same invoice and e-way bill, multiple times due to validity of e-way bills being of larger number of days, in view of present provision of validity being one day for every 100 KM. Accordingly, they have recommended amendment in rule 138 (10) of CGST Rules to change the provisions related to validity of e-way bill.

25.8.3 The proposal before the GIC for approval was that Rule 138E & 138(10) may be amended as shown in red.

Sl. No.	Distance	Validity period
1.	Upto 100 200 km.	One day in cases other than Over Dimensional Cargo [or multimodal shipment in which at least one leg involves transport by ship
2.	For every 100 200 km. or part thereof thereafter	One additional day in cases other than Over Dimensional Cargo [or multimodal shipment in which at least one leg involves transport by ship
3.	Upto 20 km	One day in case of Over Dimensional Cargo [or multimodal shipment in which at least one leg involves transport by ship
4.	For every 20 km. or part thereof thereafter	One additional day in case of Over Dimensional Cargo [or multimodal shipment in which at least one leg involves transport by ship:

25.8.4 **Decision:** GIC approved the amendments to Rule 138E and Rule 138 (10) as proposed.

Decision by Circulation – 22 December 2020

26.1 In the Agenda Note it has been mentioned that the last date for filing Annual returns specified under section 44 of the CGST Act for the financial year 2019-20 is 31st December 2020, while the last date for filing Annual Returns pertaining to the Financial year 2018-19, as extended vide Notification No. 80/2020-Central tax dated 28th October 2020 is also 31st December 2020.

26.2 The said return / FORM GSTR-9 for the year 2019-20 was amended vide notification No.79/2020-Central Tax, dated 15th October 2020. GSTN has informed that the amended GSTR-9 for 2019-20 has been made available on the portal and it would be accessible to all taxpayers by the night of 14.12.2020. It was therefore desired that the last date for the Annual Return for 2019-20 be extended by at least 2-3 months.

26.3 It was further stated that the Law Committee in its meeting held on 14th December 2020 deliberated on the issue of extension of due date for filing of Annual Return for the Financial Year 2019-20 and had recommended that the last date for filing of the Annual Return for 2019-20 be extended to 31.03.2021. Revised proposal was placed before the GIC to extend the due date of filing the Annual return for FY 2019-20 from 31.12.2020 to 28.02.2021 and the same was approved.

26.4 The proposal was put before the GIC and the GIC approved the proposal.

Decisions and Minutes of the 38th GIC Meeting held on 12 Jan 2021

The 38th Meeting of the GST Implementation Committee (GIC) was held via WebEx on 12 January 2021 from 03:00PM onwards.

27. The agenda items circulated through email among Members of GIC, were discussed and decisions taken are as under:

Agenda 1: Suspension of Registration on Basis of changes Introduced vide Notification No.-94/2020-Central Tax

28.1 The proposal before the GIC for approval was that vide Notification No.-94/2020-Central Tax dated 22.12.2020 Sub-Rule (2A) had been inserted in Rule 21A of the Central Goods and Services Tax Rules, 2017 (CGST Rules, 2017) where in it is mentioned that on comparison of returns or such other analysis, as may be carried out on the recommendations of the Council ,show significant differences or anomalies then registration shall be suspended.

28.2 It was further stated that keeping in view the number of GSTINs and administrative capacity to handle the numbers it was proposed that to start with, GSTINs having certain risk parameters may be suspended centrally through the GST portal under sub rule (2A) of Rule 21A of CGST Rules, 2017

29. **Decision:** The proposal was agreed and it was decided that suspension of GSTINs on certain risk parameters may be done in phased manner with a gap of about 10-14 days. It was also agreed upon that the specific risk parameters based on which the GSTINs registrations are suspended may be kept confidential and may not be placed in public domain.

Agenda Item 2: Proposal for amendments in the Return Related Provisions of the CGST Act, 2017 as Recommended by the GST Council.

30.1 The proposal before the GIC was that the original design of return involved an elaborate process of filing of GSTR-1, 2 & 3 in a sequence which also envisaged inter-linking with back-and-forth flow of invoices. The return related sections viz. Section 37 to 43 of the CGST Act, 2017 was drafted accordingly. However, the return system and linkage could not be established, and GSTR-1-2-3 model were kept in abeyance. Instead, as an interim measure, FORM GSTR-1 and a summary return in FORM GSTR-3B was introduced

30.2 Subsequently, a new return system was envisaged (ANX-1 / ANX-II and RET-01). Section 43A was also inserted into the CGST Act vide CGST Amendment Act, 2018. However, Section 43A has not been notified yet.

30.3 It was further stated that in the 42nd meeting of the GST Council, it was recommended that the present system of GSTR-1 / 3B return filing to be continued and the GST laws may be amended to make the GSTR-1 / 3B return filing system as the default return filing system. The recommendation of the Council, as communicated through the draft minutes, is stated below:

“12. For Agenda 6 the Council took the following decisions:

(iii) Granted in principle approval to make legal changes to replace GSTR-1/2/3 related provisions with the present GSTR-1 / 3B return filing system.

iv. Empowered the Law Committee to deliberate upon the amendments required in the GST Acts and Rules accordingly.”

Accordingly, various provisions that require amendment have been examined by the Law Committee in its meeting held on 16th, 23rd, and 30th December 2020 and has recommended amendment in various provisions of the Act. The same were placed before GIC . The drafting of provisions would be finalized in consultation with the Union Ministry of Law and Justice.

30.4 **Decision:** The members of the GIC agreed with the amendments on merit but suggested that the proposed law amendments may be submitted to the GST Council in its next meeting for approval.

Decision by Circulation- 13 January 2021

Subject: Standard Operating Procedure (SOP) for implementation of the provision of suspension of registrations under sub-rule (2A) of rule 21A of CGST Rules, 2017

31.1 In the agenda note it was stated that vide notification No. 94/2020- Central Tax, dated 22.12.2020, sub-rule (2A) has been inserted to rule 21A of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as the CGST Rules) which provides for immediate suspension of registration of a person, as a measure to safeguard the interest of revenue, on observance of such discrepancies / anomalies which indicate violation of the provisions of Act and Rules made thereunder; and that continuation of such registration poses immediate threat to revenue.

31.2 Sub-rule (2A) of Rule 21A is reproduced hereunder:

“(2A) Where, a comparison of the returns furnished by a registered person under section 39 with

(a) the details of outward supplies furnished in **FORM GSTR-1**; or

(b) the details of inward supplies derived based on the details of outward supplies furnished by his suppliers in their **FORM GSTR-1**,

or such other analysis, as may be carried out on the recommendations of the Council, show that there are significant differences or anomalies indicating contravention of the provisions of the Act or the rules made thereunder, leading to cancellation of registration of the said person, his registration shall be suspended and the said person shall be intimated in **FORM GST REG-31**, electronically, on the common portal, or by sending a communication to his e-mail address provided at the time of registration or as amended from time to time, highlighting the said differences and anomalies and asking him to explain, within a period of thirty days, as to why his registration shall not be cancelled.”;

31.3 Till the time an independent functionality for **FORM REG-31** is developed on the portal, in order to ensure uniformity in the implementation of the provisions of above rule across the field formations, the Board, in exercise of its powers conferred by section 168 (1) of the Central Goods and Services Tax Act, 2017, provided certain guidelines for implementation of the provision of suspension of registrations under the said rule.

31.4 On the recommendation of the Council, the registration of specified taxpayers shall be suspended, and system generated intimation for suspension and notice for cancellation of registration in **FORM GST REG-31**, containing the reasons of suspension, shall be sent to such taxpayers on their registered e-mail address. Till the time functionality for FORM REG-31 is made available on portal, such notice/intimation shall be made available to the taxpayer on their dashboard on common portal in **FORM GST REG-17**. The taxpayers will be able to view the notice in the “View/Notice and Order” tab post login.

31.5 The taxpayers, whose registrations are suspended under the above provisions, would be required to furnish reply to the jurisdictional tax officer within thirty days from the receipt of such notice / intimation, explaining the discrepancies/anomalies, if any, and shall furnish the details of compliances made or/and the reasons as to why their registration shouldn't be cancelled:

- a. The said person would be required to reply to the jurisdictional officer against the notice for cancellation of registration sent to them, in **FORM GST REG-18** online through Common Portal withing the time limit of thirty days from the receipt of notice/ intimation.
- b. In case the intimation for suspension and notice for cancellation of registration is issued on ground of non -filing of returns, the said person can file all the due returns and submit the response. Similarly, in other scenarios as specified under **FORM GST REG-31**, they may meet the requirements and submit the reply.

31.6 Post issuance of **FORM GST REG-31** via email, the list of such taxpayers would be sent to the concerned Nodal officers of the CBIC/ States. Also, the system generated notice can be viewed by the jurisdictional proper officers on their Dashboard for suitable actions. Upon receipt of reply from the said person or on expiry of thirty days (reply period), a task would be created in the dashboard of the concerned proper officer under “**Suo moto cancellation proceeding**”.

31.7 Proper officer, post examination of the response received from the said person, may pass an order either for dropping the proceedings for suspension/ cancellation of registration in **FORM GST REG-20** or for cancellation of registration in **FORM GST REG-19**. Based on the action taken by the proper officer, the GSTIN status would be changed to “Active” or “Cancelled Suo-moto” as the case maybe

31.8 Till the time independent functionality for **FORM GST REG-31** is fully ready, it is advised that if the proper officer considers it appropriate to drop a proceeding anytime after the issuance of **FORM GST REG-31**, he may advise the said person to furnish his reply on the common portal in **FORM GST REG-18**.

31.9 It is advised that in case the proper officer is prima-facie satisfied with the reply of the said person, he may revoke the suspension by passing an order in **FORM GST REG-20**. Post such revocation, if need be, the proper officer can continue with the detailed verification of the documents and recovery of short payment of tax, if any. Further, in such cases, after detailed verification or otherwise, if the proper officer finds that the registration of the said person is liable for cancellation, he

can again initiate the proceeding of cancellation of registration by issuing notice in **FORM GST REG-17**.

31.10 The proposals were put before the GIC and the GIC approved the proposals.

Decision by Circulation – 19 January 2021

Agenda: Corrigendum to Circular No. 125/44/2019-GST dated 18th November, 2019 issued vide F. No. CBEC/20/16/4/2018-GST

32. In the Agenda note it has been stated that various representations have been received from the field formations and the trade/industry relating to refunds which need to be immediately addressed to ensure the uniformity in the implementation of the provisions of law across field formations. The various issues raised are enumerated as under:

33. Clarification in respect of refund claim by recipient of Deemed Export Supply

33.1 It was further mentioned that representations have been received in respect of difficulties being faced by the recipients of the deemed export supplies in claiming refund of tax paid in respect of such supplies since the system is not allowing them to file refund claim under the aforesaid category unless the claimed amount is debited in the electronic credit ledger.

33.2 Para 41 of Circular No. 125/44/2019 – GST dated 18/11/2019 has placed a condition that the recipient of deemed export supplies for obtaining the refund of tax paid on such supplies shall submit an undertaking that he has not availed ITC on invoices for which refund has been claimed. Thus, the recipient of deemed export supplies cannot avail ITC on such supplies but when they proceed to file refund on the portal, the system asks them to debit the amount so claimed from their electronic credit ledger.

33.3 The 3rd proviso to Rule 89(1) of CGST Rules, 2017 allows for refund of tax paid in case of a deemed export supply to the recipient of the deemed export supplies or the supplier of deemed export supplies. The said proviso is reproduced as under:

“Provided also that in respect of supplies regarded as deemed exports, the application may be filed by, -

(a) the recipient of deemed export supplies; or

(b) the supplier of deemed export supplies in cases where the recipient does not avail of input tax credit on such supplies and furnishes an undertaking to the effect that the supplier may claim the refund”

From the above, it can be seen that there is no restriction on recipient of deemed export supplies in availing ITC of the tax paid on such supplies when the recipient files for refund claim.

33.4 Therefore, it was proposed that the Circular No. 125/44/2019-GST date 18.11.2019 may be modified to remove the said condition from the undertaking that no ITC has been availed on such invoices. The issue was discussed in the meeting of the Law Committee held on 30.09.2020 wherein the Law Committee has recommended the following:

- I) For Short term, the condition prescribed in para 41 regarding non-availment of ITC by the recipient of deemed export supplies may be deleted.

- II) However, the Law Committee proposed that this issue needs to be re-examined for sanction of refund to recipients under Section 55 in the long-term and the detailed proposal for refund on deemed exports to be placed before Law Committee.

