



# **Agenda for 55<sup>th</sup> GST Council Meeting**

**21<sup>st</sup> December, 2024**

**Volume - I**







**GST Council Secretariat New Delhi**

5<sup>th</sup> Floor, Tower-II, Jeevan Bharti Building, New Delhi  
15<sup>th</sup> November, 2024

**OFFICE MEMORANDUM**

**Subject: Notice for the 55<sup>th</sup> GST Council Meeting to be held on 21<sup>st</sup> December, 2024-reg**

The undersigned is directed to refer to the above subject and to convey that the 55<sup>th</sup> Meeting of the GST Council will be held on 21<sup>st</sup> December, 2024 at Jaisalmer, Rajasthan. The schedule of the meeting is as follows:-

- **Saturday, 21<sup>st</sup> December, 2024, from 11.00 A.M. onwards**

2. In addition, an Officers' Meeting will be held on 20<sup>th</sup> December, 2024 at Jaisalmer, Rajasthan as per the following schedule:

- **Friday, 20<sup>th</sup> December, 2024 from 10.00 A.M. onwards**

3. The venue of the meeting, agenda items and other details for the 55<sup>th</sup> Meeting of the GST Council and officers' Meeting will be communicated in due course of time.

4. Kindly convey the invitation to the Hon'ble Member of the GST Council to attend the 55<sup>th</sup> Meeting of the GST Council.

Sd/-

**(Sanjay Malhotra)**

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





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# Discussion on Agenda Items

## Agenda Item 1: Confirmation of Minutes of the 54<sup>th</sup> Meeting of the GST Council held on 9<sup>th</sup> September, 2024

The 54<sup>th</sup> meeting of the GST Council was held on 09<sup>th</sup> September, 2024 under the Chairpersonship of the Hon'ble Union Finance Minister, Smt. Nirmala Sitharaman at Sushma Swaraj Bhawan, New Delhi. The list of Hon'ble Members of the Council who attended the meeting is at **Annexure-1**. The list of the officers of the Centre, States, Union Territories, GST Council Secretariat and GSTN who attended the meeting is at **Annexure-2**.

1.2 The following agenda items were listed for discussion in the 54<sup>th</sup> meeting of the GST Council:

<u>S.No.</u>	<u>Agenda Item</u>
1.	Confirmation of Minutes of the 53 <sup>rd</sup> GST Council Meeting held on 22 <sup>nd</sup> June, 2024
2.	Deemed ratification by the GST Council of the Notifications and Circulars issued by the Central Government and decisions of GST Implementation Committee for the information of the Council.
3.	Issues recommended by the <b>Law Committee</b> for the consideration of the GST Council
	i) Clarification on refund of IGST paid on exports under rule 96(10) of the CGST Rules, 2017 and amendments in Rule 89 and Rule 96 of CGST Rules, 2017
	ii) Clarification on the place of supply of advertising services provided to foreign entities
	iii) Amendment in CGST Rules, 2017
	I Consequential Amendment in Form REG-20 & REG-31 due to amendment in Rules 10A, 21 (h) and 21(i)
	II Agenda to modify FORM INS-01 on account of replacement of IPC, 1860 with BNS, 2023
	III Consequential rule and form amendments subsequent to insertion of Section 74A of CGST Act, 2017
	iv) Clarification regarding the availability of Input Tax Credit on demo vehicles by the dealers of the vehicle manufacturers
	v) Providing a mechanism for implementing sub-sections (5) and (6) of Section 16 of the CGST Act, 2017.
	vi) Clarification on the place of supply in case of data hosting services provided by service providers located in India to cloud computing service providers located outside India.
	vii) Consequential amendments required in CGST Rules, 2017 and relevant forms subsequent to insertion of Section 128A and clarification on various related issues

4.	Recommendations of the <b>Fitment Committee</b> for the consideration of the GST Council
	a) Recommendations made by the Fitment Committee for making changes in GST rates or for issuing clarifications in relation to goods (5 issues) — Annexure-I
	b) Issues where no change has been proposed by the Fitment Committee in relation to goods (7 issues) — Annexure-II
	c) Recommendations made by the Fitment Committee for making changes in GST rates or for issuing clarifications in relation to services (20 issues) — Annexure-IV
	d) Issues where no change has been proposed by the Fitment Committee in relation to services (15 issues)— Annexure-V
	e) Issues which have been proposed by the Fitment Committee for deferring in relation to services (9 issues)- Annexure-VI
	f) Agenda note on review of 51 <sup>st</sup> GST Council meeting's recommendation to amend GST laws to provide clarity on the taxation of supplies in casinos, horse racing and online gaming.
	g) Issuance of circular clarifying the scope of the phrase 'as is where is basis'
	h) Report of Committee of Officers on Taxation of Extra-Neutral Alcohol under GST for the past period (from 1.7.2017 to 20.10.2023)
	i) Status update on Group of Ministers (GoM) on Rate Rationalization
	j) Status update on Group of Ministers (GoM) on boosting real estate sector under GST regime
5.	Recommendations of the 21 <sup>st</sup> meeting of the IT Grievance Redressal Committee for approval/ decision of the GST Council
6.	Performance Report of the Competition Commission of India (CCI), State Level Screening Committee (SLSC) and DG (Anti- Profiteering) for 1 <sup>st</sup> quarter of the F.Y 2024-25 along with Performance Report of Standing Committee (SC) for 3 <sup>rd</sup> quarter and 4 <sup>th</sup> quarter of F.Y. 2023-24 and 1 <sup>st</sup> quarter of F.Y 2024-25 for the information of the Council.
7.	Issues recommended by GSTN
	(a) Integration of UPI, Credit Cards and Debit Card Payment Option by Accounting Authorities
	(b) B2C e-Invoicing Pilot Project
	(c) Enhancement in the existing GST Return Architecture

8.	(a) Review of revenue position under Goods and Services Tax
	(b) Status update on Compensation Cess
	(c) IGST Settlement
	(d) GST Appellate Tribunal - Issues for approval
	(e) Sharing of personally Identifiable Information of Taxpayers with other Ministries/ Departments
9.	Ad-hoc Exemptions Orders issued under Section 25(2) of the Customs Act, 1962 to be placed before the GST Council for information.
10.	Any other agenda item with the permission of the Chairperson

1.3 The Secretary to the GST Council (hereinafter called ‘The Secretary’), welcomed all the Hon’ble Members of the Council and participating officers to the 54<sup>th</sup> meeting of the GST Council. He extended greetings to Smt. Aditi Tatkare, Hon’ble Minister for Women & Child Development, Maharashtra to her first GST Council meeting.

1.4 The Secretary informed the Council that the agenda for 54<sup>th</sup> Council meeting was discussed in detail during the Officers’ Meeting on the previous day which would immensely benefit the Council in its deliberations.

1.5 The Secretary sought permission of the Chair to begin deliberations on each item of the agenda

## **2. Agenda item 1: Confirmation of Minutes of the 53<sup>rd</sup> GST Council Meeting held on 22<sup>nd</sup> June, 2024**

2.1 Joint Secretary, GST Council Secretariat (GSTCS) informed the Council that the draft minutes of the 53<sup>rd</sup> GST Council meeting were circulated to all the States. She stated that during the Officers’ Meeting held on 08<sup>th</sup> September, 2024 certain changes to the draft minutes were suggested by the state of Tamil Nadu and GST Policy Wing, CBIC which were agreed to and accordingly an Addendum to the Agenda for the 54<sup>th</sup> GST Council Meeting had been circulated during the Council meeting.

2.2 The Council took note of the changes proposed through the Addendum to the minutes of the 53<sup>rd</sup> GST Council meeting. The Secretary requested the Council to adopt the minutes of the 53<sup>rd</sup> meeting of the GST Council.

**Decision: The Council adopted the Minutes of the 53<sup>rd</sup> meeting of the GST Council held on 22<sup>nd</sup> June, 2024.**

**3. Agenda Item 2: Deemed ratification by the GST Council of the Notifications and Circulars issued by the Central Government and decisions of GST Implementation Committee for the information of the Council**

3.1 The Secretary took up the next item of agenda pertaining to the deemed ratification by the GST Council of the Notifications and Circulars issued by the Central Government and decisions of GST Implementation Committee for the information of the Council.

3.2 Pr. Commissioner, GST Policy Wing stated that based on recommendations of the 53<sup>rd</sup> GST Council Meeting, 5 Central Tax Notifications, 3 Central Tax (Rate) Notifications, 1 Integrated Tax Notification, 3 Integrated Tax (Rate) Notifications, 1 Union Territory Tax Notification, 3 Union Territory Tax (Rate) Notifications and 1 Compensation Cess (Rate) Notification had been issued from 14.06.2024 till 17.08.2024. Further, 22 Circulars under the CGST Act had been issued during the said period.

3.3 The Secretary requested the Council to ratify the Notifications and Circulars issued.

**Decision: The Council ratified the Notifications and Circulars issued and took note of the decisions of the GST Implementation Committee.**

**Agenda Item 3: Issues recommended by the Law Committee for the consideration of the GST Council**

The Secretary took up the next agenda which were issues recommended by the Law Committee for the consideration of the GST Council. He informed that these agendas were discussed in detail in the Officers' meeting held on 08<sup>th</sup> September, 2024 and that there was an agreement among the officers on most of the issues.

**Agenda Item 3(i): Clarification on refund of IGST paid on exports under rule 96(10) of the CGST Rules, 2017 and amendments in Rule 89 and Rule 96 of CGST Rules, 2017.**

4.1 Pr. Commissioner, GST Policy Wing stated that representations have been received from trade and industry requesting for clarification on restriction imposed vide rule 96(10) of the Central Goods & Services Tax Rules, 2017 (hereinafter referred to as the CGST Rules) in respect of availment of the refund of IGST on goods exported if benefits of certain concessional/exemption notifications have been availed on inputs/raw materials imported or procured domestically.

4.2 Pr. Commissioner, GST Policy Wing informed that the Law committee had deliberated on the following two issues:



**Issue 1: Regularization of refund of IGST in cases where the exporters had imported certain inputs without payment of integrated taxes and compensation cess by availing the benefits under notification No. 78/2017- Customs dated 13.10.2017 or notification No. 79/2017-Customs dated 13.10.2017 and are now ready to pay the said IGST and compensation cess amount, along with interest:**

The Law Committee recommended that a clarification may be issued through a Circular that in such cases, where the inputs were initially imported without payment of integrated tax and compensation cess by availing benefits under notification No. 78/2017-Customs dated 13.10.2017 or notification No. 79/2017- Customs dated 13.10.2017, but subsequently, IGST and compensation cess on such imported inputs is paid at a later date, along with interest, and the Bill of Entry in respect of the import of the said inputs is got reassessed through the jurisdictional Customs authorities to this effect, then the refunds of IGST sanctioned may be considered to be regularized in light of the explanation to rule 96 (10) of CGST Rules.

**Issue 2: Review of the provisions of rule 96 (10) & rule 89 (4A) and rule 89 (4B) of CGST Rules:**

The Law Committee observed that operation of rule 96(10) is leading to unnecessary complications without any intended benefit being served and therefore recommended that rule 96(10), rule 89(4A) & rule 89(4B) of the CGST Rules, 2017 may be omitted with prospective effect and that consequential amendments in clause (b) of sub-rule (4B) of rule 86, clause B, clause C and clause E of sub-rule (4) of rule 89 and Explanation (a) to sub-rule (5) of rule 89 of CGST Rules may be made.

The Law Committee also recommended that after the proposed deletion of rule 89(4A) and 89(4B) of CGST Rules, 2017, in the cases where the benefit of concessional/ exemption notifications which were specified in rule 96 (10) or rule 89 (4A) or (4B) had been availed on inputs imported or procured domestically, the refund on account of exports can be claimed through the IGST refund route under rule 96 of the CGST Rules, 2017 or as refund of accumulated Input Tax Credit (ITC) under rule 89(4) of CGST Rules.

**Decision-The Council agreed with the recommendations of the Law Committee to omit rule 96(10), rule 89(4A) & rule 89(4B) and for the consequential amendment in clause (b) of sub-rule (4B) of rule 86, clause B, clause C and clause E of sub-rule (4) of rule 89 and Explanation (a) to sub-rule (5) of rule 89 of CGST, Rules, 2017 along with proposed circular.**

**Agenda Item 3(ii): Clarification on the place of supply of advertising services provided to foreign entities.**

4.3 Pr. Commissioner, GST Policy Wing informed that representations have been received from trade and industry requesting for clarification regarding place of supply of the advertising services being provided by Indian advertising companies/agencies to foreign entities, as they are denied export benefits considering the place of supply of the said services as within India.

4.4 He informed that the Law Committee broadly examined the following issues and recommended as follows:

**Issue No 1:** Whether the advertising company can be considered as an intermediary between the foreign client and the media owners in terms of section 2(13) of IGST Act, 2017 thereby resulting in

determination of place of supply under section 13(8)(b) of the IGST Act, 2017?

The advertising company is involved in the main supply of advertising services, including resale of media space to the foreign client, on principal-to-principal basis as detailed above and does not appear to fulfil the criteria of “intermediary” under section 2(13) of the IGST Act and the said circular dated 20.09.2021. Thus, the advertising company cannot be considered as “intermediary” in such a scenario and accordingly, the place of supply in the instant matter cannot be determined as per section 13(8)(b) of the IGST Act. However, in cases where advertising company acts merely as an agent of foreign client for arranging media space from media owner, and does not provide services on principal-to-principal basis, the advertising company would be treated as “intermediary” in accordance with section 2(13) of IGST Act and place of supply of such services provided by the advertising company would be determinable as per section 13(8)(b) of IGST Act, i.e., the place of location of the advertising company.

**Issue No 2:** Whether the representative of foreign client in India or the target audience of the advertisement in India can be considered as “recipient” of the services being supplied by the advertising company under section 2(93) of CGST Act, 2017?

As, the foreign client is liable to pay the consideration to advertising company for the supply of advertising services, the recipient of the advertising services provided by the advertising company is the foreign client, and not the Indian representative of the foreign client based in India or the target audience of the advertisements in India as per section 2(93) of CGST Act, 2017.

**Issue No 3:** Whether the advertising services provided by the advertising companies to foreign clients can be considered as performance-based services as per section 13(3) of the IGST Act, 2017?