33.5 Accordingly, the proposal was to remove the said condition of submission of an undertaking by recipient of deemed export supply regarding the non-availment of ITC on the invoices pertaining to deemed export supplies as approved by the Law Committee as a short-term measure. A detailed proposal for refund of deemed export supplies under Section 55 of the CGST Act 2017 would be prepared and placed before the Law Committee in due course.

34. The proposal was put before the GIC and the GIC approved the proposal.

Extension of relaxation for filing refund claim in cases where zero-rated supplies has been wrongly declared in Table 3.1(a).

35.1 Para 26 of Circular No. 125/44/2019-GST dated 18th November 2019 gave a clarification in relation to cases where taxpayers had inadvertently entered the details of export of services or zero-rated supplies to a Special Economic Zone Unit/Developer in table 3.1(a) instead of table 3.1(b) of FORM GSTR-3B of the relevant period and were unable to claim refund of the integrated tax paid on the same through FORM GST RFD-01A. This was because of a validation check placed on the common portal which prevented the value of refund of integrated tax/cess in FORM GST RFD-01A from being more than the amount of integrated tax/cess declared in table 3.1(b) of FORM GSTR-3B. The said Circular clarified that for the tax periods from 01.07.2017 to 30.06.2019, such registered persons shall be allowed to file the refund application in FORM GST RFD-01A on the common portal subject to the condition that the amount of refund of integrated tax/cess claimed shall not be more than the aggregate amount of integrated tax/cess mentioned in the tables 3.1(a), 3.1(b) and 3.1(c) of FORM GSTR-3B filed for the corresponding tax period.

35.2 Since the clarification issued vide the above Circular was valid only from 01.07.2017 to 30.06.2019, taxpayers who committed these errors in subsequent periods were not able to file the refund applications in FORM GST RFD-01A/ FORM GST RFD-01. The issue was discussed in the meeting of the Law Committee held on 30.09.2020 wherein it was recommended that the said facility may be extended in respect of periods till 31.03.2021.

35.3 The proposal was put before the GIC and the GIC approved the proposal.

Amendment of Annexure-A of the Circular No.125/44/2019-GST dated 18-11-2019.

36. Requirement of submission of Certificate provided under Clause (b) of sub-section (4) of Section 54

36.1 Sub-section (4) of Section 54 provides for the documents which shall be provided with the refund application. Sub-section (4) of Section 54 is reproduced, as under:

“(4) The application shall be accompanied by—

- (a) such documentary evidence as may be prescribed to establish that a refund is due to the applicant; and*
- (b) such documentary or other evidence (including the documents referred to in section 33) as the applicant may furnish to establish that the amount of tax and interest, if any, paid on such tax or any other amount paid in relation to which such refund is claimed was collected*

from, or paid by, him and the incidence of such tax and interest had not been passed on to any other person:

Provided that where the amount claimed as refund is less than two lakh rupees, it shall not be necessary for the applicant to furnish any documentary and other evidences but he may file a declaration, based on the documentary or other evidences available with him, certifying that the incidence of such tax and interest had not been passed on to any other person.”

36.2 Sub-section (8) of Section 54 of CGST Act 2017 provides for the cases where the refund amount would be paid to the applicant, instead of being credited to the Consumer Welfare Fund, the same is reproduced, as under:

“(8) Notwithstanding anything contained in sub-section (5), the refundable amount shall, instead of being credited to the Fund, be paid to the applicant, if such amount is relatable to—

(a) [refund of tax paid on export of goods or services or both or on inputs or input services used in making such exports;]

(b) refund of unutilised input tax credit under sub-section (3);

(c) refund of tax paid on a supply which is not provided, either wholly or partially, and for which invoice has not been issued, or where a refund voucher has been issued;

(d) refund of tax in pursuance of section 77;

(e) the tax and interest, if any, or any other amount paid by the applicant, if he had not passed on the incidence of such tax and interest to any other person; or

(f) the tax or interest borne by such other class of applicants as the Government may, on the recommendations of the Council, by notification, specify.”

36.3 Rule 89 of CGST Rules 2017 provides for manner and procedure for filing application for refund except for refund of integrated tax paid on goods exported outside India. As per the provisos of clause (l) and (m) of sub-rule (2) of rule 89, the declaration or certificate regarding incidence of tax has not been passed on to any other person is not required in claims covered under the clause (a), (b), (c), (d) and (f) of Section 54 (8) of CGST Act 2017. Clause (l) and (m) of Rule 89 (2) is reproduced as under:

“(l) a declaration to the effect that the incidence of tax, interest or any other amount claimed as refund has not been passed on to any other person, in a case where the amount of refund claimed does not exceed two lakh rupees:

Provided that a declaration is not required to be furnished in respect of the cases covered under clause (a) or clause (b) or clause (c) or clause (d) or clause (f) of sub-section (8) of section 54;

(m) a Certificate in Annexure 2 of FORM GST RFD-01 issued by a chartered accountant or a cost accountant to the effect that the incidence of tax, interest or any other amount claimed as refund has not been passed on to any other person, in a case where the amount of refund claimed exceeds two lakh rupees:

Provided that a certificate is not required to be furnished in respect of cases covered under clause (a) or clause (b) or clause (c) or clause (d) or clause (f) of subsection (8) of section 54;”

36.4 From the above, it can be seen that the requirement for furnishing the said declaration is not required in cases of exports, Zero-rated supplies, Advances, inverted duty structure, payment under wrong head etc. However, representations have been received from the trade/industry wherein they have informed that the claims pertaining to refund of unutilised ITC on account inverted duty structure has been rejected on account of non-submission of the declaration/ certificate prescribed under clause (l)/ (m) of Rule 89 (2) as the said requirement of submission of the said declaration/certificate has been specified in the Annexure A of the Circular No. 125/44/2019-GST dated 18.11.2019 which specifies the List of all statements/declarations/undertakings/certificates and other supporting documents to be provided along with the refund application.

36.5 On perusal of the facts stated above, it appears that the requirement of said declaration/certificate in the cases relating to inverted duty has been wrongly mentioned and if approved, the same may be corrected by removing the said requirement.

37. Requirement for uploading copy of GSTR 2A.

Representations are being received from the trade stating that they are not able to upload GSTR-2A in the limited space 5 MB for each document (Maximum 10 documents of 5 MB each can be uploaded) provided on the portal. However, the refund sanctioning authority is not processing the refund until the copy of GSTR-2A is uploaded. Further, in cases where GSTR-2A is of size bigger than 5 MB, it creates an option for manual interface. Further, it has been learnt that GSTR-2A has been made visible to the refund sanctioning authority. Therefore, there appears no need for seeking copy of GSTR-2A for the claimant.

38. Requirement for furnishing the statement of invoices pertaining to missing invoices.

38.1 In view of the clarification issued vide Circular No. 135/5/2020-GST dt 31.03.2020 vide which refund has been restricted to the amount of ITC reflected in the GSTR-2A, it is proposed to remove the condition of requirement for uploading missing invoices. However, in case of refund on account of inverted duty structure or unutilised ITC, requirement for uploading the details of the inward supplies may be continued as the said statement provides the information regarding the nature of inward supply i.e. whether it is input, input services or capital goods.

38.2 Further, it was observed that undertaking as per second and third proviso of sub-section (3) of Section 54 has been prescribed even in cases pertaining to refund of tax paid on the zero-rated supplies. However, the refund under sub-section (3) of Section 54 is pertaining to refund of unutilised ITC. Therefore, it was proposed to remove the requirement of such undertakings in case of refund of tax paid on zero-rated supplies.

39. Accordingly, it was proposed that the Annexure- A of Circular 125/44/2019-GST dated 18.11.2019, may be amended to the extent of corrections mentioned in above paras. Incorporating the proposed amendments, the amended Annexure 'A' was placed before the officers. The issue was discussed in the meeting of the Law Committee held on 30.12.2020 wherein it was approved.

40. **Decision:** The proposal was put before the GIC and the GIC approved the proposal.

GIC Decision by Circulation 5 February 2021

Agenda: Implementation of Phase 2 of Aadhaar Authentication in Registration under GST

41.1 In the agenda note it was stated that in the 36th & 37th GST Council Meeting, it was recommended that in order to ensure that registration under GST is given only to genuine tax-payers, registration would be granted on the basis of Aadhaar authentication. Accordingly, in the first phase, with effect from 21.08.2020, Aadhaar authentication while applying for new registration of following category of taxpayers has been implemented in the first phase:

- (a) Proprietor, in case of proprietorships business;
- (b) Managing/authorized partner in partnerships firms;
- (c) Karta in case of HUF; and
- (d) Authorized signatory of all kind of constitution of business.

42.2 Accordingly, notification No 16/2020, 17/2020, 18/2020 and 19/2020 all dated 23rd March 2020, were issued. Subsequently, notification No. 62/2020 dated 20th August, 2020 was also issued specifying the effective date of starting Aadhaar authentication for the above category of taxpayers w.e.f. 21st August, 2020.

42.3 In the second phase of implementation, it is proposed that Aadhaar authentication for registration would be applicable for all the new applicants seeking registration through **FORM REG-01** (regular & composition Taxpayers), except-

- (a) Govt departments,
- (b) Local authorities,
- (c) Statutory Body,
- (d) PSUs,

42.4 It is also proposed that Aadhaar authentication would be required to be done for primary Authorized Signatory and one person out of Promoter / Partner (1+1).

42.5 In the second phase of implementation, GSTN has also developed a functionality to upload E-KYC documents in case applicants select “NO” option for Aadhaar Authentication. When applicant selects “No” option for Aadhaar authentication, the E-KYC document upload option will be enabled for those applicants, who have selected from ‘Promotor/Partners tab’ and the ‘Primary Authorized Signatory’ (based on 1+1 rule) for e-KYC document upload. Below list of documents can be uploaded as part of E-KYC documents:

- Aadhaar Enrolment Number
- Passport
- EPIC (Voter ID Card)
- KYC Form
- Certificate issued by Competent authority
- Others (as specified)

Uploading the documents would be optional for the taxpayers and processing of registration application would be done in the same manner as in the case of applicants who have not opted for Aadhaar authentication.

42.6 The issue was deliberated by the Law Committee in its meeting dated 14.12.2020 and it was recommended to issue a notification under section 25(6D) of the CGST Act, amending notification No.17/2020 -CT dated 23.03.2020.

42.7 The proposal was put before the GIC and the GIC approved the proposal.

GIC Decision by Circulation 11 February 2021

Agenda: Proposal to Settle an Additional IGST Amount of Rs. 48,000 crores on an Ad Hoc Basis.

43.1 In the Agenda Note it has been mentioned that depending on the amount of IGST remaining to be apportioned, provisional settlement was being done from time to time on an ad-hoc basis. Accordingly, Rs. 35,000 crore was apportioned in February, 2018, Rs. 50,000 crore was apportioned in June, 2018, Rs.12000 crore in August, 2018, Rs. 30,000 crore was apportioned in October,2018, Rs. 18,000 crore was apportioned in December,2018, Rs. 20,000 crore was apportioned in March,2019, Rs.12,000 crore was apportioned in April,2019, Rs. 15,000 crore was apportioned in June'19 and Rs. 6,000 in March'20. These amounts were settled in a ratio of 50:50 to Centre and States and the amount apportioned to States was divided in the ratio of subsumed/ protected revenue.

43.2 It was further stated that based on the collection of IGST upto 31st December 2020, net of refunds and the settlement of IGST during the period, it is proposed to do provisional settlement of Rs. 48,000 crore by appropriating 50% of it to Centre and 50% of it to States. This would reduce the revenue gap of States and the subsequent requirement of Compensation to States.

43.3 The proposal was put before the GIC and the GIC approved the proposal.

Agenda: Issuance of FAQs for Clarifications on Dynamic Quick Response (QR) Code in B2C invoice

44.1 In the Agenda note it was stated that vide notification no. 31/2019 - Central Tax dated 28 June 2019, the sixth proviso was inserted to rule 46 of the Central Goods and Services Tax Rules, 2017 (CGST Rule, 2017), namely: -

“Provided also that the Government may, by notification, on the recommendations of the Council, and subject to such conditions and restrictions as mentioned therein, specify that the tax invoice shall have Quick Response (QR) code”.

44.2 It was further stated that the requirements regarding Dynamic QR Code on GST invoices were prescribed vide Notification No. 14/2020-Central Tax, dated 21 March 2020.

44.3 The objective behind providing a QR Code payment method was to promote the Digital India campaign launched by the Government along with providing measures of ease of doing business. Though this facility empowers the consumers to use digital payment methods, it also brings challenges related to updation / modification in technological /system requirements by banks and suppliers (vendors).

44.4 Besides, it was also mentioned that as per the amendment done vide Notification No. 71/2020-Central Tax, dated 30.09.2020, to the parent Notification No.14/2020-CT dated 21-03-2020, the Dynamic QR Code was implemented from 1st December 2020. But to provide adequate time to trade to

fulfil the requirements and to banks to bring the necessary technological changes, the Government vide Notification No. 89/2020-Central tax, dated 29.11.2020, waived the amount of penalty payable by any registered person under section 125 of the said Act for non-compliance of the provisions of Notification No.14/2020 – Central Tax, dated 21.03.2020, between the period from the 1st December 2020 to the 31st March 2021, subject to the condition that the said person complies with the provisions of the said notification from the 01st April 2021.

44.5 Further, it was also stated that various representations had been received from trade regarding the challenges in the implementation of Dynamic QR Code as per the Notification No. 14/2020-Central Tax dated 21 March 2020 as amended. Trade and Associations have sought clarity regarding various compliance requirements vis-à-vis the implementation of Dynamic QR Code. The issues raised in these representations have been discussed with all stakeholders in consultation with the National Payment Corporation of India (NPCI). A few of the major doubts raised are as follows:

- (a) To whom the notification No 14/2020-Central Tax dated 21 March 2020 is applicable? Would this requirement be applicable on invoices issued for supplies made for Exports?
- (b) What parameters/ details are required to be captured in the Quick Response (QR) Code?
- (c) If a supplier provides/ displays Dynamic QR Code, but the customer opts to make the payment without using Dynamic QR Code, then will the cross-reference of such payment, made without the use of Dynamic QR Code, on the invoice, be considered as compliance of Dynamic QR Code on the invoice?
- (d) If the supplier makes available to customers an electronic mode of payment like UPI Collect, UPI Intent or similar other modes of payments, through mobile applications or computer-based applications, where though Dynamic QR Code is not displayed, but the details of the merchant as well as the transaction are displayed/ captured otherwise, how the requirement of Dynamic QR Code as per this notification can be complied with?
- (e) Is generation/ printing of Dynamic- QR on B2C invoices mandatory for pre-paid, i.e. where advance payment has been made before issuance of the invoice?
- (f) Once the E-commerce operator (ECO) or the online application has complied with the Dynamic QR Code requirements, will the suppliers using such e-commerce portal or application for supplies still be required to comply with Dynamic QR Code?

44.6 It was also stated that all the issues raised as mentioned above, were discussed in Law Committee meeting held on 28.01.2021 and the Law Committee has approved the draft Circular containing FAQs related to Dynamic QR Code.

44.7 **Decision:** The proposal along with the draft Circular was put before the GIC and the GIC approved the same.

GIC Decision by Circulation 12 February 2021

Agenda: Issuance of Clarification Regarding the Calculation of Adjusted Total turnover under sub-rule (4) of Rule 89 of CGST Rules, 2017

45.1 In the Agenda note it was stated that the definition of '*Turnover of zero-rated supply of goods*' specified under sub-rule (4) of Rule 89 of the CGST Rules 2017 was amended vide Notification No.16/2020-Central Tax dated 23.03.2020, and the same is stated as under:

“Turnover of zero-rated supply of goods” means the value of zero-rated supply of goods made during the relevant period without payment of tax under bond or letter of undertaking or the value which is 1.5 times the value of like goods domestically supplied by the same or, similarly placed, supplier, as declared by the supplier, whichever is less, other than the turnover of supplies in respect of which refund is claimed under sub-rules (4A) or (4B) or both;”.

45.2 However, the State of Maharashtra raised the issue that there was a need to clarify as to whether the restriction on value of zero-rated supply of goods to 1.5 times the value of like goods domestically supplied by the same or, similarly placed, supplier, as declared by the supplier, as per the amended definition of ‘Turnover of zero-rated supply of goods’ would also apply in “Adjusted Total Turnover” in the formula given under sub-rule (4) of Rule 89 of CGST Rules, 2017 for calculation of admissible refund amount. In this regard, it was of the view that the turnover of zero-rated supplies taken for calculation of refund amount (as per the amended definition) should form part of Adjusted Total Turnover and not the ‘Turnover of zero-rated supply of goods’ as per books of account.

45.3 The said Agenda Note was examined by GSTPW, CBIC and it was submitted that sub-rule (4) of Rule 89 prescribes the formula for computing the refund of unutilised ITC payable on account of zero-rated supplies made without payment of tax. The formula prescribed under Rule 89 (4) is reproduced below, as under:

“Refund Amount = (Turnover of zero-rated supply of goods + Turnover of zero-rated supply of services) x Net ITC ÷ Adjusted Total Turnover”

45.4 Further, Adjusted Total Turnover has been defined in clause (E) of sub-rule (4) of Rule 89 as under:

“Adjusted Total Turnover” means the sum total of the value of-

(a) the turnover in a State or a Union territory, as defined under clause (112) of section 2, excluding the turnover of services; and

(b) the turnover of zero-rated supply of services determined in terms of clause (D) above and non-zero-rated supply of services, excluding-

(i) the value of exempt supplies other than zero-rated supplies; and

(ii) the turnover of supplies in respect of which refund is claimed under sub-rule (4A) or sub-rule (4B) or both, if any,

during the relevant period;”

45.5 “Turnover in State or turnover in Union Territory” as referred to in the definition of adjusted total turnover in sub-rule (4) of Rule 89 has been defined under sub-section (112) of Section 2 of CGST Act 2017, as:

“Turnover in State or turnover in Union territory” means the aggregate value of all taxable supplies (excluding the value of inward supplies on which tax is payable by a person on reverse charge basis) and exempt supplies made within a State or Union territory by a taxable person, exports of goods or services or both and inter State supplies of goods or services or both made from the State or Union territory by the said taxable person but excludes central tax, State tax, Union territory tax, integrated tax and cess”

45.6 It was further stated that on the examination of the above provisions, it was noticed that “adjusted total turnover” includes “turnover in a state or union territory”, as defined in Section 2(112) of CGST Act. As per Section 2(112), “turnover in a state or union territory” includes turnover/ value of export/ zero-rated supplies of goods. The definition of “Turnover of zero-rated supply of goods” has been amended vide Notification No.16/2020-Central Tax dated 23.03.2020, as detailed above. It emerges from the above that the same value of zero-rated/ export supply of goods, as calculated as per amended definition of “Turnover of zero-rated supply of goods”, needs to be taken into consideration while calculating “turnover in a state or a union territory”, and accordingly, in “adjusted total turnover” for the purpose of sub-rule (4) of Rule 89. Thus, it emerged that the restriction of 150% of the value of like goods as applied in “turnover of zero-rated supply of goods” would also apply to the value of “Adjusted Total Turnover” in Rule 89 (4) of the CGST Rules, 2017.

45.7 Accordingly, concurring with the recommendations of the State of Maharashtra it was recommended that the said issue may be clarified through a circular. The said Agenda was placed before the Law Committee in its meeting held on 28.01.2021 wherein the Law Committee approved the said draft circular.

45.8 **Decision:** The proposal, along with draft circular was put before the GIC and the GIC approved the same.

GIC Decision by Circulation 16 February 2021

Agenda: Deferring e-Wallet Scheme and Extending Duty Exemption on the imports made by the holders of Advance Authorization holders (AA) / Export Promotion Capital Goods (EPCG) licenses and EOUs

46.1 In the Agenda note the Directorate General of Export Promotion (DGEP), CBIC stated that the GST Council in its meeting held on 06 October 2017 had approved proposal to prevent the cash blockage of the exporter due to upfront payment of GST on inputs, raw materials etc. One component of the solution was to exempt the IGST and Compensation Cess payable on the imports up to 31.03.2018 made by the holders of Advance Authorization holders (AA)/ Export Promotion Capital Goods (EPCG) licenses and Export Oriented Units (EOUs).

46.2 Further, it was decided as a long-term solution to implement the e-wallet scheme so that exporter could pay the GST by using the amount in their e-wallet. A group of Officers on e-Wallet Group was constituted, on 16.12.2017 that was chaired by the Chairman, GSTN and included officers of the Central and State Governments to give recommendations on e-Wallet scheme. While work was going on the proposed e-Wallet scheme, the exemptions were extended from time to time and are presently valid up to 31.03.2021.

46.3 It was further stated that over a period of time since the implementation of GST, various measures have already been taken. These include, declaration of supplies made to EOU/AA/EPCG holder as deemed export supplies thus making either supplier or receiver to get the refund of GST, making merchant exporters receive supplies at a nominal rate of 0.1% of GST, enabling online system for claim of the ITC refund as well as disbursement of refund by the single refund disbursing authority etc. Implementation of all these measures along with continuation of exemption from IGST, cess, etc on imports made under AA/EPCG/EOU scheme, seem to suggest that they have largely resolved the issue of cash blockage and achieved the objective what e-wallet was envisaged to achieve without any extra burden on IT system and any additional legal/administrative requirement.

46.4 It was also as stated that on the overall analysis of additional compliance requirements by suppliers and exporters with little indications of commensurate gains, it was felt expedient to discontinue pursuing the e-wallet scheme and continue with the present scheme of exemption from IGST, cess, etc. on imports by AA/EPCG/EOU scheme. Further, at present, tax exemptions on imports under AA/EPCG/EOU scheme are expiring on 31.03.2021, which is causing uncertainty to exporters. The trade was also habituated to the system of exemptions which have been repeatedly extended from time to time. Creating a new system of e-wallet could be disruptive, which is not desirable when a post-COVID recovery has become a priority. In this background, proposals were submitted to GIC for approval of the following:

- a. Discontinue the pursuance of e-wallet scheme.
- b. Continuing the present exemption from the IGST and cess on the imports made under AA/EPCG/EOU schemes

46.5 In this regard, all the Members of GIC have approved the proposals. Gujarat vide email dated 17-02-2021 has sought additional data on total import of goods made by the taxpayers under AA/EPCG/EOU schemes, duty foregone and cases booked, if any. The DGEP replied vide OM dated 26-02-2021 to the above comments of Gujarat with additional data sought.

46.6 Gujarat concurred with the proposal vide email dated 09-03-2021. However, they have also sent a note highlighting the issues pertaining to refund of tax on account of deemed export. They requested to address these issues while extending exemption benefits to AA/EPCG/EOU scheme. As these issues are on GST policy & procedures, the same have been forwarded to GST Policy Wing, CBIC. Thus, all GIC members including Gujarat have agreed to the proposals.

46.7 **Decision:** The proposal was put before the GIC and the GIC approved the proposal with following remarks:

“Exemption from payment of IGST, Cess etc. on imports under AA/EPCG/EOU schemes, which is to expire on 31.03.21, may be continued up to 31.3.22. In the meantime, technical issues related to e-wallet may be looked into separately.”

GIC Decision by Circulation 22 February 2021

Agenda: Roll out of third phase of e-invoicing with effect from 1st April 2021

47.1 In the Agenda note it was mentioned that Government may start working on enabling the taxpayers with aggregate annual turnover of Rs. 50 to 100 Crores for e-invoice scheme.

47.2 In this regard, it was submitted that w.e.f. 1st October 2020 first phase of e-invoicing was rolled out for the taxpayers having aggregate turnover exceeding Rs. 500 Cr in any preceding financial year from 2017-18 onwards. Further, from 1st January 2021 second phase of e-invoicing was rolled out for the taxpayers having aggregate turnover exceeding Rs. 100 Cr in any preceding financial year from 2017-18 onwards. The updated figures as received from the NIC are stated as under:

Number of GSTINs generating IRN, up to 21-02-21.