The services being provided by the advertising company are neither in respect of goods being made physically available by the recipient of services, nor require physical presence of the recipient with the advertising company for availing such services, and accordingly, **such services cannot be considered as performance based services** under section 13(3) of IGST Act. Accordingly, the place of supply of such advertising services does not appear to be covered under any of the provisions of sub-sections (3) to (13) of the Section 13 of the IGST Act, 2017, and therefore, place of supply of the such advertising services shall be the location of the said foreign client, i.e., outside India, as per Section 13(2) of IGST Act, 2017.

**Decision:** The Council agreed with the recommendation of the Law Committee with regard to clarification on the place of supply of advertising services provided to foreign entities along with the proposed circular.

#### **Agenda Item 3(iii): Amendment in CGST Rules, 2017.**

#### **Agenda 3(iii) (I) : Consequential Amendment in Form REG-20 & REG-31 due to amendments in Rules 10A, 21 (h) and 21(i) of CGST Rules, 2017.**

4.5 Pr. Commissioner, GST Policy Wing stated that the Law Committee has recommended amendments in **FORM GST REG-20 & FORM GST REG-31** to align the same with the current GST Act/Rules.

4.6 He informed that in the discussions during the Officers' meeting, the State of Punjab has suggested that in the relevant GST Rules for FORM REG-20, the number of days within which the bank details have to be submitted by the registered person may be reduced from the existing 30 days to 15 days post registration. However, such changes need amendment to the rules and it would be examined in detail by the Law Committee. He, therefore, had requested the State of Punjab to submit a proposal in this regard to the Law Committee for examination.

4.7 Pr. Commissioner, GST Policy Wing further informed that during the officers' meeting, the State of Tamil Nadu has suggested that in FORM GST REG-31, the words 'jurisdictional officer' and 'jurisdictional tax officer' may be replaced with the words 'jurisdictional proper officer' in order to align the same with the Act. He stated that the changes suggested by the state of Tamil Nadu would require changes at several places and correcting at one place would not serve the purpose. However, as the anomaly has been brought to the notice, in order to ensure standardization and uniformity, the issue will be examined separately by the Law Committee in detail and shall be brought before the Council as soon as it is examined.

**Decision: The Council agreed with the proposed amendments recommended by Law Committee in FORM GST REG-20 and FORM GST REG-31. The issues raised by the states of Tamil Nadu and Punjab to be examined separately.**

**Agenda 3(iii) (II) : Amendment in FORM INS-01 in the light of enactment of Bharatiya Nyaya Sanhita (BNS), 2023**

4.8 Pr. Commissioner, GST Policy Wing informed that the Law Committee proposed amendment in **FORM GST INS-01** to replace the references to various sections of the Indian Penal Code (IPC), 1860 in the said form with that of Bharatiya Nyaya Sanhita (BNS), 2023 and recommended that the proposed changes in Form GST INS-01 are necessary to reflect the provisions of BNS, 2023.

**Decision: The Council agreed with the proposed amendments recommended by Law Committee in Form GST INS-0.**

**Agenda 3(iii) (III): Amendment in Rules and Forms due to insertion of section 74A in CGST Act, 2017**

4.9 Pr. Commissioner, GST Policy Wing informed that subsequent to the insertion of Section 74A in the CGST Act, 2017, the Law Committee recommended consequential amendments in rule 36(3), rule 88B(1), rule 88D(3), rule 96B(1), rule 121 and rule 142 of the CGST Rules, 2017 and FORM GST DRC-01A.

4.10 The Law Committee also recommended that in the dropdown option for "*Section / sub-section under which SCN is being issued*" in FORM GST DRC-01 on the common portal, options for 'Issuance of demand under section 74A(1) read with section 74A(5)(i)' and also for 'Issuance of demand under section 74A(1) read with section 74A(5)(ii)' may be provided, so that the data regarding the number and notices issued under section 74A invoking charges of fraud, willful misstatement, suppression of facts etc. and those not invoking those charges is readily available for MIS.

**Decision: The Council agreed with the recommendations of the Law Committee along with proposed amendments in rule 36(3), rule 88B(1), rule 88D(3), rule 96B(1), rule 121 and rule 142 of the CGST Rules, 2017 and FORM GST DRC-01A.**

**Agenda Item 3(iv): Clarification on availability of input tax credit in respect of Demo vehicles.**

4.11 Pr. Commissioner, GST Policy Wing stated that representations have been received from trade and industry for issuance of clarification regarding availability of input tax credit (ITC) on Demo vehicles, as divergent views have been taken in multiple advance rulings due to varied interpretation of provisions of sub-clause (A) of clause (a) of section 17(5) of CGST Act, 2017 on the same matter.

4.12 The issue was deliberated by the Law Committee and it recommended to clarify the following issues through issuance of a Circular:

1. Availability of input tax credit on Demo vehicles, which are motor vehicles for transportation of passengers having approved seating capacity of not more than 13 persons (including the driver), in terms of clause(a) of section 17(5) of CGST Act.
2. Availability of input tax credit on Demo vehicles in respect of capitalization of such vehicles in books of account by the authorized dealers.

4.13 The Law Committee recommended that when demo vehicles are used by authorized dealers to provide trial run and to demonstrate features of the vehicles to potential buyers with the aim of promoting the sale of similar motor vehicles, they may be considered as being used for the purpose of making a "further supply of such motor vehicles." As a result, input tax credit on demo vehicles is not blocked for dealers under clause (a) of section 17(5) of the CGST Act, as it is excluded from such blockage in terms of sub-clause (A) of the said clause. However, if the dealer merely acts as an agent or service provider for the vehicle manufacturer, offering marketing services or providing test drive facilities to potential customers on behalf of the manufacturer without directly engaging in the sale or purchase of vehicles, in such cases the dealer is not making the supply of motor vehicles on his own account. Therefore, the demo vehicles purchased by the dealer cannot be considered as being used for making a "further supply of such motor vehicles." Accordingly, the Law Committee has recommended that in such cases, input tax credit on Demo vehicles would not be available to the dealer, in accordance with section 17(5)(a) of the CGST Act.

4.14 The Law committee has also opined that availability of input tax credit on Demo vehicles is not affected by way of capitalization of such vehicles in the books of account of the authorized dealers, subject to other provisions of the Act i.e. section 16(3) of CGST Act, 2017.

4.15 Pr. Commissioner, GST Policy Wing further stated that during the Officers' meeting held on 08.09.2024, it was generally agreed that there may be a need for a comprehensive review of the provisions under Section 17(5) of the CGST Act, which pertain to the blocking of input tax credit (ITC). While this review is not required immediately, the need for it has been highlighted by multiple requests and observations.

**Decision: The Council agreed with the recommendations of the Law Committee with regard to clarification on availability of input tax credit in respect of Demo vehicles along with the proposed Circular.**

**Agenda Item 3(v): Implementation of provisions of sub-section (5) and sub- section (6) in section 16 of CGST Act.**

4.16 Pr. Commissioner, GST Policy Wing stated that the GST Council in its 53rd meeting recommended to retrospectively amend section 16 of the CGST Act, 2017 with effect from 01.07.2017:

- a) to provide that the time limit to avail input tax credit under Section 16(4) of CGST Act, through any FORM GSTR 3B filed till 30/11/2021 for the financial years 2017-18, 2018-19, 2019-20 and 2020-21, be deemed to be 30.11.2021 and
- b) to allow for relaxation of conditions under Section 16(4) of the Act, in cases where the returns for the period from the date of cancellation of registration/effective date of cancellation of registration till the date of revocation of cancellation of registration are filed after revocation of cancellation of registration.

It was also recommended that no refund of tax already paid, or input tax reversed would be allowed on account of these retrospective amendments.

4.17 He further informed that in order to implement the above recommendations of the Council, sub-section (5) and sub-section (6) have been inserted in section 16 of CGST Act, 2017 vide section 118 and 150 of the Finance (No. 2) Act, 2024. These provisions are, however, yet to be notified.

4.18 Pr. Commissioner, GST Policy Wing stated that several representations have been received from trade and industry requesting for clarification in respect of various issues pertaining to availment of benefit of the said amendments in section 16 of CGST Act, to the taxpayers against whom demands have been issued alleging wrong availment of input tax credit in contravention of provisions of sub-section (4) of section 16 of CGST Act, who are now entitled to avail the said input tax credit as per the retrospectively inserted provisions of sub-section (5) or sub-section (6) of section 16 of the CGST Act. It has further been requested that in respect of cases where the appeals have either not been filed against demand orders/ appellate orders or the time to file appeal against the said orders has already expired, the benefit of the inserted provisions may be made available without the need for filing appeals, or without requirement of payment of pre- deposit for filing appeals for vacating the demands already created. It has been represented that denial of benefit in cases where time for filing of appeals is already over, or demanding pre-deposit for filing appeals in such cases would defeat the purpose of said relief being provided through the said sub-sections and would not only result in locking of the funds of the taxpayers but would also result in subsequent workload of tax officers in processing the refund applications in respect of such pre-deposits paid.

4.19 Law Committee examined the issue and observed that different scenarios may emerge where relief under sub-section (5) or sub-section (6) of section 16 of CGST Act may be available to the taxpayers and to implement the said provision, Law Committee made the following recommendations:

- a. As provisions of sub-section (5) and sub-section (6) of section 16 of the CGST Act are to come

into force retrospectively with effect from 1st July, 2017, section 118 and 150 of the Finance (No. 2) Act, 2024, may be notified by the Central Government at the earliest with the recommendations of the Council. Whenever the States will notify the concerned provisions in their respective SGST Acts, the same will also come into effect from 1st July, 2017. This will help in early implementation of the intended relief being provided to the taxpayers through the insertion of said provisions.

- b. In respect of cases, where demand notice has not been issued; or where demand notice has been issued but order has not been passed by the adjudicating authority; or where order has been passed by the adjudicating authority and appeal has been filed but no appeal order has been passed; or where order has been passed by the adjudicating authority and revision proceedings have been initiated but no order has been passed by the revisional authority, the concerned proper officer/ adjudicating officer/ appellate authority/ revisional authority may decide the case by taking into consideration the said provisions of sub-section (5) and sub-section (6) of section 16 of CGST Act.
- c. In respect of cases, where demand order has been issued confirming the demand but where no appeal has been filed with the appellate authority yet, or where appeal order has been issued by the appellate authority or order has been issued by the revisional authority but no appeal has been filed with Appellate Tribunal yet, and the benefit of sub-section (5) and sub-section (6) of section 16 of CGST Act is now available, a special procedure for rectification of the said orders under section 148 of the CGST Act to be followed by such class of taxable persons may be notified. The said special procedure may provide for filing of such application for rectification of order within a period of six months from the date of issuance of the said notification and the proper officer may be required to take a decision on the said application for rectification and issue the order within a period of three months from the date of filing of application for rectification, as far as possible. Whenever the States will notify the said provisions of sub-section (5) and sub-section (6) of section 16 in their respective SGST Acts, they will also notify the said special procedure under section 148 of their respective SGST Acts with effect from the date on which the Centre had issued the said notification.
- d. A circular clarifying the action to be taken by the tax authorities and/ or by the taxpayers may be issued after issuance of the notification under section 148 of the CGST Act mentioned above.
- e. An MIS may be made available by GSTN for tax authorities inter alia including the number of cases where rectification application filed, number of cases where application is disposed of and number of cases where the application is pending for more than three months, enabling them to monitor the progress of the action taken by the tax officers in respect of the applications for rectification filed under the above special procedure.

4.20 The Hon'ble Member from Delhi emphasized that the recent amendment will present significant challenges for the state, as over 100,000 notices issued for the years 2017-18 and 2018-19 will now require rectification. This will result in a considerable administrative burden.

4.21 Pr. Commissioner, GST Policy Wing clarified that this issue was discussed in detail during the last meeting. Several states had issued notices, but the amendment was brought to provide relief to taxpayers who faced difficulties due to a lack of knowledge about the time limits during the initial

years of implementation of GST. The Pr. Commissioner emphasized that this relief is not intended to be permanent.

4.22 The Hon'ble Member from Uttar Pradesh also observed that since the matter had been deliberated and discussed in detail in the last GST Council meeting and had attained finality, therefore, the same may not be re-opened.

4.23 Pr. Commissioner, GST Policy Wing further informed that officer from State of Bihar had inquired whether rectifications could be made in cases where amount of ITC has already been recovered, to which it was clarified that while there is no restriction on rectifying an order, a refund of the tax that has already been paid or recovered is not available.

4.24 Pr. Commissioner, GST Policy Wing also informed that the State of Andhra Pradesh has suggested an addition to the proposed circular concerning refunds. Currently, the draft of proposed circular states that refunds of tax already paid or ITC already reversed are not available under Section 150 of the Finance (No.2) Act, 2024. However, there is uncertainty about whether this restriction also applies to pre-deposit amounts paid while filing of an appeal, especially if the appeal is decided in favour of the taxpayer due to the new provisions. So it was decided that the following clarification be added at the end of paragraph four of the draft circular as detailed in agenda note, *"However, it is clarified that said restriction on refund under section 150 of the Finance (No. 2) Act, 2024 will not apply to the refund of an amount paid as pre-deposit by the taxpayer as per sub-section (6) of section 107 or sub-section (8) of section 112 of the CGST Act, at the time of filing of an appeal, where such appeals are decided in favour of the said taxpayer."*

**Decision: The Council agreed with the recommendations of the Law Committee along with the proposed notifications and Circular including the amendment as proposed by the State of Andhra Pradesh. GSTN to provide MIS to enable tracking of applications for rectification.**

**Agenda Item 3(vi): Clarification on place of supply of data hosting services provided by service providers located in India to cloud computing service providers located outside India.**

4.25 Pr. Commissioner, GST Policy Wing stated that representations have been received from the trade and industry seeking clarification on the place of supply of data hosting services provided by service providers located in India to clients (cloud computing service providers) located outside India.

4.26 The Law Committee examined the issue and recommended to clarify that:

- (a) Data hosting services provided by data hosting service provider to its overseas cloud computing service providers cannot be considered as intermediary services and hence, the place of supply of the same cannot be determined as per section 13(8) (b) of IGST Act.
- (b) Data hosting services provided by data hosting service provider to the said cloud computing service providers cannot be considered in relation to the goods "made available" by the said cloud computing service providers to the data hosting service provider in India and hence, the place of supply of the same cannot be determined under section 13(3) (a) of the IGST Act.
- (c) Data hosting services cannot be considered as services provided directly in relation to immovable property or physical premises and hence, the place of supply of such services cannot be determined under section 13(4) of IGST Act.