Taxpayers having AATO > Rs. 500 Crore				
	Number enabled (a)	Registered and Generating IRNs (b)	Registered, but not generating IRNs (c)	Not Registered [a-(b+c)]
GSTINs	52307	31587	14337	6383
PANs	6971	5302	1259	410

Taxpayers having AATO between Rs. 100 - 500 Crore				
	Number enabled	Registered and Generating IRNs	Registered, but not generating IRNs	Not Registered
GSTINs	81756	42003	26892	13766
PANs	31582	20200	8793	2740

47.3 The total number of e-invoices generated by taxpayers were also mentioned as under:

	Total number of IRNs generated till 31.01.2021	Average IRNs per day
Taxpayers having AATO > Rs. 500 Crore	22,64,96,765	18,41,437
Taxpayers having AATO between Rs. 100 - 500 Crore	1,58,94,860	5,12,737
TOTAL	24,23,91,625	19,70,663

47.4 Besides, it was highlighted that data has been received from GSTN related to number of taxpayers along with their turnover and these are stated as under:

Turnover range	Count of Taxpayers
0 -1.5 Cr	57,58,919
1.5 -5 Cr	9,87,107
5-20 Cr	4,72,235
20-50 Cr	1,05,931

Turnover range	Count of Taxpayers
50-100 Cr	33,869

47.5 Furthermore, it was stated that E-invoice has been one of the major reforms taken by the Government which is beneficial for both tax administration as well as trade. Therefore, a proposal was placed before the Law Committee for implementation of third phase of e-invoicing for taxpayers having aggregate turnover between Rs.20 to Rs.100 crores, from 01.04.2021. For implementing the next phase w.e.f. 01.04.2021 the eligible taxpayers would be required to acquire the utility for generation of IRNs, but their integration would allow GSTR-1s to be auto-populated for this segment too. Also, implementation date is proposed to be 01.04.2021 which would provide sufficient time to the taxpayers to make necessary IT changes and NIC can enable the specified taxpayers on sandbox for testing.

47.6 It was mentioned that the issue was deliberated by the Law Committee in its meeting held on 10.02.2021 wherein NIC was also present. Based on inputs from NIC, Law Committee decided that the taxpayers with aggregate turnover between Rs.50 crores to 100 crores be brought in mandatory e-invoicing w.e.f. 01.04.2021. Further, sandbox testing facility for these taxpayers would be provided by NIC at the earliest. Accordingly, it was proposed that taxpayers with aggregate turnover exceeding Rs. 50 Cr in any preceding financial year from 2017-18 onwards may be brought under the ambit of e-invoice in the third phase w.e.f. 01.04.2021.

47.7 Decision: The proposal was put before the GIC and the GIC approved the proposal.

GIC Decision by Circulation 27 February 2021

Agenda: Extension of due date for filing Annual Return for Financial Year 2019-20.

48.1 In the Agenda note it was mentioned that the time limit for furnishing of the Annual returns specified under Section 44 of the CGST Act 2017 read with Rule 80 of the CGST Rules 2017 for the Financial Year **2019-20** was originally 31st December 2020, which **was extended to 28.02.2021** vide Notification No. 95/2020-CT dated 30.12.2020 on the ground that the amended form was made available on the portal w.e.f 10.12.2020.

48.2 It was further stated that vide Notification No. 47/2019-CT, dated 09.10.2019 read with Notification No.77/2020-CT, dated 15.10.2020, furnishing of the annual return **FORM GSTR-9** for FY 2019-20 was made optional for registered person having aggregate turnover up to Rs. 2 Crore. Similarly, registered person having aggregate turnover up to Rs. 5 Crore are not required to furnish reconciliation statement **FORM GSTR-9C**. Total number of GSTR-9 and GSTR-9C filed up to 26th February 2021 for Financial Years 2018-19 and 2019-20 are detailed in the table below: -

		2018-19	2019-20
GSTR-9	Persons liable to file GSTR-9	18,27,308	16,41,578
	Out of such persons, number of Persons who have filed GSTR-9.	11,78,976	5,04,117
	Total filing of GSTR-9	23,75,958	11,24,763
	% filed out of persons who were liable to file GSTR-9	64.51	30.71
	Persons liable to file GSTR-9C	10,27,322	8,86,914

GSTR-9C	Out of such persons, number of Persons who have filed GSTR-9C.	6,13,485	1,88,092
	Total filing of GSTR-9C	6,78,221	2,04,184
	% filed out of persons who were liable to file GSTR-9C	59.72	21.21

48.3 It was further mentioned that the relevant data that for FY 2019-20, the return filing percentage was still to reach 50% of the numbers of FY 2018-19. Further, return filing percentage of the FY 2019-20, as on 26.02.2021, is comparatively very low, as only 30.7% of eligible taxpayers i.e., only 5,04,117 taxpayers have furnished their Annual Returns in **FORM GSTR-9** and only 21.21% of eligible taxpayers i.e., only 1,88,092 taxpayers have furnished their Annual Returns in **FORM GSTR-9C**.

48.4 Further, it was added that in FY 2018-19, the original due date for filing annual return was 31.12.2019, which was extended 6 times to make the final due date as 31.12.2020 due to several reasons including the hardships faced due to lock-down period in COVID-19.

48.5 Lastly, it was stated that several representations had been received from various stakeholders, including trade association and tax practitioners, for further extension of due date of GSTR-9 and GSTR-9C beyond 28.02.2021, on the ground that they have not had sufficient time to prepare and file these returns owing to their pre-occupation with the filing of annual returns for 2018-19 (for which the due date was 31.12.2020) and various income tax returns, with the last date for some of them being 15 February 2021. Accordingly, it was proposed that the due date for furnishing of the annual returns specified under Section 44 of the CGST Act 2017 read with Rule 80 of the CGST Rules 2017 for the financial year **2019-20** may be extended by one month i.e., till 31.03.2021.

48.6 **Decision:** The proposal was put before the GIC and the GIC approved the proposal to extend the due date of annual return for FY 2019-20 till 31-03-2021..

GIC Decision by Circulation 24 March 2021

Agenda: Waiver of Penalty for Issuing Invoice without Dynamic QR Code

49.1 In the agenda note it was stated that notification No. 14/2020-Central Tax, dated 21st March 2020, as amended by notification no. 71/2020-Central Tax dated 30th September 2020, entails the need for the dynamic QR code on B2C invoice issued by taxpayers having aggregate turnover more than Rs.500 crore w.e.f. 01.12.2020.

49.2 The GST Policy Wing, CBIC, stated that based on various interactions with banks and trade bodies, it was noticed that banks and payment service providers were not in a ready state to roll out the facility for the dynamic QR code w.e.f. 01.12.2020. Accordingly, to facilitate the transition for implementation of scheme of Dynamic QR Code, the penalty payable under Section 125 of the CGST Act, 2017 for non-compliance of the provisions regarding Dynamic QR Code, was waived vide notification no. 89/2020 -CT dated 29th November 2020, for the period from 01.12.2020 to 31.03.2021, subject to the condition that the said persons comply with the provisions of the said notification from 01.04.2021.

49.3 Meanwhile, to address various queries/issues represented by the trade, Circular number 146/02/2021-GST dated 23-02-2021 was issued, which clarified several queries raised by the trade. Further, the GST Policy Wing, CBIC has stated that to review the progress made by the banks, the

Member (GST), CBIC conducted review meetings with National Payments Corporation of India (NPCI) and Banks on 20th January 2021 and 18th March 2021. During the recent review meeting held on 18th March 2021, the progress of all the banks was individually reviewed. As per feedback provided by the banks, most of the banks are in advanced stage of development and certification process for Dynamic QR Code and would be able to go live and release their application by end of March 2021.

49.4 It was further stated that during this period, the GST Policy Wing has also engaged with various trade associations like NASSCOM, USISPF, Retailers Association of India (RAI), ASSOCHAM and other major retailers / e-commerce operators wherein it was highlighted by various trade bodies during these interactions that the banks are yet to release their applications and the technical specifications to be followed by the taxpayer/merchant's software to interact with the bank's applications. The banks would be able to share the details and specifications with merchants and third-party payment operators only after the banks finalize their application and specifications. Thus, merchants are dependent on their banks to initiate making changes in their systems to integrate with bank applications and they would require time to make changes in their systems after receiving the technical specifications from banks to go live with their own software/systems to implement the Dynamic QR Code scheme. As per feedback from trade bodies, they would need at least three more months to be fully compliant with the requirement of dynamic QR code at their end.

49.5 Accordingly, it was proposed that: the penalty payable under Section 125 of the CGST Act, 2017 for non-compliance of the provisions of notification No.14/2020 – Central Tax, dated the 21st March 2020 as amended, may be waived further for the period from 01.04.2021 to 30.06.2021, subject to the condition that the said persons comply with the provisions of the said notification from 01.07.2021.

49.6 **Decision:** The proposal was put before the GIC and the GIC approved the proposal.

GIC Decision by Circulation 27 March 2021

Agenda: Proposal to Settle an Additional IGST Amount of 28,000 Crore on an Ad-hoc Basis.

50.1 In the Agenda Note it has been mentioned that depending on the amount of IGST remaining yet to be apportioned, provisional settlement was being done from time to time on an ad-hoc basis. It was further mentioned the amount apportioned till now and the same is given in the table below:

Sl No.	Month	Amount Apportioned (In Crore)
1.	February- 2018	35000
2.	June- 2018	50000
3.	August- 2018	12000
4.	October- 2018	30000
5.	December- 2018	18000
6.	March- 2019	20000
7.	April- 2019	12000
8.	June- 2019	15000
9.	March- 2020	6000

Sl No.	Month	Amount Apportioned (In Crore)
10.	February 2021	48000

These amounts were settled in a ratio of 50:50 to Centre and States and the amount apportioned to States was divided in the ratio of subsumed/ protected revenue.

50.2 It was also stated that based on the collection of IGST upto 25th March 2021 and considering the expected IGST collections from the remaining six days of the month, net of refunds and the settlement of IGST during the period, it was proposed to do provisional settlement of Rs. 28,000 crore, out of which 50% of it to Centre and 50% of it to States. This would reduce the revenue gap of States and UTs and also the required Compensation to States.

50.3 **Decision:** The proposal was put before the GIC and the GIC approved the proposal.

GIC Decision by Circulation 2 April 2021

Agenda1: Reduction in late fee for FORM GSTR-3B for months from July 2017 to February 2021- Amnesty to clean up pendency in return filing in GST regime.

51.1 In the Agenda note it was mentioned that various references have been received from taxpayers, tax practitioners and associations such as CAIT regarding waiver of late fee imposed due to not furnishing of **FORM GSTR-3B**. It has been represented that taxpayers, particularly, the small taxpayers, could not furnish their returns, especially during COVID times, due to lack of knowledge, lack of funds and other difficulties faced during lockdown. It has also been submitted that most of such small taxpayers had very minimal tax liabilities, even, including NIL tax liability. It has been further represented that that due to non-furnishing of returns, interest and late fees have been piling up and have now reached a sizeable amount, which in some cases is more than the tax amount itself, which has become a major deterrent for such taxpayers in filing their pending returns.

51.2 It was further stated that, it is noteworthy that sub-section (10) of section 39 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the “CGST Act”) provides that,

“A registered person shall not be allowed to furnish a return for a tax period if the return for any of the previous tax periods has not been furnished by him.”

Thus, taxpayers are not allowed to furnish subsequent returns.

51.3 Further, Section 47 of the CGST Act provides for levy of late fees for non-furnishing of **FORM GSTR-1, FORM GSTR-3** or **FORM GSTR-4** of one hundred rupees per day. Presently, late fees for delay in furnishing of these forms by the due date is twenty rupees per day (Rs. 10/- under CGST Act plus Rs 10/- under SGST Act) for NIL filers and fifty rupees per day (Rs. 25/- under CGST Act plus Rs 25/- under SGST Act) for others. This late fee is subject to a maximum amount of Rs. 10000/- per return (Rs. 5000/- under CGST Act plus Rs. 5000/- under SGST Act).

51.4 It was also mentioned that waiver of **entire late fee** for non-furnishing of **FORM GSTR-3B** for the tax period July 2017 to September 2018 was allowed for the taxpayers who furnished **FORM GSTR-3B** during the period 22.12.2018 to 31.03.2019 vide notification No. 76/2018-Central Tax, dated 31.12.2018.

51.5 Further, an amnesty scheme by way of reduction in late fee for tax period from July 2017 to July 2020 was again provided vide notification No. 52/2020 – Central Tax, dated 24.06.2020 and 57/2020-

Central Tax, dated 30.06.2020. The late fee was capped at Rs. **500 per return** (Rs. 250 CGST + Rs. 250 SGST) and was made **Nil for NIL filers**, subject to condition that the returns are filed between 01.07.2020 to 30.09.2020. (For February 2020 to July 2020, the amnesty scheme was applicable if the returns are filed up to 30.09.2020)

51.6 It was also stated that it was important to note that besides other concerted efforts by tax administration like handholding of taxpayers and close monitoring of return filing during the filing cycle, these amnesty schemes had also played a significant role in improving return filing compliance, which has increased from 55% to 65% approx. earlier to 85% to 90% now. The data suggests that still there was a gap of approximately 10-12 lakhs returns per month which are yet to be furnished in **FORM GSTR-3B**, one of the reasons being the sizeable amount of late fee.

51.7 In order to alleviate the burden of accumulated late fee on businesses, particularly MSMEs, and to allow them to furnish their pending tax returns henceforth, the following proposals for reduction in late fees for not furnishing **FORM GSTR-3B** for tax periods from July 2017 to February 2021 were made: -

i. late fee may be capped to a maximum of **Rs 500/- (Rs. 250/- each for CGST & SGST) per return** for taxpayers, who did not have any tax liability for the said tax periods and are thus required to file **NIL** return.

ii. late fee may be capped to a maximum of **Rs 1000/- (Rs. 500/- each for CGST & SGST) per return** for taxpayers other than those covered in clause (i)

51.8 Further, it was proposed that such reduction/ capping in late fee should be kept conditional and would apply only if the returns are filled during a specified period i.e., from 15.04.2021 to 30.06.2021.

51.9 **Decision:** Though, GIC approved the proposal, however, in view of the resurgence of Covid and consequential lock-down in many places of the country, it was decided that the above said proposal be kept in abeyance for the time being.

Agenda item 2: Amendment in Central Goods & Services Tax Rules, 2017 to provide for withholding of refund, release of withheld refund and withdrawal of refund claim and notifying FORMs thereof-

52. **Withholding of refund and Release of withheld refund**

52.1 In the agenda note it was mentioned that both partial and complete adjustment of refund against any outstanding demand need to be carried out in **FORM GST RFD-06**, rather than having a separate form (**Part A of FORM GST RFD-07**) for complete adjustment.

52.2 Sub-rule (1) of Rule 92 of CGST Rules, 2017 states that:

“92. Order sanctioning refund.-(1)Where, upon examination of the application, the proper officer is satisfied that a refund under sub-section (5) of section 54 is due and payable to the applicant, he shall make an order in FORM GST RFD-06 sanctioning the amount of refund to which the applicant is entitled, mentioning therein the amount, if any, refunded to him on a provisional basis under sub-section (6) of section 54, amount adjusted against any outstanding demand under the Act or under any existing law and the balance amount refundable: Provided that in cases where the amount of refund is completely adjusted against any outstanding demand under the Act or under any existing law, an order giving details of the adjustment shall be issued in Part A of FORM GST RFD-07.”

Thus, the rule, in its present form, clearly states that when amount of refund is completely adjusted against any outstanding demand under the Act or under any existing law, order has to be passed in **Part A of FORM GST RFD-07**.

52.3 However, the current practice, both on the system and in the field, is to use **FORM GST RFD-06** for both partial and complete adjustment of refund. Considering that the said practice is working without any operational challenges, there does not appear a need for a separate form (**Part A of FORM GST RFD-07**) in case when amount of refund is completely adjusted against any outstanding demand as the same can be done through **FORM GST RFD-06**.

52.4 Accordingly, the **Law Committee, in its meeting held on 7th November 2019** recommended the following:

- a) Both partial and complete adjustment of refund against any outstanding demand should be carried out in **FORM GST RFD-06**, rather than having separate form (**Part A of FORM GST RFD-07**) for complete adjustment.
- b) Further, **FORM GST RFD-07** to be amended to provide that Part A thereof shall be for withholding and Part B for release of the amount withheld.

52.5 Accordingly, GSTN designed the new format for Part A of FORM GST RFD-07 for withholding of refund and Part B of FORM GST RFD-07 for release of refund which were placed before the Law Committee in its meeting held on 12th December 2019 wherein the Law Committee approved the new format. It has been now informed by the GSTN that the amended FORM GST RFD-07 (PART-A for withholding of refund and Part B for release of withheld refund) have been developed and have been deployed and therefore, the same needs to be notified.

52.6 However, it was observed that there is a need to have provision for release of withheld refund in the CGST Rules, similar to the provisions which provide for withholding of refund. Accordingly, a proposal for amendments in Rule 92 and Rule 96 of the CGST Rules to provide for release of withheld refund was placed before the **Law Committee on 17.03.2021** wherein it was approved.

53. Withdrawal of refund:

53.1 In the agenda note it was further mentioned that GSTN had placed an agenda note before the **Law Committee in the meeting held on 12.12.2019** wherein they had submitted that even though, the facility to preview the refund application is available to the taxpayer before finally submitting the refund applications, taxpayers are still making mistakes in the refund application. Further, there is no functionality available on the portal to correct any mistakes made in the refund application after the submission of the refund application and once the application has been rejected by the tax officer on account of the mistakes made in the refund application, the system does not allow filing the refund application again, for the same tax period, even after correcting such a mistake and the only resort available with the taxpayer in such cases is to file an appeal against the rejection. However, the appeal route is more tedious and time consuming.

53.2 In view of the aforesaid facts, the GSTN proposed to introduce a functionality for withdrawal of refund application, if the taxpayer has committed any error or has filed the refund application by mistake. Accordingly, GSTN designed a format i.e., **FORM GST RFD-01W** in which the taxpayer would be able to file request for withdrawal of refund claim even if the refund application has been

acknowledged. However, the taxpayer would not be able to withdraw the application if the officer has issued RFD-04/05/06/07/08 against the said application.

53.3 The said agenda was placed before the Law Committee in the meeting held on 12.12.2019 wherein GSTN sought approval for introduction of the facility and the format i.e., FORM GST RFD-01W and to seek clarification whether the system should block further processing of the refund application after submission of RFD-01W by the taxpayer or should it wait for the approval of the refund processing officer. The Law Committee in the said meeting approved the introduction of the facility for withdrawal of refund and the format of the said FORM GST RFD-01W with the comment that the taxpayer would be allowed to withdraw the refund claim only in cases where no action, other than acknowledgment, has been taken. Further, the Law Committee in its meeting held on 17.03.2021 approved a proposal to amend Rule 90 of CGST Rules, 2017 to provide for withdrawal of refund application by filing FORM GST RFD-01W.

53.4 **Decision:** GIC approved the proposal for amendment in Central Goods & Services Tax Rules, 2017 to provide for withholding of refund, release of withheld refund and withdrawal of refund claim and notifying amendment in FORMs.

Agenda item 3: Amendments required in CGST Rules, 2017 in consequence of notifying the provisions of Finance Act, 2020 with effect from 01.01.2021 vide Notification No. 92/2020-Central Tax dated 22.12.2020.

54.1 In the agenda note it was mentioned that specified provisions of the Finance Act, 2020, relating to the amendment in the CGST Act, have been notified with effect from 01.01.2021 vide, notification No. 92/2020-Central Tax dated 22.12.2020. The CGST Rules corresponding to the relevant sections have been analysed and it has been observed that amendment as carried out in section 30 of the CGST Act, 2017 requires a consequential amendment in Rule 23 and **FORM GST REG-21** of the CGST Rules

54.2 In section 30 of the CGST Act, which is regarding “Revocation of cancellation of registration”, a proviso to sub-section (1) of section 30 of the CGST Act has been inserted *vide* Finance Act, 2020 to provide for extension of time limit for applying for revocation of cancellation of registration on sufficient cause being shown, by:

(a) the Additional or Joint Commissioner, as the case may be, for a period not exceeding thirty days.

(b) the Commissioner, for a further period not exceeding thirty days, beyond the period specified in clause (a) above.

54.3 In view of the aforementioned amendment, amendment was proposed in Rule 23 which provides for a detailed procedure for revocation of cancellation of registration and **FORM GST REG-21** of the CGST Rules. It is proposed that in respect of the time limit provided for filing an application for revocation of cancellation of registration, in **FORM GST REG-21**, the provision for extension of time by the Additional Commissioner or the Joint Commissioner or Commissioner, as per amended Section 30 of the CGST Act 2017, be included in the rule and the FORM.

54.4 Further, till the time an independent functionality for extension of time limit for applying in **FORM GST REG-21** is developed on the GSTN portal, it is proposed to issue a Standard Operating Procedure (SOP) for implementation of the amended provisions of section 30 of the CGST Act.

54.5 The issue was placed before the Law Committee in its meeting dated 17.03.2021 and the Law Committee has recommended for amendment in the said rule and issuance of the proposed SOP. Accordingly, Agenda note (along with draft notification and SOP) was placed before the GIC for approval of the proposal for amendment in Rule 23, **FORM REG-21** and issuance of SOP.

54.6 **Decision:** The GIC approved the proposal along with draft Notification and SoP.

GIC Decision by Circulation 20 April 2021

Agenda: Amendment of Rule 26(1) to Allow Corporates to Furnish FORM GSTR-1/IFF and FORM GSTR-3B Using Electronic Verification Code (EVC).

55.1 In the Agenda note it was mentioned that proviso to sub-rule (1) of rule 26 of CGST Rules, 2017 provides that a registered person registered under the provisions of the Companies Act, 2013 (18 of 2013) shall furnish the documents or application verified through digital signature certificate (DSC). In this context, various stakeholders had represented that due to the restrictions imposed in view of COVID-19 pandemic, they are facing difficulties in accessing or using their Digital Signature (DSC). Accordingly, it was being requested that they be allowed to furnish the documents or applications through Electronic Verification Code (EVC).

55.2 It was further stated that the relaxation on similar lines was also provided last year in respect of filing of GSTR-3B and GSRT-1 in view of the COVID 19 related restrictions and difficulties. Notification No. 48/2020- Central Tax dated 19.06.2020 inserted the following provisos in rule 26 in sub-rule (1):

“Provided further that a registered person registered under the provisions of the Companies Act, 2013 (18 of 2013) shall, during the period from the 21st day of April 2020 to the 30th day of September 2020, also be allowed to furnish the return under section 39 in FORM GSTR-3B verified through electronic verification code (EVC).

Provided also that a registered person registered under the provisions of the Companies Act, 2013 (18 of 2013) shall, during the period from the 27th day of May 2020 to the 30th day of September 2020, also be allowed to furnish the details of outward supplies under section 37 in FORM GSTR-1 verified through electronic verification code (EVC).”

55.3 It was also mentioned that in view of the recent restrictions imposed in various states for containment of COVID-19, similar relaxation might be provided in respect of the furnishing of GSTR-3B and GSTR-1/ IFF. Accordingly, the following proviso was proposed to be inserted in sub-rule (1) of rule 26 of CGST Rules, 2017 after the third proviso: -

“Provided also that a registered person registered under the provisions of the Companies Act, 2013 (18 of 2013) shall, during the period from the 27th day of April 2021 to the 31st day of May 2021, also be allowed to furnish the return under section 39 in FORM GSTR-3B and the details of outward supplies under section 37 in FORM GSTR-1 or using IFF, verified through electronic verification code (EVC).”

55.4 **Decision:** The proposal was put before the GIC and the GIC approved the proposal.

GIC Decision by Circulation 26 April 2021

Agenda: Amendment in Rule 138E of CGST Rules, 2017 Which Provides for Blocking of e-way Bill in Respect of Supplies Made by a Defaulting Registered Person.

56.1 In the Agenda note it was mentioned that as per Rule 138E of CGST Rules 2017, the E-Way Bill generation facility by *a consignor, consignee, transporter, an e-commerce operator or a courier agency*) in respect of a registered person, whether as a supplier or a recipient, is liable to be restricted, in case the said registered person fails to file their GSTR-3B returns for a consecutive period of two tax periods or more or CMP-08 statements for two consecutive quarters or more. The biggest concern for a taxpayer with this new system is that if the recipient of goods has not filed the returns for more than two months, and EWB facility in respect of such recipient is blocked in terms of provisions of Rule 138E, then the supplier will not be able to generate EWB in respect of any supply to such recipient. The GST Policy Wing, CBIC has stated that representations have been received claiming that in such a case, for the mistake of the recipient, the supplier's business is made to suffer.

56.2 It was also stated that the suppliers had already manufactured goods as per the order received from the recipient and therefore, blocking of e-way bill for their supply to the defaulting recipient may adversely affect the business of suppliers and cause loss to them even though they may be fully compliant with the provisions of GST laws. The supplier cannot deliver goods without an e-way bill and if the goods are transported by them to such recipient (in respect of whom generation of e-way bill is blocked) without an e-way bill, then such movement of goods will be in contravention of provisions of CGST Act and Rules. Such goods may be liable to detention/ seizure during movement and may be liable to penal action as per the provisions of the CGST Act/ Rules.

Preventing supply of goods by suppliers to such defaulting recipients adversely affects the business of the compliant supplier, which may not be the intention while introducing the said provision of blocking of e-way bill under Rule 138E of CGST Rules, 2017. The GST Policy Wing, CBIC has stated that it was represented that issuance of e-way bill by the compliant supplier might not be blocked, in respect of supply made to such recipient who had defaulted in furnishing two consecutive returns, as per Rule 138E of CGST Rules, 2017. This would ensure that business of suppliers is not adversely affected and they are able to generate e-way bills in respect of supplies to such defaulting recipients and make their supplies.