- (d) The place of supply for the data hosting services provided by the data hosting service provider in India to overseas cloud computing service providers does not fit into any specific provisions outlined in sections 13(3) to 13(13) of the IGST Act. Therefore, according to the default provision under section 13(2) of the IGST Act, the place of supply is determined to be the location of the recipient of the services. Where the cloud computing service providers receiving the data hosting services are located outside India, the place of supply is considered to be outside India according to section 13(2) of the IGST Act.
- (e) The supply of data hosting services being provided by data hosting service provider located in India to an overseas cloud computing entity can be considered as export of services, subject to the fulfilment of the other conditions mentioned in section 2(6) of IGST Act.

**Decision: The Council agreed with the recommendations of the Law Committee with regard to clarification on place of supply of data hosting services provided by service providers located in India to cloud computing service providers located outside India along with the proposed Circular.**

**Agenda Item 3(vii): Consequential amendments required in CGST Rules, 2017 and relevant forms subsequent to insertion of Section 128A and clarification on various related issues.**

4.27 Pr. Commissioner, GST Policy Wing stated that the GST Council in its 53rd meeting held on 22nd June 2024, had recommended insertion of Section 128A in the CGST Act, 2017 to provide for a waiver of interest or penalty or both, relating to tax demands under Section 73 pertaining to FYs 2017-18, 2018-19 and 2019-20. Section 146 of Finance (No.2) Act, 2024 provides for the same. Subsequent to the insertion of said section, corresponding rules are required to be inserted in Central Goods and Services Tax Rules, 2017, along with new forms in order to implement the same.

4.28 The Law Committee in its meetings held on 09.08.2024, 23.08.2024, 29.08.2024 and 02.09.2024 discussed the procedure for implementation of Section 128A of CGST Act in detail and recommended to insert Rule 164 in CGST Rules, as detailed in the agenda note. The Law Committee also recommended insertion of eight new Forms viz. FORM GST SPL -01, FORM GST SPL -02, FORM GST SPL -03, FORM GST SPL -04, FORM GST SPL -05, FORM GST SPL -05A, FORM GST SPL -06 and FORM GST SPL-07 in CGST Rules, 2017, as detailed in the agenda note. Further, the Law Committee also recommended issuance of a circular to clarify the procedure to be followed by the taxpayers and the tax officers in order to avail and implement the benefit provided under Section 128A of the CGST Act. The Law Committee also recommended for issuance of the notification under sub-section (1) of Section 128A of CGST Act in order to provide for a date on or before which the payment of tax may be made by different class of registered persons, to avail the benefit of waiver of interest or penalty or both provided under Section 128A of the CGST Act. Pr. Commissioner, GST Policy Wing informed that in the Officers' meeting it was proposed that this date should be finalized as 31.03.2025. He informed that in order to implement Section 128A, it must be officially notified. The Council will need to set an effective date for this provision as well as the other provisions of the Finance Act. It was agreed in the Officers' meeting held on 08.09.2024 to recommend notifying Section 128A of the CGST Act with effect from 01.11.2024 for both the Centre and States.



**Decision: The Council agreed with the recommendations of the Law Committee for implementation of section 128A along with the proposed notifications, Circular and Forms and the decision in the Officers' meeting regarding date for the notifying related provisions of the Finance Act.**

**Agenda Item 4: Recommendations of the Fitment Committee for the consideration of the GST Council.**

5.1 The Secretary introduced the agenda item relating to the recommendations of the Fitment Committee and requested the Joint Secretary, Tax Research Unit-I (TRU-I) to present the agenda.

5.2 Joint Secretary, TRU-I stated that the Fitment Committee agenda was summarized in five Annexures (I, II, IV, V and VI) wherein total 56 issues (12 issues related to Goods and 44 issues related to Services) were recommended. She stated that the Fitment Committee had recommended making changes in the rate or issue of clarification in case of 06 issues and no change was recommended in respect of 07 issues in case of goods. In case of services, there were a total of 44 agenda items, out of which the Fitment Committee had recommended making changes in the rate or issue of clarification in case of 20 items and no change has been recommended in respect of 15 items and 09 items have been deferred for the examination.

**Agenda Item 4(a)** Thereafter, Joint Secretary, TRU-I presented the agendas pertaining to the recommendations of the Fitment Committee for making changes in GST rates or for issuing clarifications in relation to goods.

5.3 The first item for the consideration of the Council was a request to clarify whether Roof Mounted Package Unit air conditioners for railways are classifiable under HS 8607 as railway parts or under HS 8415 as air conditioning machines. The applicable GST rate on parts of railway under HS 8607 is 18% while air conditioning machines are classified under HS 8415 and attract 28% GST rate. Fitment Committee had recommended that there is no ambiguity in classification but in order to make it explicitly clear recommended the issue of clarification that Roof Mounted air conditioners for railways would be classified under HS 8415 attracting a GST rate of 28%.

**Decision: The Council approved the recommendation of the Fitment Committee to issue a clarification that Roof Mounted Package Unit air conditioners for railways would be classified under HS 8415 attracting a GST rate of 28%.**

5.4 Joint Secretary, TRU-I presented the agenda item pertaining to classification of car seats as to whether the same are classifiable under HS 9401 or 8708. Fitment Committee recommended that there is no ambiguity in the GST rate of car seats which are classifiable under HS 9401 attracting 18% while seats for two-wheeler motor vehicles would fall under HS 8708 and attract 28%. However, to ensure parity, Fitment Committee recommended that prospectively car seats should attract a rate of 28%.

**Decision: The Council approved the recommendation of the Fitment Committee that there is no ambiguity in the GST rate of car seats which are classifiable under HS 9401 attracting 18% while seats for two wheeler motor vehicles would fall under HS 8708 and attract 28% GST. The Council also approved the recommendation to tax car seats at 28% prospectively.**

5.5 Joint Secretary, TRU-I presented the agenda item pertaining to extruded snack pellets. She stated that based on the recommendations of the GST Council in the 48<sup>th</sup> meeting, it was clarified that snack pellets, manufactured through a process of extrusion, are classifiable under HS 1905 attracting a GST rate of 18%. Based on the recommendation of the GST Council in its 50<sup>th</sup> meeting, the GST rate on uncooked or unfried snack pellets was reduced to 5%. The issue was whether the supply of extruded snack pellets in ready to eat form are covered under the category of namkeens as there is no definition of namkeens and there are disputes because of different rates on extruded or expanded snack pellets and namkeens. There are diverse practices in the field. Therefore, to avoid disputes, the Fitment Committee recommended to reduce the rate on extruded or expanded products, savoury or salted (other than un-fried or un-cooked snack pellets, by whatever name called, manufactured through process of extrusion), falling under HS 1905 90 30, from 18% to 12% at par with namkeens, *bhujia*, mixture, *chabena* (pre-packaged and labelled) and similar edible preparations in ready for consumption form which are classifiable under HS 2106 90. The GST rate of 5% will continue on unfried or un-cooked snack pellets, by whatever name called, manufactured through process of extrusion. The Fitment Committee also recommended to clarify that the reduced GST rate of 12% on extruded or expanded products, savoury or salted (other than un-fried or un-cooked snack pellets, by whatever name called, manufactured through process of extrusion), falling under HS 1905 90 30 is applicable prospectively. While the proposal was being discussed in the Officers' meeting, there were requests from certain states that there is a need to look at the whole food sector to reduce complexities and to simplify the issues therein. If the Council approves, the same would be referred to the Fitment Committee to look at the entire food sector holistically.

5.6 The Hon'ble Member from Karnataka stated that he supports the suggestion but would like to advise the Fitment Committee to discuss the issue of food sector in the GoM also. He agreed in principle to the recommendation of the Fitment Committee but the same needs to be looked at from a health point of view also. He stated that under the broad category of namkeens, there are a wide variety of packaged foods. There are Indian namkeens, and whether they are healthy or not, and whether there is a need for a preferential treatment needs to be looked into, but it might be a sentimental issue as people are attached to Indian Namkeens. However, treating all packaged foods which have ill effects on our health and giving them the benefit of a reasonable rate, if not a lower rate, is definitely not advisable. So, the Hon'ble Member requested the Council that the need for simplification -should not end up supporting consumption of these highly addictive products which are injurious to health - and most of the consumers are in the younger age brackets and it is having a huge impact on the health of our society. The rise in juvenile diabetes, obesity and its consequent effects on the overall society and economy cannot be quantified. So, the request is to treat this within the broader idea of simplification but not to pass on any favourable consideration to foods which have ill effect on the health especially of the younger generation and which are of an addictive nature. These products have made their way into every village, nook and corner, roadside shops and even into the deepest corners of Ladakh's trekking routes. So, their reach is quite humongous and we need to be mindful of their impact on the society.

5.7 Hon'ble Chairperson stated that she agreed with the Hon'ble Member from Karnataka and said that rather than taxing based on whether food items are pre- packaged or not, they could be taxed on the basis of whether they are essential or non-essential in nature. Non-essential food products could be taxed at a higher rate. Therefore, on this particular issue there are so many different calibrations which may be necessary from health, from consumption point of view and also every pre-packaged

food may or may not to be essential. It is now becoming essential for many of the urban households to rely on pre-packaged food, but yet health consciousness is a factor. So keeping all this in mind the suggestion of Hon'ble Member from Karnataka is for a Group of Ministers to also look into it. However, since the GoM exists already, the Fitment Committee should take these points which have been highlighted for taking decision on the same.

5.8 The Hon'ble Member from Uttar Pradesh welcomed the proposal of the Fitment Committee and stated that the question here is whether extruded or expanded snack pellets are to be taxed at 5% or 12% or 18%. The submission of the Hon'ble Member from Karnataka on the ill effects of packaged food on health needs to be looked into by the FSSAI. On the other hand, the issue before the Fitment Committee is the tax rate on such food products. His submission was that chana, layi and chura which are very commonly used by people who are below poverty line, should be taxed at a lower rate. He stated that overall the guiding principle for taxation should be uniformity. Additionally, if there are health concerns, the same should be looked into by FSSAI for resolving the same. He requested for a reduced rate for gram or chana when packaged and labelled, by having a separate category for the same.

5.9 The Hon'ble Member from Kerala stated that for a detailed discussion on food items, including discussion on their impact on the health of the consumers, there is already a GoM where such issues could be discussed. The Hon'ble Member further stated that the basic issue is that all items could not be bracketed in the same category and his suggestion was that the GoM take up these issues for discussion.

5.10 The Hon'ble Member from West Bengal expressed agreement with the Hon'ble Members from Kerala and Uttar Pradesh, and stated that this has to be looked into from different angles. She stated that the health issue is very important, but simultaneously items like chura, chana etc. can be looked into with a different tax perspective also. The Hon'ble Member desired a detailed discussion on the same and the recommendations to be placed before the Council.

5.11 The Hon'ble Member from Meghalaya stated that he agreed with the opinions which had been expressed by the rest of the Members on the aspect of health and taxation. He stated that the Council should also take into consideration the health impact of products, but the question also arises as to who is the competent authority to certify whether a particular food item is healthy or not. He stated that sometimes, it might also be the case that some products are healthy, but are manufactured in a wrong or unhealthy way and with spurious/unhealthy/wrong ingredients. He opined that there are many angles to the entire classification of what is healthy and what is not. He stated that he was in agreement with the opinion of Hon'ble Member from Kerala that there is need for a competent authority to look into all these issues and these are way too complicated for the GST Council to look into. Since the GoM has been set up, it may approach the competent authorities that can classify food products into what is healthy and what is not, not only in terms of the ingredients of the product, but also the process by which it is made. He stated that the GoM would be the proper authority and they can consult the necessary competent agencies to determine whether or not a food product has an adverse health impact.

5.12 The Hon'ble Chairperson stated that the CBIC had approached the FSSAI for guidance on issue of which food items are healthy, that an attempt has already been made to approach FSSAI as the competent authority which was referred to by the Hon'ble Members from Meghalaya and Uttar

Pradesh. The same would be placed before the Council as soon as a reply is received, and the Fitment Committee and the GOM can benefit from it.

5.13 The Secretary said these observations have been taken into account and the approval of the Council for these particular items viz. extruded or expanded snack pellets is being sought.

5.14 Joint Secretary, TRU-I stated that there is a request to regularize the matter for the past on extruded products in ready-to-eat form. She stated that the same had been discussed in the Officers' meeting and the officers felt that this matter should be sent back to the Fitment Committee for examination.

5.15 The Secretary stated that the Fitment Committee can examine whether or not there is a need to regularize the matters for the past.

**Decision: The Council agreed to the recommendation of the Fitment Committee to reduce the rate on extruded or expanded products, savoury or salted (other than un-fried or un-cooked snack pellets, by whatever name called, manufactured through process of extrusion), falling under HS 1905 90 30, from 18% to 12% at par with namkeens, *bhujia*, mixture, *chabena* (pre-packaged and labelled) and similar edible preparations in ready for consumption form which are classifiable under HS 2106 90. The GST rate of 5% will continue on un-fried or un-cooked snack pellets, by whatever name called, manufactured through process of extrusion. The Council also recommended to clarify that the reduced GST rate of 12% on extruded or expanded products, savoury or salted (other than un-fried or un-cooked snack pellets, by whatever name called, manufactured through process of extrusion), falling under HS 1905 90 30 is applicable prospectively. It also recommended that the GoM on Rate Rationalization will look in into the issue of food items holistically with the help of reply from FSSAI and place the recommendations before the Council. Further, the Council recommended that the Fitment Committee may examine the issue of regularizing the matters for the past period.**

5.16 Joint Secretary, TRU-I presented the agenda item on metal scrap. She informed the Council that the issue had been discussed in the 45th and 47<sup>th</sup> Council meetings Fitment Committee after examination has recommended to introduce RCM on supply of metal scrap from unregistered person to registered person and also to introduce TDS at 2% on supply of metal scrap from registered person to registered person. The RCM is being recommended subject to the condition that the supplier will take registration as and when it crosses the threshold and also that the recipient who is liable to pay under RCM shall pay tax even though the supplier is under the threshold.. However, two additional issues were raised for further examination by the Fitment Committee: reducing the GST rate on scrap from 18% to 5%, and making E-way bills mandatory for all scrap supplies, regardless of value. These suggestions were based on requests from Tamil Nadu, Punjab, and Telangana.

5.17 The Hon'ble Member from Punjab informed that they had proposed to introduce 5% under RCM with ITC along with 2% TDS. The proposal also included implementation of e-way bill on all such B2B transactions.

5.18 The Secretary informed that keeping in mind request from Punjab, the pending issues will also be taken up by the Fitment Committee.

5.19 The Hon'ble Member from Uttar Pradesh expressed that there is no justification for reducing the rate, as it would create multiple issues. They were in favour of retaining the GST rate at 18%.

5.20 The Hon'ble Member from Karnataka expressed agreement with views of the Hon'ble Member from Uttar Pradesh.

5.21 The Hon'ble Member from Andhra Pradesh supported the views of the Hon'ble Member from Uttar Pradesh and added that the decision is a positive step which they fully endorse.

**Decision: The Council approved the recommendation of the Fitment Committee to introduce TDS @2% on supply of metal scrap by registered person to registered person (B to B) and RCM on supply of metal scrap by unregistered person to registered person. The Council recommended that mandatory generation of e-Way bills for supply of scrap be studied further by the Fitment Committee.**

5.22 Joint Secretary, TRU-I presented the next agenda item. She stated that a request was received from the Ministry of Health and Family Welfare to reduce the GST rate from 12% to 5% on three drugs viz. Trastuzumab Deruxtecan, Osimertinib and Durvalumab used in the treatment of lung cancer, biliary tract cancer and breast cancer. In the July 2024–25 budget, these drugs were fully exempted from customs duty. The Fitment Committee recommended to reduce the GST rate from 12% to 5% which was agreed in the Officers' meeting.

**Decision: The Council approved the recommendation of the Fitment Committee to reduce the GST rate from 12% to 5% on all the three drugs namely Trastuzumab Deruxtecan, Osimertinib and Durvalumab.**

5.23 Joint Secretary, TRU-I presented the agenda item for issuing a clarification on the scope of regularization done on 'as is where is' basis. The Council has generally recommended regularization in cases where there were genuine doubts, ambiguity in the language of the notification, or diverse interpretations leading to disputes. The Fitment Committee recommended issuing a circular to clarify the scope of regularisation done on 'as is where is' basis.

**Decision: The Council approved the issuance of a Circular to clarify the scope of regularisation done on 'as is where is' basis.**

**Agenda item 4(b): Issues where no change has been proposed by the Fitment Committee in relation to goods**

5.24 JS, TRU-I stated that requests have been received to issue a clarification on the rate of paper sacks for the period prior to September 30, 2021. Previously, there was a dispute regarding corrugated and non-corrugated boxes, as they attracted differential rates of 12% and 18%, which were later harmonized to 18%. In the 53rd GST Council meeting, the rate of these boxes was reduced to 12%. As there had never been any doubt or ambiguity regarding the rate on paper sacks which have always attracted a GST rate of 18%, the Fitment Committee recommended maintaining status quo.

5.25 The Hon'ble Minister from Maharashtra informed that along with several other states, they have implemented a ban on plastic bags to promote eco-friendly and environmentally friendly alternatives. She further noted that as part of this initiative, they are encouraging the use of paper sacks and paper bags across various municipal corporations and urban areas. In the 53rd GST Council meeting, a recommendation was made to reduce the GST rate on corrugated boxes made of paperboard to 12%. In line with this, she requested that the GST rate on paper sacks also be reduced to 12%. She emphasized that such a reduction would further the goal of increasing the use of paper sacks and paper bags over plastic alternatives in urban and semi-urban areas, thus supporting eco-friendly and environmentally friendly materials and products. She urged the Fitment Committee to consider this request.

5.26 The Secretary noted that while the initial request was for clarification regarding the past period, if the current request is for a prospective exemption, the same can be referred to the Fitment Committee.

5.27 The Hon'ble Chairperson stated that the decision for the past period should remain unchanged to avoid confusion with previous decisions. She further stated that for the prospective period, whether a complete exemption or a reduction to 12% is appropriate will need further review and urged Fitment Committee to examine it. However, subject to the Council's view, the Chairperson suggested refraining from making changes retrospectively and instead allowing the Fitment Committee to evaluate for the prospective period. Maharashtra was requested to send detailed proposal.

5.28 The Hon'ble Member from Meghalaya stated that in addition to what the Hon'ble Minister from Maharashtra mentioned, they are also promoting biodegradable bags made from starch. He also informed that numerous industries are being set up for these bags, which while resembling plastic, are actually made from starch and decompose automatically within 90 days. The Hon'ble Member emphasized that this category should be included in the proposal under examination.

5.29 The Hon'ble Chairperson suggested assigning a separate HSN code for the bio-friendly category of bags and urged the Hon'ble Member from Meghalaya to provide the necessary details.

**Decision: Fitment Committee recommended to maintain status quo on paper bags and recommended that for the prospective period the rate be reviewed by the Fitment Committee with inputs from the states of Maharashtra and Meghalaya.**

5.30 Joint Secretary, TRU-I presented the agenda item regarding request to increase the GST rate on agro-shade nets from 5% to 12 %. She informed the Council that the matter of inverted duty structure on textiles was taken up in the 45<sup>th</sup> GST Council meeting, but in the 46th Council meeting the issue was deferred and recommended to the GoM on Rate Rationalization. She said that the Fitment Committee recommended maintaining status quo, as report of the GoM on Rate Rationalization is awaited. This had been agreed to in the Officer's meeting.

**Decision: The Council approved the recommendation of the Fitment Committee for maintaining status quo on the GST rate on agro-shade nets.**

5.31 Joint Secretary, TRU-I presented the agenda item regarding clarification of applicable rate of GST on Compressed Bio-Gas (CBG). She informed that the issue of GST rate on biogas was deferred in the 37th GST Council meeting held in 2019. Further she informed that there is no separate entry for CBG and GST rate on biogas is 5%. So, the rate is the same for CBG and as on date there is no ambiguity regarding the rate. The taxpayers are already paying 5%, so it is a non-issue now. This was agreed to in the Officers' meeting.

**Decision: The Council approved the recommendation of the Fitment Committee that no clarification is required on the applicable rate of GST on compressed bio-gas (CBG).**

5.32 The Joint Secretary, TRU-I presented the agenda item pertaining to reduction of rate of GST on feedstock like reformat, DHDT, VGO, etc. from 18% to 5%. She informed that this issue was also discussed in 47th GST Council meeting and the Council had felt that there is no significant revenue implication as far as OMC's are concerned and recommended not to accept the request for rate reduction. Fitment Committee also recommended maintaining status quo and it was agreed to in the Officers' meeting.

**Decision: The Council approved the recommendation of the Fitment Committee to maintain status quo with regard to rate of GST on feedstock like reformates, VGO, DHDT feed, SRGO etc.**

5.33 Joint Secretary, TRU-I presented the agenda item pertaining to reduction in GST rate on cathode coating and separators of lithium-ion battery. She stated that since cathodes and separators are present in all batteries including Lead- acid, Nickel- cadmium, Nickel-Metal Hydride, etc. , Fitment Committee has recommended to maintain status quo as it would lead to an end use based exemption

**Decision: The Council approved the recommendation of the Fitment Committee to maintain status quo on GST rates for cathode coating and separators of lithium-ion battery.**

5.34 Joint Secretary, TRU-I presented the agenda item pertaining to reduction in GST rates on parts used in manufacture of EVs from 18% or 28% to 5%. Fitment Committee had recommended to maintain status quo because this would have introduced inversion in the supply chain of such EV parts. She informed that Andhra Pradesh had made a request to reduce the GST rate to 5 % and that the proposal would be sent by Andhra Pradesh. This may be examined by Fitment Committee separately.

5.35 The Hon'ble Member from Andhra Pradesh informed that they reiterate the submission made by them. He stated that in line with the Hon'ble Prime Minister's stress on the Renewable energies, Andhra Pradesh is proposing an EV policy. The Hon'ble Member requested for reduction in the tax structure on EVs along with the charging stations and stated that they would be sending a detailed proposal to the Fitment Committee. The Hon'ble member from Andhra Pradesh requested the GST council to consider the whole proposal.

**Decision: In light of the request from Andhra Pradesh the Council recommended that the matter may be examined by Fitment Committee after receipt of detailed proposal from Andhra Pradesh.**

5.36 JS, TRU-I presented the agenda item pertaining to request for reduction in GST rate on braided elastics from 12% to 5% on par with woven and knitted elastic. She stated that this was discussed in the Fitment Committee and Fitment Committee had recommended maintaining status quo as this will create further inversion in tax structure. Further she informed that this was agreed to in the Officers' meeting and that Gujarat had requested to consider reducing the GST rate from 12% to 5%, whereby it was pointed out to him that this would result in refund of accumulated ITC.

5.37 The Hon'ble Member from Gujarat suggested bringing about parity and emphasized that this would support small-scale units and MSMEs. He further suggested that the rate of tax on braided elastic tapes needs to be brought down to 5 % from 12 %, as in the case of woven and knitted elastic tapes. He requested the Council to send this issue back to the Fitment Committee for the reconsideration of reduction in tax rate without refund of input tax credit accumulated on account of the inverted duty structure.

5.38 The Secretary explained that the braided elastic does not fall under the Chapter where woven and knitted elastic are classified. However, parity as sought by Gujarat would lead to duty inversion due to higher input tax.

5.39 Joint Secretary, TRU-I explained that woven elastic tapes are categorized under woven fabrics, where rate of tax is 5%. However, the braided elastic is classified in different chapter under 'rubber thread having textile covering' which can be used in textile items as well as in various items including sports goods. She further stated that if Council agrees, the request of Gujarat may be re-examined by the Fitment Committee.

5.40 The Hon'ble Member from U.P added that the braided elastics are made from rubber and that duty reduction is not recommended.

5.41 The Secretary stated that the rate as recommended by the Fitment Committee may be accepted as reflected in overall sense of the House.

**Decision: The Council approved the recommendation of the Fitment Committee to maintain status quo on the GST rate on braided elastic tapes.**

**Agenda Item 4(c):** JS, TRU-I then presented the agenda items pertaining to services as mentioned in Annexure-IV of the Agenda item no. 4 (total 20 issues, as per Volume-I and Volume III respectively). She presented the recommendations made by the Fitment Committee in this regard, either for changing the rate of GST or for clarifying the applicable rate of GST on the concerned services.

5.42 The first item presented for discussion in Annexure-IV of the Agenda item 4 of Volume-I was to clarify that GST @ 5% is applicable on helicopter services for pilgrims. JS, TRU-I informed that this issue has arisen as notices have been issued to helicopter service operators demanding 18% GST. She further informed that in the officer's meeting, it was recommended that a separate entry be created for notifying rate of 5% on transport of passengers by helicopter on seat share basis. Therefore, as per the discussions in the Officers' meeting, separate entry related to passenger transport by helicopter on seat share basis may be inserted in notification No. 11/2017-CTR. It was also recommended to clarify that services other than transport of passengers by helicopter on seat share basis i.e., for charter



operations will continue to attract GST at 18%.

**Decision: The Council approved the recommendation of the Fitment Committee pertaining to notifying rate of 5% on transport of passengers by helicopter on seat share basis and clarifying that charter operations continue to attract GST at 18%.**

5.43 The next agenda item presented by JS, TRU-I was 'to clarify whether incidental/ ancillary services such as loading, unloading, packing, unpacking, transshipment, temporary warehousing etc., provided in relation to transportation of goods by road is to be treated as part of Goods Transport Agency (GTA) service, being composite supply, or these services are to be treated as separate independent supplies'. She informed that the Fitment Committee had recommended to clarify that when ancillary/incidental services are provided by GTA in the course of transportation of goods by road and the GTA also issues consignment note, the service will constitute a composite supply and all such ancillary/incidental services like loading/unloading, packing/unpacking, transshipment, temporary warehousing etc. will be treated as part of the composite supply. However, if such services are not provided in relation to transportation of goods and invoiced separately, then these services will not be treated as composite supply and will be treated as standalone services.

**Decision: The Council approved the recommendation of the Fitment Committee pertaining to clarifying whether incidental/ ancillary services such as loading, unloading, packing, unpacking, transshipment, temporary warehousing etc., provided in relation to transportation of goods by road is to be treated as part of Goods Transport Agency (GTA) service, being composite supply, or these services are to be treated as separate independent supplies.**

5.44 The next agenda item presented by JS, TRU-I was to clarify if Ro-Ro service (Truck on Train) is used for the transportation of milk, no GST is leviable on the empty tankers returning after delivery of milk. She stated that the Fitment Committee had recommended clarifying by way of letter to the concerned authority that the transport of empty tankers returning after delivery of milk is taxable and not exempt. Exemption on the said transport of empty tankers returning after delivery of milk was not recommended.

**Decision: The Council approved the recommendation of the Fitment Committee to not exempt GST on transport of empty tankers (Ro-Ro service: Truck on train) returning after delivery of milk.**

5.45 JS, TRU-I presented the agenda item pertaining to either exempt electric vehicle (EV) charging services at public charging stations or to clarify that the activity of charging electric vehicles (EVs) in a charging station essentially involves supply of electricity and therefore should be chargeable at the same rate applicable to supply of electricity. JS, TRU-I informed that during the deliberations on the issue in the officer's meeting held on 08.09.2024, on the request of the State of Andhra Pradesh it has been recommended to defer the matter for further re-examination by the Fitment Committee.

**Decision: The Council approved the recommendation to defer the agenda item for further re-examination.**

5.46 JS, TRU-I presented the agenda item pertaining to issue of corrigendum to the Circular No. 34/8/2018- GST dated 01.03.2018 in respect of taxation of ancillary services of transmission and distribution of electricity such as: (i) application fees for providing electricity connection, (ii) rental charges against electricity meter, (iii) testing fees for meters/ transformers/capacitors, (iv) labour charges from customers for shifting of meters/service lines & (v) charges for duplicate bills etc. She stated that the Fitment Committee had recommended to partially modify the Circular No. 34/8/2018- GST dated 01.03.2018, clarifying that supply of above-mentioned services which are incidental, ancillary or integral to the supply of transmission and distribution of electricity by transmission and distribution utilities to their consumers, when provided as a composite supply are exempt. It was also informed by JS, TRU-I that the Fitment Committee has also suggested that the Special Leave Petition (SLP) pending in the Hon'ble Supreme Court on this issue may be withdrawn once the clarification is issued.

5.47 The Hon'ble Member from Punjab stated that these services should not be treated as a composite supply and ancillary services such as rental charges against electricity meter etc. should instead be taxed as separate supply. The Hon'ble Member also suggested that if the Council decides to proceed with the modification, it should apply only prospectively as applying it retrospectively will have revenue implications for the States.

5.48 The Hon'ble Member from Andhra Pradesh, however, requested that the modification be applied retrospectively.

5.49 The Hon'ble Member from Uttar Pradesh also supported a prospective application, citing potential complications otherwise.