56.3 It was further stated that the intention of this rule was not to penalize the supplier for the default of the recipient. The intention was also not to prevent other suppliers from doing their business with the defaulter recipient since it affects the supplier's business who themselves may be compliant with the provisions of law. The rationale of the rule was to prevent those taxpayers, who do not file the returns for two or more tax periods, from making further supplies and from generating e-way bill for the said supplies to be made by them, as it would be to the detriment to government's revenue. Therefore, the GST Policy Wing, CBIC has proposed that rule 138E may be suitably amended to prescribe blocking of e-way bill only in respect of supplies made by the person who fails to file their GSTR-3B returns for a consecutive period of two tax periods or more or CMP-08 returns for two consecutive quarters or more, and **not** in respect of supplies made to such defaulting taxpayer as recipient.

56.4 The issue was discussed in Law Committee meeting held on 16.04.2021. Law Committee, in the said meeting has approved the following change/amendment (in red) in Rule 138E as mentioned below: -

"138E. Restriction on furnishing of information in PART A of FORM GST EWB-01.- Notwithstanding anything contained in sub-rule (1) of rule 138, no person (including a consignor, consignee,

transporter, an e-commerce operator or a courier agency) shall be allowed to furnish the information in PART A of FORM GST EWB-01 in respect of *any outward movement of goods of a registered person, whether as a supplier or a recipient*, who, —

(a) being a person paying tax under section 10[or availing the benefit of notification of the Government of India, Ministry of Finance, Department of Revenue No. 02/2019– Central Tax (Rate), dated the 7th March, 2019, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 189, dated the 7th March, 2019,], has not furnished the [statement in FORM GST CMP-08] for two consecutive [quarters]; or

(b) being a person other than a person specified in clause (a), has not furnished the returns for a consecutive period of [two tax periods]:

Provided that the Commissioner may, on receipt of an application from a registered person in FORM GST EWB-05, on sufficient cause being shown and for reasons to be recorded in writing, by order, [in FORM GST EWB-06 allow furnishing of the said information in PART A of FORM GST EWB 01, subject to such conditions and restrictions as may be specified by him:

Provided further that no order rejecting the request of such person to furnish the information in PART A of FORM GST EWB 01 under the first proviso shall be passed without affording the said person a reasonable opportunity of being heard:

Provided also that the permission granted or rejected by the Commissioner of State tax or Commissioner of Union territory tax shall be deemed to be granted or, as the case may be, rejected by the Commissioner.

(c) being a person other than a person specified in clause (a), has not furnished the statement of outward supplies for any two months or quarters, as the case may be.

(d) being a person, whose registration has been suspended under the provisions of sub-rule (1) or sub-rule (2) or sub-rule (2A) of rule 21A.

Explanation: – For the purposes of this rule, the expression “Commissioner“ shall mean the jurisdictional Commissioner in respect of the persons specified in clauses (a) and (b).”

56.5 Decision: GIC approved amendment in Rule 138E of CGST Rules, 2017 as proposed in the agenda note.

Agenda Note 2: Regarding Excluding the Time Period between Filing of Original Refund Application to Issuance of Deficiency Memo for Computation of Time for Filing Refund Under Sub-section (1) of Section 54.

57.1 In the agenda note it was stated that sub-section (1) of Section 54 provides the time frame within which a claim for refund can be filed by any person. The sub-section (1) of section 54 is reproduced as under:

“(1) Any person claiming refund of any tax and interest, if any, paid on such tax or any other amount paid by him, may make an application before the expiry of two years from the relevant date in such form and manner as may be prescribed.”

On perusal of the above provision, it can be observed that time limit of two years from the relevant date has been provided for making application of refund under GST. Relevant date for different categories of refund has been defined in Explanation (2) under Section 54 of the CGST Act, 2017.

57.2 Further, sub-rule (3) of Rule 90 provides that in case any deficiencies were noticed in the refund application, the proper officer should communicate the same to the applicant in FORM GST RFD-03 through the common portal. The rule also provides that in such case, the applicant would be required to file fresh refund application for refund after rectification of such deficiencies. Accordingly, system had been designed in such a way that on issuance of deficiency memo in FORM GST RFD-03 in respect of any refund application, any amount debited from the electronic credit ledger/electronic cash ledger at the time of filing refund application, gets re-credited to the respective ledger requiring the taxpayer to debit the amount again while filing a fresh refund application after correction of deficiencies.

57.3 The GST Policy Wing, CBIC has further stated that instances had been brought to notice wherein, due to issuance of deficiency memo in FORM GST RFD-03, the time period of 2 years provided under sub section (1) of section 54 of CGST Act 2017 from the relevant date for filing a fresh application of refund after rectification of deficiencies has already elapsed due to time taken by the proper officer for issuance of deficiency memo in FORM GST RFD-03 in respect of the original refund application. The fresh refund application, filed post rectification of deficiencies, after stipulated period of 2 years from the relevant date, was rejected by the proper officer on the grounds of time bar. The taxpayers feel aggrieved in such cases as they would not be able to get any relief from the Appellate authority, as the provisions of Law and Rules were clear that any claim filed after rectification of deficiencies was treated as a fresh refund claim and the time bar aspect for such claims had to be ascertained in terms of sub-section (1) of section 54 of CGST Act 2017.

Petitions have been filed in High Courts for seeking relief in this regard requesting to consider the date of filing of first/original application for the purpose of sub-section (1) of Section 54.

57.4 In this regard, it was stated that the taxpayer should not be unfairly made to face adverse consequences due to time taken in issuance or wrong issuance of deficiency memo, if any, on the part of the proper officer; and therefore, a refund claim, filed after rectification of deficiency, should not become time barred under the provisions of sub—section (1) of section 54 of CGST Act 2017, merely because of this. It was, therefore, proposed that the time period from the date of filing of original refund claim to the date of issuance of Deficiency Memo in FORM GST RFD-03 might not be taken into consideration and be excluded for the purpose of computation of time period of 2 years as provided in sub-section (1) of Section 54 of CGST Act, 2017, in respect of any fresh refund claim filed after rectification of deficiencies.

57.5 Further, GSTN had developed a functionality for Model II States/UTs wherein the details of deficiency memo issued would be displayed to the tax officers, while processing the subsequent fresh refund applications, if filed by the taxpayer for the same period. Thus, the proper officer could easily calculate whether the claim is hit by the limitation of time by excluding the time taken for issuance of deficiency memo, in respect of original refund application, from the time period between the relevant date and date of filing of the fresh claim and accordingly, pass a speaking order.

57.6 Accordingly, it was proposed to insert the following proviso after sub-rule (3) of Rule 90 of CGST Rules 2017:

“Provided that the time period, starting from the date of filing of the refund claim in FORM GST RFD-01 by the applicant to the date of communication of the deficiencies in FORM GST RFD-03 by the proper officer, shall not be taken into consideration for determining the limitation of time under sub-section (1) of Section 54, in respect of any such fresh refund claim filed by the applicant after rectification of the deficiencies.”

57.7 The said agenda for amendment of CGST rules for insertion of proviso after sub-rule (3) of Rule 90 was placed before the Law Committee in meeting held on 16.04.2021, wherein it was approved.

58. The proposal was put before the GIC and the GIC approved the proposal.

GIC Decision by Circulation 29 April 2021

Agenda: Relief Measures to taxpayers from Various Compliances in GST due to Lockdown / Restrictions Imposed for Containment of COVID

59.1 In the agenda note it was stated that in light of the recent unprecedented surge of cases of COVID-19 and crisis due to this pandemic being faced all over the country, a number of states have taken and announced lockdown/ various restrictions on movement of people and working of offices of private and government establishments, affecting trade and industry also. In Mumbai, for instance, curfew has been imposed from night of 14th April 2021 till morning of 1st May 2021 and private offices have been asked to remain closed while Government offices have been directed to manage with 15% attendance of staff. Similarly, Delhi had imposed curfew from the night of 19th April 2021 to morning of 3rd May 2021 with severe restrictions on non-essential business and services. Other states like Uttarakhand, Karnataka, Rajasthan, Chhattisgarh, Madhya Pradesh, Haryana, UP and many other States have also imposed such restrictions in various parts of the states. Some other states had imposed weekend curfews and night curfews in their states. All these measures, along with the severity of COVID 19 in various parts of the country, had adversely affected functioning of trade and industry throughout the country, including difficulties in time bound statutory compliances under various provisions of GST laws.

59.2 In view of prevailing situation, the GST Policy Wing of CBIC has stated that a number of representations were received from various trade associations, tax practitioners' associations and some state governments like Maharashtra, Bihar, Rajasthan, UP etc, highlighting the need for various relief measures in this period of crisis for taxpayers relating to statutory and regulatory compliances in GST, including extension of due dates.

59.3 It was further stated in the agenda note that in view of the challenges faced by taxpayers in meeting the compliance requirements because of lockdown/ restrictions imposed due to COVID-19 pandemic during early phase of Year 2020, various relief measures relating to statutory and regulatory compliance under GST were taken in the **year 2020**. However, this year, the nature of lockdown and its extent is different because of which the measures proposed now are at variance with last year. For instance, none of the States appear to have placed any restrictions on the movement of goods during the second wave unlike a complete lockdown in the initial phase in 2020. E-way bill data also does not show a fall in the number or value of bills generated during April 2021 vis-a-vis April 2019 (treating April 2020 as an atypical period). As such, there does not appear to be a need to extend the validity of e-way bills as was done in 2020.

59.4 Keeping above factors in mind, the following measures for providing relief to the taxpayers in GST related compliances are proposed:

59.5 FORM GSTR-3B

For registered persons having aggregate turnover above Rs. 5 Crore

- i. A lower rate of interest @ 9% for first 15 days after the due date of filing return in **FORM GSTR-3B** for the tax period March, 2021 and April, 2021 may be notified. Rate of interest for delay in payment of GST is otherwise notified as 18% per annum.
- ii. Waiver of late fee for delay in furnishing returns in **FORM GSTR-3B** for the tax periods March, 2021 and April, 2021 may be provided for 15 days from the due date of furnishing **FORM GSTR-3B**.

For registered persons having aggregate turnover up to Rs. 5 Crore

- i. For the tax periods March, 2021 and April, 2021 (for the taxpayers opting to file monthly returns) / Jan-March, 2021 (for taxpayers filing quarterly returns under QRMP scheme), NIL rate of interest for first 15 days from the due date of furnishing the return in **FORM GSTR-3B** and reduced rate of interest @9% thereafter till further 15 days may be notified. Rate of interest for delay in payment of GST is otherwise notified as 18% per annum.
- ii. Waiver of late fee for delay in furnishing returns in **FORM GSTR-3B** for the tax period March, 2021 and April, 2021 (for taxpayers filing monthly returns) / Jan-March, 2021 (for taxpayers filing quarterly returns under QRMP scheme) may be provided for 30 days from the due date of furnishing **FORM GSTR-3B**.
- iii. Waiver of interest for 15 days for taxpayers filing delayed **PMT-06** Challan (for payment of tax liability) and reduced rate of interest of 9% thereafter for 15 days further, from due date of filing **PMT-06** challan (which is 25th May 2021) for the month of April, 2021 may be notified for QRMP taxpayers filing quarterly returns.

59.6 For registered persons who had opted to pay tax under the Composition scheme.

- i. **FORM GSTR-4:** Due date may be extended from 30th April, 2021 to 31st May, 2021.
- ii. **FORM CMP-08:** NIL rate of interest for first 15 days from the due date of payment of self-assessed tax and 9% for the next 15 days, for the quarter ending 31st March, 2020. The due date was 18th April, 2021.

59.7 **FORM ITC-04:** It is the statement filed by taxpayers who send the goods on job work. The due date of furnishing **FORM ITC-04** for QE March, 2021 is 25th April. It is proposed that the same may be extended till 31st May, 2021.

59.8 **FORM GSTR-1/ IFF:** Due date of furnishing **GSTR-1/ IFF** for the month of March 2021 (due in April) was already over before lockdown restrictions in the states were imposed and accordingly, extension is not required for the same for March 2021. However, it is proposed that due date of filing **GSTR-1** and **IFF** for the month of April (due in May) may be extended by 15 days.