5.50 The Hon'ble Member from Andhra Pradesh noted that the matter is still under judicial consideration. The Hon'ble Chairperson inquired about Andhra Pradesh's position in court, to which the Hon'ble Member from Andhra Pradesh replied that they had not collected GST but some parties have contested that these services are not liable for GST.

5.51 The Hon'ble Chairperson summarised that the consensus was not to apply the modification retrospectively but to implement it prospectively, aligning with the suggestions from Hon'ble Member from Punjab and Hon'ble Member from Uttar Pradesh. She confirmed that the modification would not be applied retrospectively but implemented prospectively. The State of Andhra Pradesh's case would be addressed accordingly, as the decision aligns with their stated position.

5.52 The Secretary stated that the modification would be applied prospectively, with past collections regularized on an "as is where is" basis.

5.53 Member (Tax Policy), CBIC added that the implementation should be prospective and could be done by way of exemption. The past period can be regularised on '*as is where is*' basis through clarification.

**Decision: The Council recommended to create a separate entry in exemption notification No. 12/2017-CTR dated 28.06.2017 for exempting supply of services by way of providing metering**

equipment on rent, testing for meters/ transformers/capacitors etc., releasing electricity connection, shifting of meters/service lines, issuing duplicate bills etc., which are incidental or ancillary to the supply of transmission and distribution of electricity by electricity transmission and distribution utilities to their consumers. The Council also recommended to regularize the past period on '*as is where is*' basis.

5.54 JS, TRU-I presented the agenda item pertaining 'to clarify the applicability of GST on the affiliation fee collected by universities from affiliated colleges' in respect of which the Fitment Committee had recommended to clarify by way of circular that the affiliation services provided by universities to their colleges are not covered within the ambit of exemptions provided to educational institutions in the Notification No. 12/2017-CT(R) dated 28.06.2017 and GST at the rate of 18% is applicable on the affiliation services provided by the universities.

**Decision: The Council approved the recommendation of the Fitment Committee pertaining to clarifying the applicability of GST on the affiliation fee collected by universities from affiliated colleges.**

5.55 JS, TRU-I presented the agenda item pertaining to clarifying the applicability of GST on the affiliation fees charged by Central and State Educational Boards/council in respect of which the Fitment Committee had recommended to regularize the collection of GST on affiliation fee charged by State/Central educational boards to schools on '*as is where is*' basis for the period from 01.07.2017 to 17.06.2021 i.e., the date of issuance of Circular no. 151/07/2021 clarifying that accreditation services of boards are taxable at the rate of 18% and to exempt affiliation services provided by State/Central educational boards to Government schools prospectively. In the Officers' meeting it was also recommended that exemption may be extended to educational councils and similar bodies in the States.

**Decision: The Council approved the recommendation of the Fitment Committee to regularize the collection of GST on affiliation fee charged by State/Central educational boards/councils and other similar boards to schools on '*as is where is*' basis for the period from 01.07.2017 to 17.06.2021 and to exempt affiliation services provided by State/Central educational boards/councils and other similar boards to Government schools prospectively.**

5.56 JS, TRU-I presented the agenda item pertaining 'to clarify the applicability of GST on approved flying training courses conducted by Flying Training Organizations (FTOs) approved by DGCA'. She stated that Fitment Committee had recommended to clarify by way of a circular that approved flying training courses conducted by DGCA approved Flying Training Organizations (FTO) are exempt from GST.

5.57 The Hon'ble Member from Punjab suggested that flying training courses other than those given to first time students should not be exempted and proposed that an age criterion may be introduced to determine eligibility for such exemptions.

5.58 The Secretary then requested the State of Punjab to send a proposal in this regard. He noted that these services are generally for reskilling purposes, often involving defense personnel who have retired at a young age, which should be considered during deliberations.

5.59 The Hon'ble Member from Chhattisgarh expressed the view that GST should be exempted for everyone, given the importance of aviation being a growing sector requiring higher degree of skills.

5.60 The Secretary requested the state of Chhattisgarh to submit its proposal separately. He further clarified that the Fitment Committee had only examined the exemptions as per the notifications issued and assessed whether these courses are covered by the existing exemption. He also asked other states to give other proposals, if any, to the Fitment Committee, which would then review and present them before the Council for further deliberation.

5.61 The Hon'ble Member from Karnataka raised the point that while training programs are classified under education, such broad classification leads to non-core education being grouped with educational services, thus extending favorable treatment beyond its intended scope. He stated that Karnataka supported the exemption for certain educational services but suggested a thorough examination to distinguish between core and non-core education, so that some of the activities which are not core education may be treated differently.

**Decision: The Council approved the recommendation of the Fitment Committee to clarify by way of a circular that approved flying training courses conducted by Flying Training Organisations (FTOs) approved by DGCA are exempt from GST.**

5.62 JS, TRU-I presented the agenda item pertaining to replace 'National Council for Vocational Training' (NCVT) with 'National Council for Vocational Education and Training' (NCVET) in the Notification No. 12/2017-CT(R) dated 28.06.2017 and include the services provided by the recognized Awarding Bodies, Assessment Agencies, Training Bodies and Skill Related Information Providers approved by NCVET in the exempted list'. She stated that this agenda is more of a technical nature as NCVET has taken the place of NCVT. The Fitment Committee had recommended that amendments are required in Sl. Nos. 69, 71 and para 2(h) of Notification No. 12/2017-CT(R) dated 28.06.2017 to align the said entries with the revised vocational education and training framework set up under the NCVET and exemption to NSDC in its present form may be continued. The proposal of MSDE in relation to exempting activities of Skill Related Information Providers (SRIPs) may not be accepted since no such exemption exists currently.

**Decision: The Council approved the recommendation of the Fitment Committee for amending Sl. Nos. 69, 71 and para 2(h) of Notification No. 12/2017-CT(R) dated 28.06.2017 to align the said entries with the revised vocational education and training framework set up under the NCVET and continuation of exemption to NSDC in its present form.**

5.63 JS, TRU-I presented the agenda item pertaining to clarifying for the period prior to 01.10.2021, the GST rate applicable on the services provided by the film distributor or sub-distributor to exhibitions for distributing films for exhibitions is @ 12%.

5.64 She informed the Council that representations have been received to clarify regarding the GST liability for the period from 01.07.2017 to 01.10.2021 on transaction between distributors and exhibitors wherein the distributors grant the theatrical rights to the exhibition centers. Field formations have viewed that such transaction is classifiable under SAC 9996 and attracts GST at the rate of 18%.

5.65 Prior to 1st October 2021, GST at the rate of 18% was leviable on “Motion Picture, videotape and television programme distribution services” under Heading 9996 whereas 12% rate of GST was leviable on “temporary or permanent transfer or permitting the use or enjoyment of intellectual property right in respect of goods other than IT technology software” under Heading 9973. It was observed that both entries apparently covered services by way of licensing of rights to broadcast or show films. This issue was discussed in the 45th GST Council meeting held on 17.09.2021 wherein, the Council recommended to keep a uniform rate of 18% on both these entries with effect from 01.10.2021.

5.66 She informed that the Fitment Committee had examined the issue and recommended regularizing payment of GST on transaction between distributors and exhibitors wherein the distributors grant the theatrical rights to the exhibition centers on ‘as is where is’ basis from 01.07.2017 to 30.09.2021.

**Decision: The Council approved the recommendation of the Fitment Committee to regularize the payment of GST on transaction between distributors and exhibitors wherein the distributors grant the theatrical rights to the exhibition centers on ‘as is where is’ basis from 01.07.2017 to 30.09.2021.**

5.67 JS, TRU-I presented the agenda item pertaining to clarifying the taxability on Preferential Location Charges (PLC) collected along with consideration for sale/ transfer of constructed/ under-constructed residential/commercial/industrial properties. Allowing choice of location of apartment is integral part of supply of construction services and therefore, location charge is nothing but part of consideration charged for supply of construction services before issuance of completion certificate. Being charged along with supply of construction services for the apartment, the same attract GST at same rate as of construction services before issuance of completion certificate.

5.68 The Hon'ble Member from Punjab suggested that Preferential Location Charges should be taxed as separate services and should not be treated as part of a composite supply where construction services are the main service.

5.69 The Hon'ble Member from Chhattisgarh stated that taxing PLC separately would further complicate matters.

5.70 The Hon'ble Member from Uttar Pradesh supported the Fitment Committee's recommendation.

5.71 The Secretary acknowledged the complexity of the issue, noting that if PLC is not considered part of a composite supply with construction services, it could raise confusion about GST chargeability itself. He informed that the Fitment Committee has examined the issue and is of the view that since PLC charges are naturally bundled with the construction services, therefore are eligible for same tax treatment as the main supply i.e., the construction service. He stated that there was consensus and urged the Council Members, including Punjab, to support the Fitment Committee's recommendation to treat PLC as part of the composite supply to avoid potential legal challenges.

**Decision: The Council approved the recommendation of the Fitment Committee to clarify that Location charges or Preferential Location Charges (PLC) paid along with the consideration for**

**the construction services of residential/commercial/industrial complex before issuance of completion certificate forms part of composite supply where supply of construction services is the main service and PLC is naturally bundled with it and are eligible for same tax treatment as the main supply i.e., construction service.**

5.72 JS, TRU-II presented the agenda item about ascertaining the value of land for arriving the value of construction services in case of sale of commercial / residential apartments. He stated that Fitment Committee had recommended to draft Valuation Rules to ascertain the value of land for deciding the value of construction services in sale of commercial/residential apartments to be based on the notified circle rates wherever available or where the circle rates are not available, then the value of land may be deemed.

5.73 The Secretary explained that GST is charged on construction services, but when a flat is sold, the charges for construction services are typically not shown separately rather the price include both land and construction costs. Currently, a deeming provision treats one-third of the cost of such flat/apartment as the land value. However, this does not account for variations in land value, particularly in posh or expensive areas, where land value can exceed one-third of the total value, sometimes reaching two-thirds or even up to 75%. This discrepancy has led to legal challenges, and the Hon'ble Gujarat High Court has struck down this valuation rule, necessitating a review of valuation rules in this regard.

5.74 The Hon'ble Member from Goa suggested that the issue is covered under the Terms of Reference (ToR) of the Group of Ministers (GoM) on the Real Estate Sector, which had recently conducted a meeting and next meeting is scheduled soon. Given the different circle rates in each state, he recommended that the issue be discussed further within the GoM for a more focused and appropriate resolution.

5.75 The Secretary acknowledged the suggestion and also noted that the issue has been pending for a long time and was brought to the Council after extensive examination by the Fitment Committee, but if Council agrees, it may be examined by the GoM.

**Decision: The Council agreed that the matter may be referred to the existing GoM on boosting the Real Estate Sector.**

5.76 The JS, TRU-I presented the agenda item pertaining 'to levy GST on renting of commercial property by unregistered person to registered person on Reverse Charge Mechanism (RCM) basis'. She informed that Fitment Committee had recommended to bring renting of commercial property by unregistered person to registered person under RCM.

**Decision: The Council approved the recommendation of the Fitment Committee to bring renting of commercial property by unregistered person to registered person under RCM.**

5.77 JS, TRU-I presented the agenda item pertaining to clarifying the applicability of GST on sale of participating interest in case of farm-in farm out contracts in oil and gas exploration sector. She informed the Council that the issue was deliberated in the Officers meeting held on 09.09.2024 and it has been recommended to re-examine the matter in light of fresh representation received from the

Ministry of Petroleum and Natural Gas.

5.78 The Hon'ble Member from Assam stated that their economy is heavily reliant on oil and natural gas. Given that the Fitment Committee had already clarified the taxability of farm-in and farm-out transactions, she suggested maintaining the position that these transactions should be subject to 18% GST.

5.79 The Revenue Secretary responded that when the Fitment Committee re-examines the issue, they will consider whether these transactions should be exempt or not, and will take Assam's views into account during their deliberations.

**Decision: The Council agreed to defer the issue for further examinations by the Fitment Committee.**

5.80 JS, TRU-I presented the agenda item pertaining to clarifying whether exemption under entry at Sr. No. 34 of notification No. 12/2017-CTR dated 28.06.2017 is available to payment aggregators for transactions transacted through credit card, debit card, charge card or other payment cards over digital networks up to Rs. 2000/-. She stated that Fitment Committee had recommended to clarify that the services provided by payment aggregators in relation to the transaction transacted through credit card, debit card, charge card or other payment cards over digital networks up to Rs. 2000/- are not eligible for exemption under entry at Sl. No. 34 of the notification No.12/2017-CTR dated 28.06.2017 and are taxable.

5.81 The Hon'ble Member from Delhi expressed the view that the exemption for digital payments up to Rs. 2000/- should also apply to payment gateways and payment aggregators. It was argued that many small businesses and startups operate almost exclusively online, using these payment gateways or payment aggregators. Imposing GST on payment gateways/payment aggregators would ultimately impact these businesses, which could be detrimental for these small businesses and startups.

5.82 The Hon'ble Member from Punjab supported the views of the Hon'ble Member from Delhi.

5.83 The Secretary then clarified that the Fitment Committee was tasked with providing clarification about the eligibility of the existing exemption to such payment aggregators, not to consider a new exemption. It was also noted that some payment aggregators, like PayTM, Google Pay and Amazon Pay, have already paid GST, making it difficult to justify exempting those who have not.

5.84 The Hon'ble Member from Delhi then stated that while large enterprises like Amazon have their own payment gateways, smaller businesses rely on these third-party payment gateways/aggregators for online transactions. Taxing transactions under Rs. 2000/- on these aggregators would contradict the broader goal of promoting digital and cashless transactions. The Hon'ble Member from Delhi suggested that the matter should be reconsidered by the Fitment Committee, a GOM, or concerned policy wing, to ensure that the exemption applies to these payment aggregators as well.

5.85 The Hon'ble Member from Karnataka acknowledged the concerns but stated that the current regime should continue as it provides visibility into online transactions of goods and services. He stated that it brings some visibility into what is happening in such online transaction of goods and

services. He opined that if we exempt it, that visibility and trail will be lost. He stated that he is not averse to encouraging digital payments and he welcomes it, if there is a way in which it can be done. He stressed the importance of maintaining this visibility and suggested that any examination of the exemption should consider both revenue implications and the value of visibility in these transactions.

5.86 The Hon'ble Member from Delhi then stated that the key issue is the disparity in treatment between card transactions, which are exempt, and those made through payment aggregators, which are not. This disparity affects small businesses and start-ups the most. The Hon'ble Member from Delhi suggested that either no transactions under Rs. 2000/- should be exempt, or the exemption should also apply to these payment aggregators as well, to maintain parity.

5.87 The Hon'ble Member from Uttar Pradesh supported Karnataka's view, emphasizing the significant revenue implications and volume of transactions involved and said that it should be examined broadly.

5.88 The Hon'ble Member from Meghalaya concurred with Karnataka's views, noting that introducing the exemption would further complicate the situation. The Hon'ble Member emphasized the importance of maintaining the trail of information, as highlighted by Karnataka, considering it a valid point. Additionally, the Hon'ble Member acknowledged the significant revenue implications as mentioned by Karnataka. Therefore, the Hon'ble Member aligned with the opinions and suggestions of Karnataka and UP, concluding that the exemption in this category should not be pursued.

5.89 The Hon'ble Member from Gujarat and West Bengal also agreed with Karnataka's stance, stressing the importance of considering revenue collections.

5.90 The Hon'ble Member from Karnataka acknowledged concerns raised by Delhi regarding parity and emphasised need for parity between different modes of a same activity. He suggested that the Council Secretariat should examine how parity could be established without losing the current benefits of visibility and transparency.

5.91 The Secretary concluded by noting that there is a request to examine the need for parity, keeping in mind the importance of data visibility and revenue considerations.

**Decision: The Council approved the recommendation that the Fitment Committee shall reexamine the matter considering all the factors discussed.**

5.92 JS, TRU-I presented the agenda item pertaining to clarifying whether concession amount paid to NHAI by concessionaire for grant of rights under Toll Operate and Transfer Model (TOT) is liable to GST or not, as toll is exempt under Notification- 12/2017 - Central Tax (Rate) dated 28.06.2017. She informed that Fitment Committee had recommended to clarify that the concession amount paid to NHAI by concessionaire is taxable and not covered under entry at Sl. No. 23 of Notification No. 12/2017-CT(R). However, the matter was being deferred for re- examination after discussions in the officers' meeting on 08.09.2024.

5.93 The Hon'ble Member from Uttar Pradesh said that present system should continue.



5.94 The Hon'ble Member from Karnataka stated that they somewhat agree with the Hon'ble Member from Uttar Pradesh, particularly in principle. They expressed concern about selectively granting exemptions to specific agencies, which might not be the most appropriate approach. Karnataka emphasized that the discussion isn't about taxing tolls themselves, as those have already been exempted. Instead, the focus is on taxing the service provided by the toll operator. The Hon'ble Member drew a parallel with the earlier discussion on electricity, where the supply of electricity is exempt, but services like EV charging are taxable. Similarly, in this case, Hon'ble Member stated that it's not the toll itself that is to be taxed, but the business service provided by the toll operator. He maintained that, as a matter of principle, the toll should remain untaxed, while the service aspect (regarding concession amount) provided by the toll operator should be taxable.

5.95 The Additional Secretary, DoR highlighted that there are two types of concession agreements: one for new roads and another for maintaining and collecting tolls for existing roads. The issue arose when enforcement actions began, and GST was imposed on these services. Fitment Committee discussed the issue, and concluded that while tolls are exempt, GST is applicable to such services. He highlighted the problem that if GST is imposed, the funds collected from tolls, which are passed on to NHAI, would be taxed, disrupting the entire system and the development model. This would negatively impact not only NHAI but also State Governments, many of which have established road development corporations responsible for building and maintaining toll roads. If the proposed clarification is issued, enforcement actions will become final, requiring NHAI and State Governments to pay taxes. This could undermine the asset monetization efforts and the promotion of PPP projects. Additional Secretary stated that in the Officers' Meeting, it was decided to defer the issue and re-examine it. If, after re-examination, it is determined that there is still a technical reason for imposing GST, the possibility of granting an exemption should be considered.

5.96 The Secretary clarified that the issue under discussion is not about a separate service but an input service crucial to the toll or maintenance service, specifically the right to use the road. He explained that the toll, paid by consumers, whether passengers or vehicles, is the output service provided by the toll operator. However, to offer this service, the toll operator first needs to acquire the right to use the road from agencies like NHAI or state road development corporations. This acquisition of rights constitutes an input service to the toll operator's output service. He emphasized that while the Council has already exempted the output service (toll collection), the critical input service, which enables the toll operator to provide the output service, has not been exempted. He drew parallels to previous Council decisions, such as the exemption of reinsurance for government insurance schemes, where the input (reinsurance) was also exempted to maintain the intended benefits of the output exemption. To illustrate further, he mentioned similar cases involving exemptions on petroleum, electricity, and alcohol, where the input services or goods were also exempted to avoid indirectly taxing the output, which was supposed to be exempt. He concluded by stating that this proposed exemption should not be seen as specific to NHAI but applicable to all similar road projects and toll collections, regardless of the agency involved. He suggested that the Fitment Committee should thoroughly re-examine whether this exemption should be granted and consider its implications, including what would happen regarding taxes already collected in the past. Uttar Pradesh and other States, after this clarification, agreed to the suggestion for the re-examination by the Fitment Committee.

**Decision: The Council approved the recommendation to defer the issue for re-examination by the Fitment Committee.**

5.97 JS, TRU-II presented the agenda item pertaining to applicability of GST on Research grants or donations received from Government or private agencies. He stated that the Fitment Committee had recommended to grant exemption to the following service under heading 9981- Supply of research and development services by- (a) a Government Entity; or (b) a research association, university, college or other institution, notified under clauses (ii) or (iii) of sub-section (1) of section 35 of the Income Tax Act, 1961 to Central Government, State Government, Union territory, local authority or Government Entity against consideration received from them in the form of grants.

5.98 The Hon'ble Member from Delhi sought clarification regarding applicability of GST on grants received by educational institutions from private agencies.

5.99 The Secretary clarified that even when there is a quid pro quo i.e. where research is conducted on behalf of the government with something given in return, such as IPR or new technology the grants would be exempt. He also mentioned that in the Officers' meeting, it was deliberated that in pure research, where there is nothing in return as such any rights or IPR etc and the research conducted is purely for public good, such pure research should not be taxable. It was recommended that this issue be further examined, and if necessary, a circular should be issued to clarify that grants for pure research as discussed above should not be subject to tax.

5.100 The Hon'ble Member from Delhi again sought clarification regarding the first part- whether the presence of a quid pro quo would render the transaction taxable or not.

5.101 The Secretary clarified that if there is a quid pro quo in case of a private entity, the transaction is taxed. He explained that many institutions, both in the private and public sectors, might conduct research for companies that could lead to improvements in technology, for eg. company enhancing the functionality or capacity of its car engine. In such cases, the company may provide a grant or fee in return for the intellectual property rights (IPR) or copyrights to use the technology for commercial purposes. Similarly, an agricultural company might provide a grant to develop a better seed, which would also be taxable because it involves a service provided in return. Whereas if a research grant is given for purely philanthropic purposes, such as developing a medicine with no intention of commercial exploitation, it should not be taxed. He pointed out that the global practice generally exempts research for the public good. In the Officers' meeting it was decided to deliberate on how to address these issues, particularly the issue of distinguishing research for public benefit from research for commercial exploitation.

5.102 The Hon'ble Member from Assam supported the exemption, noting that making research taxable under GST would significantly increase costs, potentially discouraging research and development in areas such as education and agriculture. It was also stated that exempting research under GST, consistent with provisions in the Income Tax Act, would encourage scientific research and development. It was further emphasized that exempting research from GST would send a positive message to society, about the Government's commitment to education, research and the development of scientific temper whereas if research were made taxable under GST, it would become expensive and potentially discourage research and development scenario in India.

5.103 The Hon'ble Member from Meghalaya stated that the decision on taxability should fundamentally depend on the end use of the research. They suggested that where everyone is allowed to use the outcome of research, it should be non-taxable. However, if the research results in a patent held by an entity that controls its use, this should be treated differently. He proposed that research for public use is perhaps the only justifiable way to grant a tax exemption. They also expressed concern that organizations might misuse this exemption by creating proxy entities to fund and benefit from research through indirect channels. Hence, it is crucial to ensure transparency and openness in research to truly benefit the larger public. The Committee should thoroughly examine these aspects and make decisions that would foster positive research development for the greater good of the country.

5.104 The Hon'ble Member from Delhi expressed some confusion regarding the decision on whether the exemption applies to research grants or if further examination is needed.

5.105 The Secretary clarified that the Fitment Committee would review the need for any orders, circulars or notifications concerning the taxability of research conducted for public good. The Committee will specifically exclude cases involving commercial exploitation of research from the exemption.

5.106 The Hon'ble Member from Uttar Pradesh supported the Fitment Committee's recommendations.

5.107 The Hon'ble Chairperson then summarised the key points of the discussion. First, the grants given by the Government-to-Government entities or the institutions notified under section 35 of the Income Tax Act, 1961 are exempt from GST. This exemption applies whether the research is for pure public good or otherwise. Second, pure research conducted for the larger public good, if funded by the Government, is exempt from GST. The Fitment Committee may be asked to look into certain aspects and provide clarity. The Hon'ble Chairperson emphasized that clarity is needed on how private funding in such cases should be treated. When these grants lead to commercial exploitation by the private entities, the Fitment Committee shall examine the appropriate tax treatment.

5.108 The Hon'ble Member from Delhi stated that a clarification is required if such grant is received from a private entity for purely philanthropic purposes.

5.109 The Hon'ble Chairperson asserted that research, whether it involves government-to-government, government-to-private, or private funding, should be treated favourably. She acknowledged that sometime State and Central GST authorities issue notices to verify the nature of research funding to ensure compliance with the law. These notices are not intended to harass but to verify the compliance. She noted that recent notices were issued to seven institutions, including both Government and private entities, to investigate whether the funding was compliant with existing regulations.

5.110 The Hon'ble Chairperson proposed that research funding, whether from government or private sources, should be treated favourably. She suggested that the Fitment Committee should examine how to tax or otherwise private funding for research intended for the public good, ensuring that it is treated in a manner that supports research and development.

5.111 The Hon'ble Member from Mizoram highlighted that when universities receive research funding from companies, it is often categorized as a consultancy fee. According to the UGC working committee, 2019 on university-industry engagements, a portion, typically 10 to 50 percent of this consultancy fee, is allocated to the university. He urged the council to consider this aspect when the Fitment Committee reviews the matter, pointing out the challenges faced in academic research. He noted that research often follows its own hypothesis, making it difficult to predict outcomes such as patents, which can take many years to materialize. This delay poses a challenge for paying GST, as the grantor might have already disbursed the funds, and the patent could be granted years later. He expressed satisfaction that the Council is moving towards a conclusion where GST may not be applicable.

5.112 The Hon'ble Member from Bihar and Meghalaya both expressed that if private entity funds research aimed at the larger public good, such funding should also be exempt from taxation. The Hon'ble Member from Meghalaya further suggested that the research institution should provide an undertaking affirming that the outcome of the research, whether it be a study, patent, or any other result, will be made public and will not be kept hidden. This undertaking would ensure transparency. By committing to make the research and its outcomes publicly accessible from the outset, the process would align with the larger public interest and, therefore, should be exempt from taxation.

5.113 The Hon'ble Member from Uttar Pradesh stated that research should be encouraged at every level, as innovation in any field often stems from dedicated research efforts. However, if the outcomes of this research can be used commercially, then it is advisable that revenue interests of the States should be safeguarded. The Fitment Committee shall examine it further diligently.

5.114 The Hon'ble Member from Kerala stated that, if the funding is directed towards product development or patent creation, that needs to be carefully examined by the Fitment Committee. He emphasized the importance of promoting research funding from both private and public sectors. While public sector funding is already established, there is a significant need for private sector contributions to research. Generally, most aspects of research funding can be accepted without imposing a tax burden, but special considerations should be made for cases involving product or patent development.

5.115 The Hon'ble Member from Nagaland remarked that the discussions have largely focused on the public good, and it is understood that Delhi has repeatedly made interventions, likely due to specific instances of irregularities. These irregularities seem to be the reason that private philanthropist donors, are being scrutinized more critically compared to others i.e. Central and State grants. The Hon'ble Member suggested that it would be appropriate to clarify why the private grants are being treated differently and the specific apprehensions surrounding them.

5.116 The Hon'ble Member from Uttarakhand supported Meghalaya's suggestion that research institutions should provide an undertaking affirming that the outcomes of their research, whether it be a study, patent, or any other, will be made public. Additionally, he proposed that if the undertaking is not complied with, GST should be levied.

5.117 The Hon'ble Member from Telangana emphasized the importance of research for the country and suggested that funding from the Government, whether from the Centre or the State, to institutions should be exempted from taxation. If the research serves a public purpose, even if it involves quid pro quo, it should still be exempted since the funds are coming from the Government.

He proposed that private institutions funding research for the public purpose should also be exempted from taxation. However, if the research is conducted solely for the benefit of the private institution, such as for patents or other proprietary purposes, it should be taxed. He recommended that only the scenario where private funding is for the institution's own benefit should be referred to the Fitment Committee for further consideration.

5.118 The Hon'ble Member from Chhattisgarh emphasized the importance of creating a favourable environment for research and development (R&D). He suggested that while research funding for the larger public good should certainly be exempted, R&D for commercial purposes should also be promoted to enhance the competitiveness of private companies. Therefore, he opined that exemptions should be extended even to commercially-oriented R&D activities.

5.119 The Hon'ble Member from Arunachal Pradesh emphasized that research inherently involves development (R&D) and innovation. They highlighted that the purpose of research, whether it is for public or commercial purposes, whether funded by Government or private entities, is ultimately for development and innovation. Therefore, Arunachal Pradesh strongly advocated that all research activities, regardless of their source of funding or end use, should be granted exemption to promote overall development and innovation.

5.120 The Hon'ble Chairperson proposed to the Members that exemption to research which is proposed for Government entities and institutions with income tax exemptions, against government grants should also extend to private grants for research. The suggestion was to exempt all research funding, to govt. entities or institutions notified under Income Tax Act whether it is for public good or involves a quid pro quo. She emphasized that any research with a commercial outcome, such as a patent or a copyrighted product, would eventually be taxed when it enters the market. Therefore, she stated that taxing research at its initial stage should be avoided. She urged to consider exempting private funding for research to govt. entities or such institutions.

5.121 The Hon'ble Member from West Bengal was in agreement with the Hon'ble Chairperson, emphasizing that the proposal effectively addresses the need to encourage research for the benefit of society. She concurred that taxing research at a later stage, rather than at its inception, is the appropriate approach.

5.122 The Hon'ble Member from Nagaland also expressed his agreement to the proposal of the Hon'ble Chairperson, suggesting that the private funding should not be treated differently when the intention is the same as Government funding. They supported the Hon'ble Chairperson's view that all research should be treated equally.