Consequently, **the restriction on availment of credit** by taxpayers over and above those declared by their suppliers in their GSTR-1, **under Rule 36(4)** for tax period April 2021 may be deferred and may be applied commutatively in the return for tax period May 2021.

59.9 Extension in statutory time limits **under section 168A**

59.9.1 It was proposed that any time limit for completion or compliance of any action, by any authority or by any person, under the GST Act, which falls during the period from the 15th April, 2021 to the 30th May, 2021 (with suitable exemptions as provided last year vide Notification 35/2020-Central Tax) may be extended upto the 31st May, 2021, as per the powers granted under section 168A of the CGST Act 2017, invoking force majeure, due to pandemic. Also, no extension of validity of e-way bills is being proposed this year, unlike last year, as per reasons discussed in Para 59.3 above.

59.9.2 Further, it was noted that while section 25 pertaining to GST registration might be exempted from the extension of time limit under Section 168A (as done last year), adequate time might be provided to the officer to verify the application for registration under rule 9 of CGST Rules so as to avoid **deemed registration** during the time period ranging from 1st May, 2021 to 31st May 2021. Hence, it was proposed that where any time limit for completion of any action, by any authority, has been specified in, or prescribed or notified under under rule 9 of the Central Goods and Services Tax Rules, 2017, which falls during the period from the 1st May, 2021 to the 31st May, 2021, the same may be extended up to the 15th June, 2021.

59.9.3 In the year 2020, vide Notification No. 46/2020 issued under section 168A, officers were allowed **additional time limit for issuance of the refund order** upto fifteen days after the receipt of reply to the notice from the registered person or 30th day of June, 2020, whichever is later. Such provision was required since the taxpayers were provided extension till 30th June, 2020 to reply to the notice for rejection of refund application (whether in part or full) as per extension of time lines under Section 168A as per Notification No. 35/2020. In cases where the taxpayers submitted the reply on or just before the due date, it left little time with officers to scrutinise the reply since the due date for issuance of order was also to be 30th June 2020 in many cases due to the said notification. A similar provision might be provided this year also wherein officers to be allowed additional time limit for issuance of the refund order up to fifteen days after the receipt of reply to the notice from the registered person or 31st May, 2021, whichever is later.

60. **Decision:** The proposal was put before the GIC and the GIC approved the proposal along with the draft Notifications.

GIC Decision by Circulation 1 May 2021

Agenda: Reduction in IGST Rate for Oxygen Concentrators Imported for Personal Use

61.1 In the agenda note it was stated that Heading 9804 of the Tariff covers all goods imported for personal use. The present applicable IGST rate, item wise for this heading (9804) is stated as under:

i. 5 % Rate Schedule

S. No	Heading	Description	Rate
263	9804	Drugs or medicines including their salts and esters and diagnostic test kits specified at S.No.180 above and Formulations specified at S.No.181 above, intended for personal use.	(2.5% +2.5%)

ii. **12% Rate Schedule**

S. No	Heading	Description	Rate
241	9804	Other Drugs and Medicines intended for personal use	(6%+6%)

iii. **28% Rate Schedule**

S. No	Heading	Description	Rate
227	9804	All goods intended for personal use	(14%+14%)

61.2 It was further stated that as per the above rate structure, the import of Oxygen Concentrators for personal use (say through courier mode), gets classified under HSN code 9804 and attracts GST at the rate of 28% (i.e., rate as applicable to all dutiable goods imported for personal use). The commercial/general imports of Oxygen Concentrators fall under HSN code 9019 and attract GST rate of 12%. Thus, personal imports of oxygen concentrator are attracting a higher rate of IGST of 28% as compared to general imports thereof which attracts IGST at the rate of 12%. Keeping in mind the surge in COVID-19 cases in the wake of second wave of the pandemic in recent weeks, Government have already exempted specified medical equipment for Oxygen therapy of COVID patients, including 'Oxygen Concentrators' from Basic Customs Duty and Health Cess on 24 April, 2021. On 30.4.2021, DGFT have also issued a notification to allow imports of this item for personal use under Heading No.98.04.

In view of unprecedented situation and the sudden hike in the demand for this item in the country, a large number of representations have been received seeking relief from IGST on personal imports of oxygen concentrators on par with their general imports.

61.3 It was also highlighted that the request merits consideration in the circumstances of exceptional and grave nature. Normally, rate related issues are examined by the Fitment Committee for making recommendation to the Council for taking a view by the Council on GST rates. However, in the present extraordinary circumstances, it is not feasible to do so in view of time constraints and pressing situation.

It is also to mention that the Council has vested in the Finance Minister the power to consider ad-hoc IGST concessions, which are then later placed before the Council for information. The concession being demanded is quite genuine and needs immediate consideration. Hence in the circumstances of exceptional nature, it has been felt that matter may be placed before the GIC for considering a short term relief (up to 30.6.2021) by way of a concessional rate of IGST of 12% on personal imports of concentrators under heading 9804. The change will only bring parity between all kinds of imports of oxygen concentrators.

61.4 Accordingly, the following proposal was placed before the GIC for immediate consideration:

Proposal: To reduce IGST on oxygen concentrator imported for personal use, falling under heading 9804, from 28% to 12% to bring the rate at par with commercial imports of ‘oxygen concentrators’. The concessional rate of IGST on such imports shall apply up to 30th June 2021.

62. The proposal was put before the GIC and the GIC approved the proposal.

Agenda Item 4: Status report of creation of GRC Zone-wise (CBIC) and States/UTs as on 15.05.2021

Reference invited to the 38th GST Council meeting held on 18.12.2019, which approved constitution of Grievance Redressal Committee at Zonal/State level consisting of both Central tax and State tax officers, representation of trade and Industry and other GST stake holders for establishing a mechanism to tackle grievances of tax payers.

2. In view of the above decision, an order regarding constitution of Grievance Redressal Committee was issued by the CBIC vide F. No. 20/10/16/2018-GST (Pt. 1) dated 24.12.2019.

3. Accordingly, OM dated 30.12.2019 was issued by GSTC Secretariat for constitution of Grievance Redressal Committee at Zonal/State level. Reminder was also sent to the remaining States/Zones vide OM dated 02.06.2020, 20.07.2020, 24.08.2020, 16.09.2020, 09.10.2020 and 31.12.2020. Reminder mails were also sent on 05.04.2021 and 15.05.2021.

4. As resulting above, following GRC by the State/Centre level have already been constituted.

Sl. No.	State/UTs	Centre	State/Centre level GRC
1.	Jammu and Kashmir	Chandigarh	Order No. 02/2020 dt. 23.01.2020
2.	Himachal Pradesh		Order No. 04/2020 dt. 23.01.2020
3.	Punjab		Order No. 03/2020 dt. 23.01.2020
4.	Chandigarh		Order No. 01/2020 dt. 23.01.2020
5.	Ladakh		Order No. 02/2020 dt. 23.01.2020
6.	Andhra Pradesh	Vishakhapatnam	Order No. 01/2020 dt. 31.01.2020
7.	Arunachal Pradesh	Guwahati	Order No. 02/2020 dt. 11.03.2020
8.	Assam		Order No. 01/2020 dt. 11.03.2020
9.	Manipur		Order No. 03/2020 dt. 11.03.2020
10.	Meghalaya		Order No. 04/2020 dt. 11.03.2020
11.	Mizoram		Order No. 05/2020 dt. 11.03.2020
12.	Nagaland		Order No. 06/2020 dt. 11.03.2020
13.	Tripura		Order No. 07/2020 dt. 11.03.2020
14.	Bihar	Ranchi	Order No. 01/2020 dt. 21.02.2020
15.	Jharkhand		Order No. 02/2020 dt. 21.02.2020
16.	Chhattisgarh	Bhopal	Order No. NIL dt. 20.01.2020
17.	Madhya Pradesh		Order No. NIL dt. 20.01.2020
18.	Delhi	Delhi	Order No. 01/2020 dt. 10.06.2020

Sl. No.	State/UTs	Centre	State/Centre level GRC
19.	Goa	Pune	Order No. 01/2020 dt. 15.01.2020
20.	Karnataka	Bangalore	Order No. 01/2020 dt. 10.01.2020
21.	Kerala	Thiruvananthapuram	Order No. 01/2020 dt. 10.02.2020
22.	Lakshadweep		Order No. 01/2020 dt. 03.07.2020
23.	Maharashtra	Mumbai	Order No. 04/2020 dt. 10.01.2020
24.		Pune	Order No. 02/2020 dt. 15.01.2020
25.		Nagpur	Order No. 01/2020 dt. 28.01.2020
26.	Odisha	Bhubaneshwar	Order No. NIL dt. 05.03.2020
27.	Rajasthan	Jaipur	Order No. 01/2020 dt. 16.01.2020
28.	Sikkim	Kolkata	Order No. 33/2020 dt. 20.02.2020
29.	West Bengal		Order No. 62/2020 dt. 29.05.2020
30.	Telangana	Hyderabad	Order No. 01/2020 dt. 29.01.2020
31.	Uttar Pradesh	Meerut	Order No. 01/2020 dt. 01.02.2020
32.		Lucknow	Order No. 01/2020 dt. 27.02.2020
33.	Uttarakhand	Meerut	Order No. 01/2020 dt. 01.02.2020
34.	Vadodara	Vadodara	Order No. NIL dt. 05.02.2020
35.	Dadra Nagar Haveli		Order No. NIL dt. 29.07.2020
36.	Daman and Diu		Order No. NIL dt. 29.07.2020
37.	Puducherry	Chennai	Order No. NIL dt. 18.08.2020
38.	Tamil Nadu		Order No. 01/2020 dt. 18.08.2020
39.	Andaman and Nicobar Islands	Kolkata	Order No. 70/2020 dt. 15.06.2020

5. Following State/Centre has still to constitute GRC which have been requested vide this office reminder OMs.

Sl. No.	State/UTs	Centre	State/Centre level GRC
1.	Gujarat	Ahmedabad	Pending
2.	Haryana	Panchkula	Pending

6. It is also informed that GSTN has created a specific portal for uploading the grievances received in these meetings, for the purpose of escalating the same to the appropriate authority. The CBIC Zones/States/UTs are requested to take login credentials from GSTN for the aforesaid portal.

7. The latest status of the above **constitution of Grievance Redressal Committee at Zonal/State level for redressal of grievance of taxpayers on GST related issues** is placed before the 43rd meeting of the GST Council scheduled on 28.05.2021 for information.

Agenda Item 5 – Performance Report of the NAA (National Anti-profiteering Authority) for the 2nd quarter (July,2020 to September,2020), 3rd quarter (October 2020 to December 2020) and 4th quarter (January 2021 to March 2021) for the information of the Council

In terms of provisions of clause (iv) of Rule 127 of the CGST Rules 2017, National Anti-Profiteering Authority (NAA) is required to furnish a performance report to the GST Council by 10th of the closing of each quarter. Anti-profiteering provisions are contained under Section 171 of the CGST Act, 2017 which empowers NAA to determine as to whether benefit of reduced rate of tax or the Input Tax Credit (ITC) has been passed on to the recipient by way of commensurate reduction in the prices and in case of failure, NAA may order reduction in prices, commensurate benefit to recipient, impose penalty and cancel registration, in suitable cases.

2. Anti-profiteering mechanism under GST is a multi-tier mechanism. The methodology of examination of the complaints to determine profiteering is asunder:

- i. State Level Screening Committee (SLSC) examines State level complaint and recommends to the Standing Committee (SC);
- ii. SC, in addition to complaints recommended by SLSC, also receives complaint directly in respect of suppliers having pan India or presence in more than one State/UT;
- iii. SC examines and sends recommendation to the DG, Anti-profiteering (DGAP);
- iv. DGAP then completes investigation, within a period of 3 months, and furnishes a report of its findings to NAA;
- v. Based on the report from DGAP, NAA determines all aspects relating to profiteering, passes its order regarding reduction in prices; return of amount to recipient; imposition of penalty; and cancellation of registration.