5.123 The Hon'ble Member from Delhi appreciated the Hon'ble Chairperson's views, agreeing that all type of research, against Govt. or private grant should be exempted from taxation. She also mentioned that considering the challenges Governments face in funding research, private sector contributions should be acknowledged and encouraged.

5.124 The Hon'ble Members from Sikkim, Gujarat, Chhattisgarh, Punjab, Andhra Pradesh, Madhya Pradesh and Goa also expressed their support for the Hon'ble Chairperson's views. The Hon'ble Member from Goa added that private companies sponsoring research to such private institutions should also be considered for exemption

5.125 The Secretary acknowledged the overarching unanimity on exempting all research funding to Govt. entities and other notified institutions

5.126 The Hon'ble Chairperson indicated that the law should be simple and straightforward, reflecting the Council's unanimous decision to support research, by exempting all forms of research funding from taxation. She also suggested that a simple definition of Research may be provided by the Fitment Committee to distinguish it from consulting.

**Decision: The Council recommended that all kinds of research funding made by Government and Private entities to Government, Government entities and institutions covered by section 35 of Income Tax Act 1961 may be exempted. A draft circular/notification detailing this exemption will be circulated by TRU among all the States. The Council further recommended that the Fitment Committee may examine to clarify definition of research to distinguish research from consultancy activities.**

5.127 JS, TRU-II presented the agenda item pertaining to clarifying that GST is not applicable under reverse charge on the India branch office for expenses incurred by Foreign Airlines Head office or any other relief mechanism or amendment effective from 01.07.2017 that meets the request. She stated that the issue had arisen from a technical definition where the import of service, even when undertaken without consideration, is deemed taxable. After examining this issue and consulting with the Ministry of Civil Aviation (MOCA), Fitment Committee had recommended to exempt import of services by an establishment of a Foreign Airlines company from a related person or any of its establishment outside India, when made without consideration and to regularize the past period on 'as is where is' basis.

**Decision: The Council approved the recommendation of the Fitment Committee to exempt import of services by an establishment of a Foreign Airlines company from a related person or any of its establishment outside India, when made without consideration and to regularize the past period on 'as is where is' basis.**

5.128 JS, TRU-II then presented the agenda item pertaining to reducing the GST paid by individuals on health insurance premiums from 18% to 5% or to exempt GST on Health Insurance premiums. He stated that the issue was also deliberated upon in the Officers' meeting and following options were discussed:

- i. Exempting all individual health insurance premiums;
- ii. Exempting individual health insurance premiums which are paid by senior citizens and individual health insurance premiums where the coverage is up to Rs. 5 lakhs (irrespective of age);
- iii. Exempting only those individual health insurance premiums which are paid by senior citizens; or
- iv. Reducing the rate of GST on all individual health insurance services to 5% without ITC.

5.129 The Hon'ble Member from Maharashtra expressed support for reducing the GST on health insurance premiums from 18% to 5%. She was in favour of the fourth option i.e. to reduce the GST rate on all individual health insurance services to 5%, without allowing input tax credit (ITC). She

emphasized that they lack data on senior citizens for the other two options and requested to approve the same.

5.130 The Hon'ble Member from Chhattisgarh highlighted the low penetration of private health insurance, noting that only 5 crore people have private insurance, while 60 crore are covered under the Government's Ayushman Bharat scheme. Whereas 75 crore individuals are still uninsured. They emphasized that the premium is essentially an advance payment for health services (which are exempt), and questioned the rationale for taxing this. He advocated for reducing GST to 5% with ITC, as without ITC it will complicate the issue and affect the benefit to the middle class. The suggestion was made to simplify the tax structure rather than creating more categories.

5.131 The Hon'ble Member from Bihar welcomed the 5% reduction proposal but stressed the need to ensure that the full benefits reach the consumers. He stated that this step must directly benefit the common people and conveyed strong support for the measure.

5.132 The Hon'ble Member from Uttar Pradesh also supported the proposal for reduction to GST@5% for all individuals and suggested that senior citizens should be fully exempt from GST on health insurance. He reiterated that it must be ensured that benefits of the reduction are passed on to consumers.

5.133 The Hon'ble Member from West Bengal advocated for a total exemption of GST on health insurance premiums. She stated that the benefit of this should go directly to the individuals, citing a NITI Aayog report that over 30% of the population remain outside the healthcare system. To ensure affordability and accessibility for the public at large, she proposed that a complete exemption on health insurance premiums is necessary. She raised concerns about proposal to exempt senior citizens may create unnecessary complications, particularly for family health insurance schemes, where differentiating between senior and non-senior citizens would be difficult. She underscored the importance of health as a Constitutional right and urged the Council to ensure that this right is effectively exercised by all citizens. She suggested to consider supporting a total exemption of GST on health insurance, as it is essential for public health.

5.134 The Hon'ble Member from Telangana supported for reducing GST on health insurance premiums from 18% to 5%. He highlighted the financial burden on the lower middle class and middle class, who often struggle to access healthcare due to high medical costs. Health insurance plays a vital role in protecting the common man from these expenses. By lowering the GST rate on premiums, more people would be encouraged to purchase health insurance, which would ultimately improve the overall health and productivity of society. He also proposed a full exemption for senior citizens, emphasizing the Government's responsibility to make health insurance affordable for all.

5.135 The Hon'ble Member from Meghalaya also supported the reduction of GST on health insurance premiums to 5%, emphasizing that it will increase the coverage. He then highlighted the long-term impact of shifting from a treatment-based health sector to an insurance-driven one, where preventive medicine becomes a priority. He stated that an insurance-driven mindset could lead to a greater focus on prevention, benefiting both insurance companies and individuals. While acknowledging the technical challenges of fully exempting health insurance from GST, he suggested to start with a GST @ 5% and monitoring its effects. If positive outcomes are observed, the Council

could then consider for further exemption in the sector. He reiterated support for reducing the GST rate and expressed openness to further discussions on full exemption.

5.136 The Hon'ble Member from Goa advocated for a 100% exemption from GST for health insurance, arguing that even reducing it to 5% might not address affordability concerns for many people. He opined that differentiating between senior citizens and others would be difficult, and offering a full exemption would make health insurance more accessible to the wider population. He also raised concerns about whether the benefits of health insurance truly reach the insured individuals and suggested the need for better monitoring.

5.137 The Hon'ble Member from Madhya Pradesh supported the fourth option, which proposes reducing GST on health insurance premiums to 5% without allowing input tax credit (ITC). He suggested careful monitoring to ensure that the benefits of the reduction are passed on to consumers.

5.138 The Hon'ble Member from Kerala highlighted the importance of providing benefits to as many people as possible and supported reducing GST @ 5%. He suggested a differential approach for those who can afford higher premiums but supported the fourth option for the policies with the coverage up to ₹5 lakh. He stressed that the middle class and poorer sections of society should benefit the most from this reduction.

5.139 The Hon'ble Member from Andhra Pradesh also supported the fourth option, emphasizing that reducing GST from 18% to 5% without ITC would have a lesser revenue impact while benefiting the common people.

5.140 The representative from Tamil Nadu supported the fourth option of reducing GST on health insurance premiums to 5% without input tax credit (ITC) and emphasized the importance of ensuring that the policyholder shall be benefited from the reduced rate. He also suggested facilitation by the regulatory bodies like the Insurance Regulatory and Development Authority of India (IRDAI) and the Department of Financial Services to ensure that this benefit is passed on to consumers.

5.141 The Hon'ble Member from Sikkim expressed support for a total exemption of GST on health insurance premiums, highlighting the significance of health for a prosperous India. He stated that ensuring everyone's health is essential for the nation's wealth.

5.142 The Hon'ble Member from Punjab proposed reducing GST on health insurance from 18% to 5% without ITC, but also advocated for a full exemption for senior citizens, stressing that such a move would greatly benefit their health.

5.143 The Secretary highlighted those numerous options, including additional ones with variation of the fourth option, were presented. He acknowledged significant support for the fourth option but stated that even within that, sub- options and technical considerations has emerged. He mentioned the Fitment Committee to deliberate on the nuances, such as how group policies, floater policies, or reinsurance should be handled. He further recommended further deliberation to avoid sending a fragmented or unclear message. He suggested that the Fitment Committee or a Group of Ministers (GoM) take these inputs into account for definitive proposal in the next council meeting.

5.144 The Hon'ble Chairperson addressed the Council regarding the various views presented on



reducing or exempting GST for health insurance, particularly for senior citizens. She acknowledged the wide variety of inputs received, including special considerations for certain groups like senior citizens and specific insurance categories such as group insurance, family insurance, individual policies or term insurance, etc. She proposed that a dedicated Group of Ministers (GoM) should be constituted to examine the matter thoroughly and provide recommendations. She suggested that this GoM would have a strict timeline to finalize its report so that the GST Council can take up the issue in its November meeting. This timeline would allow the GoM to deliberate on the different scenarios and options presented, ensuring that the recommendations align with the overall sense of the Council, which clearly favours reduction or exemption in certain cases. She invited any ministers interested in being part of this GoM to join and stressed the importance of adhering to the proposed schedule so that the report is ready by the end of October, allowing the Council sufficient time to review it before making a final decision in November. This approach would ensure a comprehensive solution that addresses all concerns raised while adhering to the Council's general direction.

5.145 The Secretary proposed that the existing GoM for rate rationalization may be tasked with examining GST on medical and health insurance, with the inclusion of additional members from the States like Andhra Pradesh, Telangana, Goa, Gujarat, Punjab, Meghalaya, and Tamil Nadu. The GoM would have terms of reference to suggest a way forward for all types of health insurance, including group, individual, family, and reinsurance for medical purposes. The report would be submitted by the end of October.

5.146 JS, TRU-II then presented the agenda item pertaining to reduction of GST on premium paid by individuals for the term/pure protection insurance plans from 18% to 5% or to exempt GST on life insurance premiums. The Secretary suggested that, to save time, the same GoM (that is being tasked with examining GST on medical and health insurance) could also review GST rates for term life insurance, ensuring a consolidated view on both medical and term life insurance policies. This proposal was made unless members specifically wanted to express their views on term insurance separately.

5.147 The Hon'ble Member from Andhra Pradesh pointed out that there was another agenda item concerning Health Insurance premium for persons with Mental Illness (PMI) (S.No.6 (Annexure V, Volume I))

5.148 The Secretary agreed, suggesting that this issue also be included in the terms of reference for the GoM, thus creating a more comprehensive review. The Council supported this integrated approach for a thorough analysis of all related insurance policies.

**Decision for Agenda item No. 19 & 20 (Annexure IV, Volume III) and S. No. 6 (Annexure V, Volume I): The Council approved GoM for rate rationalization be tasked with examining GST on Medical and Health insurance, term life insurance and insurance for persons with Mental Illness (PMI) with the inclusion of additional members from the States namely, Andhra Pradesh, Goa, Gujarat, Meghalaya, Punjab, Telangana and Tamil Nadu. The GoM is to suggest a way forward for all types of health insurance, including group, individual, family, floater, and reinsurance of Insurance services. The report may be submitted by the end of October.**

**Agenda Item 4(d)** : Joint Secretary, TRU-I presented the agenda pertaining to recommendations of the Fitment Committee where no change has been proposed in relation to services.

5.149 The first agenda item relating to request to fully exempt from GST horticulture services supporting the environmental causes due to their potential role in improving air quality. She stated that at present, pure services and composite supply of goods and services in which the value of goods constitutes not more than 25% of the total value of supply, in relation to any function entrusted to a Municipality are exempted. CPWD has requested it to be fully exempt, however, the Fitment Committee has recommended that the request may not be accepted. This recommendation was also agreed in the Officers' Meeting on 8<sup>th</sup> September, 2024.

5.150 The Hon'ble Member from Delhi suggested on behalf of Delhi, PWD that giving exemption to horticulture services is important as a lot of agencies are involved in this sector. Since there are high GST rates and given the fact that Delhi faces high pollution levels so, this exemption can be given for a certain period of time. Accordingly, she suggested that a time bound exemption can be considered in this regard as this will push more service providers to get registered under GST.

5.151 Joint Secretary, TRU-I clarified that the current exemption in this regard is available as provided under S.No. 3 and 3A of notification No. 12/2017-CT(R) dated 28.06.2017 which exempts pure services and composite supply of goods and services in which the value of goods does not constitute more than 25%, respectively that are provided to Central Government, State Government or Union Territory or local authority by way of any activity in relation to any function entrusted to a Panchayat under article 243G of the Constitution or in relation to any function entrusted to a Municipality under article 243W of the Constitution. This exemption covers all kind of pure service or composite supply involving goods and service including horticulture. Any action expanding the scope of such exemption will impact other activities as well i.e. request of not having cap of 25% goods on such exemption will have wider ramifications.

5.152 The Secretary further clarified that the current exemption for such supply of services in which the value of goods does not constitute more than 25% is sufficient.

**Decision: The Council approved the recommendation of the Fitment Committee to not give exemption to composite supplies by way of horticulture/horticulture works where the value of goods constitutes more than 25 per cent of the total value of supply.**

5.153 JS, TRU-I presented the next agenda item relating to reconsider 5% GST applicable on all bus bookings through e-commerce platforms. Currently, passenger transportation services supplied by non-AC contract/ stage carriage are exempt from GST. However, 5% GST is applicable on online booking done through e-commerce platforms and not applicable if the same booking is made physically in cash at bus counter or if booking is made directly from the bus operators' website. She stated that Supply of any service through electronic commerce platforms is a distinct category of supply as compared to the service being supplied by individual service providers. So, Fitment Committee has recommended that the request may not be accepted.

**Decision: The Council approved the recommendation of the Fitment Committee to not reconsider applicable GST @ 5% on all bus bookings through e-commerce platforms.**

5.154 JS, TRU-I presented the next agenda item relating on inclusion of “any body corporate” or “corporation” established under any State Act or Central Act or a “Government company” for purpose of exclusion under Section 9(5) of CGST Act, 2017. Based on the recommendation of the 52<sup>nd</sup> GST Council meeting, the bus operators organized as companies were excluded from the purview of section 9(5) of CGST Act, 2017 in order to enable them to utilize ITC for discharging outward liability on passenger transport services provided by them through Electronic Commerce Operators (ECOs). She stated that the present request is for expansion of scope of exclusion under section 9(5) to any body corporate. This was discussed and the Fitment Committee has recommended that the request may not be accepted. This was also agreed in the Officers’ meeting on 8<sup>th</sup> September, 2024.