3. Accordingly, the performance report of anti-profiteering for the 2nd quarter (July to September, 2020, 3rd quarter (October to December, 2020) and 4th quarter (January to March, 2021) of Financial Year 2020-21 at various levels, is as under:

3.1 Performance of **National Anti-Profiteering Authority:**

Opening Balance	No. of Investigation Reports received from DGAP during the quarter	Disposal of Cases (during Quarter)				Closing Balance
		Total Disposal during quarter	No. of cases Where Profiteering established	No. of cases Where Profiteering not established	No. of cases referred back to DGAP	
Quarter 1 st July, 2020 to 30 th September, 2020						
66	20	14	12	1	1	72
Quarter 1 st October, 2020 to 31 st December, 2020						
72	41	34	15	2	17	79
Quarter 1 st January, 2021 to 31 st March, 2021						
79	50	2	1	0	1	127

3.2 Performance of **DG (Anti-profiteering)**:

Opening Balance (No. of cases)	Receipt	Disposal	Mode of disposal of cases		Closing Balance (No. of cases)
			Report to NAA confirming profiteering	Report to NAA for closure action	
Quarter 1 st July, 2020 to 30 th September, 2020					
116	15	19	13	6	112
Quarter 1 st October, 2020 to 31 st December, 2020					
112	50	38	34	4	124
Quarter 1 st January, 2021 to 31 st March, 2021					
124	14	55	42	13	83

3.3 Performance report of the **Standing Committee** on Anti-profiteering:

Opening Balance (No. of cases)	Receipt	Disposal	Closing Balance (No. of cases)
Quarter 1 st July, 2020 to 30 th September, 2020			
31	180	160	51
Quarter 1 st October, 2020 to 31 st December, 2020			
51	137	94	94
Quarter 1 st January, 2021 to 31 st March, 2021			
94	351	188	257

3.4 Performance report from the **State Level Screening Committee**:

Opening Balance (No. of cases)	Receipt	Disposal		Closing Balance (No. of cases)
		Cases referred to Standing Committee	Cases Rejected	
Quarter 1 st July, 2020 to 30 th September, 2020				
18	70	34	24	30
Quarter 1 st October, 2020 to 31 st December, 2020				
30	83	46	7	60

Quarter 1st January, 2021 to 31st March, 2021

62*	129	46	110	35
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*In earlier report (Qtr. Ending December 2020) Odisha was not included since Report was not received from Odisha. Now Odisha is included in this report so the total Closing Balance of Quarter ending December 2020 and Opening Balance of Quarter ending March 2021 differ by 2.

Note: A detailed performance of each State Level Screening Committee is enclosed at Annexure “A” (Quarter ending September, 2020), Annexure “B” (Quarter ending December, 2020) and Annexure “C” (Quarter ending March, 2021).

4. During these quarters NAA has undertaken the following activities/initiatives-

- i. Vide DO letter dated 20.10.2020, the Chief Secretary/Special Chief Secretary, Govt. of Telangana was requested for establishment of a permanent secretariat and appointment of a Nodal officer of the Telangana State Level Screening Committee on Anti-profiteering for quick disposal of pending complaints.
- ii. Vide D.O. letter dated 26.10.2020, the Secretary, Deptt. of Public Sector Enterprises, Ministry of heavy industries & public enterprises, Govt. of India was requested to sensitise all the CMDs/MDs of all PSUs/PSEs to oversee whether the rate reduction and ITC benefit have been passed on by the contractors/vendors to PSUs/PSEs with the implementation of GST.
- iii. Vide D.O. letter dated 26.10.2020, the Secretary, Deptt. of Expenditure, Ministry of Finance, Govt. of India was requested to sensitise all the Additional Secretaries/Joint Secretaries (Financial Advisors) of all Central Govt. Departments and associated offices to oversee whether the rate reduction and ITC benefit have been passed on by the contractors/vendors to all such departments and offices with the implementation of GST.
- iv. Vide D.O. letter dated 03.11.2020, the Revenue Secretary, Ministry of Finance, Govt. of India was intimated regarding aforesaid DOs.
- v. Sh. J. C. Chauhan, Technical Member has superannuated from the Authority on 13.12.2020 on attaining the age of 65 years.
- vi. Vide order No. 235/2020 dated 29.12.2020, Sh. Navneet Goel, IRS (C&IT) has been appointed as Technical Member in the Authority for a period of two years from the date of assumption of the post or till the Authority exists or until further orders, whichever is earlier.
- vii. Due to the prevalent pandemic of COVID-19 in the country, the orders in cases wherein the limitation period was expiring between 20.03.2020 and 29.11.2020 might not be passed within a period of 6 months as per the provisions of Rule 133(1) of the CGST Rules, 2017 from the date of receipt of the Report from the DGAP under Rule 129(6) of the above Rules due to force majeure.
- viii. In the wake of corona pandemic outbreak, for the period from 01.10.2020 to 31.12.2020, the personal hearings have been accorded only on the specific request by the interested parties preferably through video conferencing.

- ix. Due to the prevalent pandemic of Covid-19, the orders in cases where the limitation period was expiring between 20.03.2020 and 31.03.2021 might not be passed within a period of 6 months as per the provisions of Rule 133(1) of the CGST Rules, 2017 from the date of receipt of Report from the DGAP. Therefore, only 03 Orders were passed by the Authority unanimously during this quarter. Details of which are as under: -
- a. 01 final order involving profiteering of Rs. 78 lakhs were passed.
 - b. 01 order was passed to refer the matter back to the DGAP for re-investigation under Rule 133(4)
 - c. 01 Penalty order was passed.
- x. Vide D.O. letter dated 04.01.2021, the Revenue Secretary was requested to take up the matter of expeditious constitution of the Consumer welfare fund for four States i.e. Uttar Pradesh, NCT of Delhi, Chhattisgarh and Arunachal Pradesh.
- xi. Vide D.O. letter dated 04.01.2021, the Revenue Secretary was requested to take up the matter of designation of the Commissioner of State Tax of Delhi or the Pr. Chief Commissioner/Chief Commissioner of Central Tax Delhi zone as the Nodal Member of the Standing committee on Anti-Profiteering at the level of GST Council.
- xii. Sh. Navneet Goel, IRS (C&IT) has joined the NAA as Technical Member for a period of two years in the F/N of 11.01.2021. Since the workload has now increased manifold due to increase in cases and complaints, vide D.O. letter dated 15.01.2021, the Revenue Secretary was requested to nominate two more Technical Members.
- xiii. The Chairman, NAA along with Technical Members of NAA has held review meeting in the months of January and February, 2021 with Members of Screening Committees of the States/UTs regarding various pending issues like complaints, compliance of orders, constitution of the Screening Committees and appointments of Nodal Officers etc.
- xiv. In the wake of corona pandemic outbreak, for the period from 01.01.2021 to 31.03.2021, the personal hearings have been accorded only on the specific request by the interested parties preferably through video conference.

5. Accordingly, the quarterly performance report of the National Anti-Profiteering Authority for the period from July, 2020 to March, 2021 is placed before the GST Council.

Annexure-A

Performance Report of the State Level Screening Committee for Quarter (January - March 2021)							
S.No.	States	Received/Not Received	Opening Balance	Receipt	Disposal		Closing Balance
					Standing Committee	Rejected	
1	Andhra Pradesh	✓	0	0	0	0	0
2	Arunachal Pradesh	✓	0	0	0	0	0
3	Assam	✓	0	0	0	0	0
4	Bihar	✓	1	10	2	5	4
5	Chhattisgarh	X					
6	Goa	X					
7	Gujarat	✓	4	0	1	3	0
8	Haryana	✓	0	19	19	0	0
9	Himachal Pradesh	✓	0	0	0	0	0
10	Jammu and Kashmir	✓	0	0	0	0	0
11	Jharkhand	✓	2	0	2	0	0
12	Karnataka	✓	1	2	2	0	1
13	Kerala	✓	0	0	0	0	0
14	Madhya Pradesh	✓	2	1	0	1	2
15	Maharashtra	✓	0	5	5	0	0
16	Manipur	✓	0	0	0	0	0
17	Meghalaya	✓	0	0	0	0	0
18	Mizoram	✓	0	0	0	0	0
19	Nagaland	✓	0	0	0	0	0
20	NCT of Delhi	✓	7	26	0	15	18
21	Odisha	X					
22	Puducherry	✓	0	0	0	0	0
23	Punjab	X					
24	Rajasthan	✓	0	0	0	0	0
25	Sikkim	✓	0	0	0	0	0
26	Tamil Nadu	✓	0	2	0	0	2

Performance Report of the State Level Screening Committee for Quarter (January - March 2021)							
S.No.	States	Received/Not Received	Opening Balance	Receipt	Disposal		Closing Balance
					Standing Committee	Rejected	
27	Telangana	✓	0	0	0	0	0
28	Tripura	✓	0	0	0	0	0
29	Uttar Pradesh	✓	0	4	1	0	3
30	Uttarakhand	✓	0	0	0	0	0
31	West Bengal	✓	1	1	2	0	0
		27	18	70	34	24	30

Annexure-B

Performance Report of the State Level Screening Committee for Quarter (January - March 2021)							
S.No.	States	Received/Not Received	Opening Balance	Receipt	Disposal		Closing Balance
					Standing Committee	Rejected	
1	Andhra Pradesh	✓	0	0	0	0	0
2	Arunachal Pradesh	✓	0	0	0	0	0
3	Assam	✓	0	0	0	0	0
4	Bihar	✓	4	0	1	3	0
5	Chhattisgarh	X					
6	Goa	✓	0	0	0	0	0
7	Gujarat	✓	0	0	0	0	0
8	Haryana	✓	0	30	30	0	0
9	Himachal Pradesh	✓	0	0	0	0	0
10	Jammu and Kashmir	X					
11	Jharkhand	✓	0	1	0	0	1
12	Karnataka	✓	1	2	1	1	1
13	Kerala	X					
14	Madhya Pradesh	✓	2	1	1	1	1
15	Maharashtra	✓	0	5	4	0	1
16	Manipur	✓	0	0	0	0	0
17	Meghalaya	✓	0	0	0	0	0
18	Mizoram	✓	0	0	0	0	0
19	Nagaland	✓	0	0	0	0	0
20	NCT of Delhi	✓	18	33	0	0	51
21	Odisha	X					
22	Puducherry	✓	0	0	0	0	0
23	Punjab	X					
24	Rajasthan	✓	0	0	0	0	0
25	Sikkim	✓	0	0	0	0	0
26	Tamil Nadu	✓	2	0	2	0	0

Performance Report of the State Level Screening Committee for Quarter (January - March 2021)							
S.No.	States	Received/Not Received	Opening Balance	Receipt	Disposal		Closing Balance
					Standing Committee	Rejected	
27	Telangana	✓	0	7	3	2	2
28	Tripura	✓	0	0	0	0	0
29	Uttar Pradesh	✓	3	4	4	0	3
30	Uttarakhand	✓	0	0	0	0	0
31	West Bengal	✓	0	0	0	0	0
		26	30	83	46	7	60

Annexure-C

Performance Report of the State Level Screening Committee for Quarter (January - March 2021)							
S.No.	States	Received/Not Received	Opening Balance	Receipt	Disposal		Closing Balance
					Standing Committee	Rejected	
1	Andhra Pradesh	X					
2	Arunachal Pradesh	✓	0	0	0	0	0
3	Assam	✓	0	0	0	0	0
4	Bihar	X					
5	Chhattisgarh	X					
6	Goa	X					
7	Gujarat	✓	0	2	2	0	0
8	Haryana	X					
9	Himachal Pradesh	✓	0	0	0	0	0
10	Jammu and Kashmir	X					
11	Jharkhand	✓	1	0	1	0	0
12	Karnataka	✓	1	2	3	0	0
13	Kerala	X					
14	Madhya Pradesh	✓	1	2	0	1	2
15	Maharashtra	✓	1	19	19	0	1
16	Manipur	✓	0	0	0	0	0
17	Meghalaya	✓	0	0	0	0	0
18	Mizoram	✓	0	0	0	0	0
19	Nagaland	✓	0	0	0	0	0
20	NCT of Delhi	✓	51	51	1	76	25
21	Odisha*	✓	2	0	0	2	0
22	Puducherry	X					
23	Punjab	X					
24	Rajasthan	✓	0	0	0	0	0
25	Sikkim	✓	0	0	0	0	0
26	Tamil Nadu	✓	0	1	0	0	1
27	Telangana	✓	2	37	8	31	0

Performance Report of the State Level Screening Committee for Quarter (January - March 2021)							
S.No.	States	Received/Not Received	Opening Balance	Receipt	Disposal		Closing Balance
					Standing Committee	Rejected	
28	Tripura	✓	0	0	0	0	0
29	Uttar Pradesh	✓	3	10	12	0	1
30	Uttarakhand	✓	0	0	0	0	0
31	West Bengal	✓	0	5	0	0	5
		22	62	129	46	110	35

* In earlier report (Qtr. Ending December 2020) Odisha was not included since Report was not received from Odisha. Now Odisha is included in this report so the total Closing Balance of Quarter ending December 2020 and Opening Balance of Quarter ending March 2021 differ by 2.