**Decision: The Council approved the recommendation of the Fitment Committee to not include “any body corporate” or “corporation” established under any State Act or Central Act or a “Government company” for purpose of exclusion under Section 9(5) of CGST Act, 2017.**

5.155 JS, TRU-I presented the next agenda item relating to clarifying that the delivery services provided by delivery partners through the e-commerce operators are not taxable due to providers being below the threshold of Rs. 20 lakhs, or, to bring delivery services made in respect of those supplies made through ECOs under section 9(5) of CGST Act, 2017 with prospective effect and these delivery services may be taxed at 5%. She informed that during the deliberations on the said issue in the Officers meeting held on 08.09.2024 it has been recommended to defer the issue for comprehensive examination.

**Decision: The Council agreed to defer the issue for further examination by the Fitment Committee.**

5.156 JS, TRU-I presented the next agenda item relating to clarifying that prior to 01.10.2021, GST @ 5% paid on job work activities qua alcoholic beverages be treated as GST fully paid and no recovery of differential tax, over and above 5%, should arise. She stated that Fitment Committee has recommended that the request may not be accepted as there is no ambiguity in the provisions of the law related to the taxability of job work activities qua alcoholic beverages. The same was also agreed in Officers’ meeting on 8<sup>th</sup> September, 2024.

**Decision: The Council approved the recommendation of the Fitment Committee that there is no ambiguity in relation to taxability of job work activities qua alcoholic beverages and no clarification is therefore required.**

5.157 JS, TRU-I presented the next agenda item relating to request for exemption from 18% GST on Health Insurance premium for Persons with Mental Illness (PMI) which is a scheduled Disability under the Rights of Persons with Disabilities Act 2016 (RPWD Act). This was agreed in the officers meeting, and it was decided to take up this issue as a part of health insurance agenda that would be referred to the proposed GoM to be constituted for life and health insurance.

**Decision: The Council approved the recommendation of the Fitment Committee to take up the issue as a part of the health insurance agenda referred to the proposed GoM on life and health insurance.**

5.158 Joint Secretary, TRU-I next presented four issues referred by the Law Committee to the Fitment Committee as under:

- (a) To prescribe End-use certification system / form for notification No. 12/2017- CT (Rate) [entry no. 3], which exempts pure services provided to Government, Local Authority in relation to Municipality functions;
- (b) To clarify whether the service of hiring manpower for providing services of Health, Public Garden, Promotion of education etc. are the functions entrusted to Municipality under Article 243W of the Constitution;
- (c) To clarify that the service of “Enumeration & Supervision” provided by the implementing agency i.e. CSC-SPV, to MoSPI is exempt from GST under exemption entry 3 of notification No. 12/2017- CT(R) dated 28.06.2017; and
- (d) To clarify that the services of spatial planning study, provided by the institutes to Ministry of Panchayati Raj is exempt from GST under exemption entry at Sl. No. 3 of notification No. 12/2017-CT(R) dated 28.06.2017.

5.159 In addition, there was another agenda item pertaining to clarifying about liability of GST on Man Power Supply Services received by Panchayats, Municipalities and Local Bodies. She informed the council that in the earlier meetings of the GST Council, there was a proposal to prune the list of exemptions under Sr.No. 3 and 3A of the Notification Number 12/2017-CT (Rate), whereby pure services and composite supply of services provided to the Government or Local Authority by way of any activity in relation to any function entrusted to a Panchayat under Article 243G of the Constitution or to a Municipality under Article 243W of the Constitution, are exempt from levy of GST. These issues were tagged with another proposal regarding clarification of the scope of the words “*in relation to*”. In the 52<sup>nd</sup> GST Council meeting held on 07.10.2023, the Council has recommended to retain the entries at Sl. No 3 & 3A of notification No. 12/2017-CT(R) dated 28.06.2017 as it exists with no change. Fitment Committee has recommended that no further clarifications are required on the issue and hence the requests may not be accepted and that status quo may be maintained. This was also agreed in the Officers’ meeting on 8<sup>th</sup> September, 2024.

**Decision: The Council approved the recommendation of the Fitment Committee that no further clarification is required on the above issues.**

5.160 JS, TRU-I then presented the next agenda item relating to a Writ Petition filed before Hon’ble Delhi High Court by an Association of Private Security Industry wherein they have inter-alia contested the exclusion of body corporates from making payment under Reverse Charge Mechanism (RCM) in respect of security services. [Entry at Sl. No. 14 of the notification No. 13/2017-CT (R)]. Hon’ble Delhi High Court had directed to treat writ petition as a representation and to take appropriate action as deemed fit. She stated that currently, the security services (provided by way of supply of security personnel) provided by any person other than a body corporate are covered under RCM when

provided to a registered person except government departments registered for TDS and entities registered under composition scheme services. The Association of Private Security Industry has represented to bring the entire security services sector including body corporate under RCM. Fitment Committee has recommended that the request may not be accepted. This was also agreed in the Officers' meeting on 8<sup>th</sup> September, 2024.

**Decision: The Council approved the recommendation of the Fitment Committee to not include security services provided by the body corporates under RCM.**

5.161 Joint Secretary, TRU-I presented the next agenda item relating to exemption from GST on the services provided by Goethe Institutes/Max Mueller Bhavans, funded by the German Federal Foreign Office, in India for the period from 01.07.2017 to 31.03.2023. She stated that the Fitment Committee has examined the issue and recommended that the request may not be accepted. This was also agreed in the Officers' meeting on 8<sup>th</sup> September, 2024.

**Decision: The Council approved the recommendation of the Fitment Committee to not exempt GST on services provided by Goethe institutes/ Max Mueller Bhavans funded by German Federal Foreign Office for the past period from 01.07.2017 to 31.03.2023.**

5.162 JS, TRU-I presented the next agenda item relating to request to exclude the Legislative Area Development Fund from the ambit of GST. A similar request regarding GST exemption for works carried out under MPLAD funds was placed before the 47<sup>th</sup> GST Council in its meeting held on 28<sup>th</sup>-29<sup>th</sup> June, 2022. However, the council did not accede to the request. She stated that accordingly, the Fitment Committee has recommended that the request may not be accepted. This was also agreed in the Officers' meeting on 8<sup>th</sup> September, 2024.

**Decision: The Council approved the recommendation of the Fitment Committee to not exclude the Legislative Area Development Fund from the ambit of GST.**

5.163 JS, TRU-I presented the next agenda item relating to the request of uniform rate of 5% GST on all purchases charter and all services rendered by helicopters including rental paid for hangarage. The Fitment Committee examined this issue and has recommended that the request may not be accepted. This was also agreed in the Officers' meeting on 8<sup>th</sup> September, 2024.

**Decision: The Council approved the recommendation of the Fitment Committee to NOT accept the request that on helicopters uniform rate of 5% GST should be charged on purchases charter, sale of seat tickets and all services rendered by helicopters including rental paid for hangarage.**

5.164 JS, TRU-I presented the next agenda item relating to the request to rationalize GST on cargo services from 18% to 5% to bring it in line with other services. This was also examined by Fitment Committee and it has recommended that the request may not be accepted. This was also agreed in the Officers' meeting on 8<sup>th</sup> September, 2024.

**Decision: The Council approved the recommendation of the Fitment Committee that GST on cargo services be NOT rationalized from 18% to 5%.**

5.165 Joint Secretary, TRU-I presented the next agenda item relating to clarifying whether ITC of other business verticals can be used to discharge GST on outward liability in respect of restaurant service given the restriction of input tax credit as specified in notification No. 11/2017-CT (Rate) dated 28.06.2017, as amended, against entry at Sl. No. 7 & in 8, 9, 10, 23, 25, 31A. The agenda item has been withdrawn by the sponsoring state and Fitment Committee recommended to withdraw the agenda.

**Decision: The Council approved the recommendation of the Fitment Committee to withdraw the agenda.**

5.166 JS, TRU-I presented the next agenda item relating to exemption to GST on services related to water harvest scheme. The Council was informed that the said agenda has been withdrawn and no action is due.

**Decision: The Council approved the recommendation of the Fitment Committee to withdraw the agenda.**

**Agenda Item 4(e):** JS, TRU-I took up the next agenda item on the issues deferred by the Fitment Committee for further examination in relation to services (circulated as Annexure-VI of Sl. No.4 in Agenda Volume I & III).

5.167 She informed that 9 issues have been recommended to be deferred in the Council for further examination in relation to services as circulated in the Agenda.

**Decision: The Council approved the recommendation of Fitment Committee to defer the issues.**

**Agenda Item 4(f): Review of 51<sup>st</sup> GST Council meeting's recommendation on the taxation of supplies in casinos, horse racing and online gaming**

5.168 The Secretary invited Joint Secretary, TRU-I to present the next agenda item pertaining to the decision of the GST Council to review the changes made to taxation of online gaming and Casinos, as recommended in the 51<sup>st</sup> GST Council, after six months along with the status of revenues with regard to casinos and online gaming after implementation from 1<sup>st</sup> October, 2023.

5.169 JS, TRU-I summarized the decisions taken in the 50<sup>th</sup> and 51<sup>st</sup> GST Council meetings based on which amendments were made in the Acts to provide clarity on taxation of casinos, horse racing and online gaming. All three would continue to be taxed at 28% irrespective of whether they are games of skill or chance, and valuation in respect of casinos and online gaming would be the amount deposited excluding bets placed out of winnings. Definitions of online gaming, online money gaming and specified actionable claims have been inserted. Special provision has also been inserted

for services provided by persons located outside taxable territory; valuation rules have been brought into force w.e.f. 01.10.2023.

5.170 JS, TRU-I presented the status of revenue from online gaming. She stated that pre-amendment, the revenue paid in cash was Rs. 1,349 crores and after the amendment the revenue had increased to Rs. 6,909 crores i.e., 412% increase. In case of Casinos, the pre and post revenues were Rs. 164 crores and Rs. 214 crores respectively i.e., there has been a 30% increase.

5.171 The Secretary clarified that this revenue of Rs. 6,909 crores was only for 6 months and if the same were to be projected for 12 months, the revenues would be about Rs. 14,000 crores as against what would otherwise have been less than Rs. 3,000 crores- a 400 % increase. The decision not to wait for the Hon'ble Supreme Court to decide and to proactively clarify through an amendment has really helped as far as revenue collection from online gaming is concerned.

5.172 The Secretary stated that as far as revenues from casinos are concerned, there has been a 30% increase in revenue from the two states of Goa and Sikkim.

5.173 JS, TRU-I further addressed the concerns of domestic online gaming companies that the business would shift to off shore online gaming companies. She stated that a provision was specifically put in that if any offshore gaming company provides service in India, they have to either register or appoint a representative and if they fail to comply, the access to the websites can be blocked. DGGI had shared 134 URL websites with MeitY for blocking and MeitY had blocked 62 out of 134 websites so far. She further clarified that investigations are ongoing and DGGI would be listing some more of such websites to send to MeitY.

5.174 The Secretary sought comments and suggestions from the Hon'ble members.

5.175 The Hon'ble Member from Karnataka stated that whereas they had lost revenue on various other accounts, they are happy that substantial revenue has come to Karnataka from this. All the apprehensions that had been deliberated have not borne out to be true. Majority of these companies are in Bangalore. Post implementation, no major grievances have been heard from them. It is working well from the sectoral point of view. Even the turnover is maintaining its usual steady growth rate and there is no dip there. It seems to have worked out well for those who were really looking for some sources of revenue. It has been a good decision.

5.176 The Hon'ble Member from Sikkim stated that the growth which was shown at 30 % on casino was quite opposite to what Sikkim was seeing right now. There was a tremendous dip in the revenues generated, which has been brought out in data given by them. The decline of revenue by 24% was reflection of downfall in tourism which is due to recession in casino industries to a great extent. The footfall of tourists from October 22 to March 23, has decreased from 977638 to 559470- a decrease of 43%. So in respect of Sikkim it was not justified because they were at a loss and were suffering tremendously. For that the details had been given in the written speech which had circulated amongst the members.

5.177 The Secretary submitted that the figures mentioned in the speech circulated were based on some assumptions. As per actual numbers, the revenue certainly had decreased for the period if one looks at the six-month period before and after the implementation. This is because of the seasonality. Most of the tourism come in the summer months. If data for April to September 2023 is considered,

which is just before the implementation of the new valuation rules, the tax collected was much higher and after that revenue might have dipped because of non-tourist season. When the comparison was made like to like month wise, which is April to July 2023 and April to July 2024, revenue had increased from Rs. 2.3 crore to Rs. 3.5 crore. For Sikkim, increase was 52%. Similarly for Goa, for April 2023 to July 2023 and then April 2024 to July 2024, it had increased from Rs. 101 crore to Rs. 148 crore which is an increase of 46%. So overall the increase even in casinos for a like to like comparison was 47%. Online gaming did not have such seasonality, so comparison of six months just prior to the implementation of the new rules with the six months after the implementation of the new rules has been done. Month wise data could change and so based on this data, comparing April to July 2024 of this year vis-a-vis same four-month period last year, the revenues increased 52% for Sikkim and 46% for Goa respectively.

5.178 The Hon'ble Member from Goa stated that the revenue of Goa had increased but the casino industry is related directly to tourism industry. Hotel industries and taxi industries were also dependent on these casinos. Today it was showing increasing trend but long run it will not go on because the actual casino players had started to shift to Nepal and to the other countries. Even though the tourists, who were not actually the players but seek an experience of how the casinos work by going there for one time are much worried about the increased rate of GST. Their number has decreased. The actual comparison of revenue from casino and tourism, how it affected the tourism or comparison with the increase in the revenue from the casinos, could be presented in the next GST Council Meeting, if an opportunity is given to them.

5.179 The Hon'ble Member from Sikkim stated that with Nepal they had a similar problem. Bagdogra is the only airport operational for Sikkim as Pakyong Airport is dysfunctional because of weather conditions and its road also is in a very bad state. The casinos in Nepal are about half an hour drive from the Bagdogra Airport where as to arrive in Sikkim in present conditions takes about 7 to 8 hours. So, people have been shifting their base towards Nepal. Nepal is a tax haven which is why all the revenue is flowing towards Nepal and Sikkim is losing out. This can be brought back to our country.

5.180 The Hon'ble Member from Sikkim requested Hon'ble Chairperson to kindly revisit the issue. They have advocated that 28% be charged on GGR (Gross Gaming Revenue) and not on the full-face value.

5.181 The Hon'ble Member from Uttar Pradesh stated that he was also the member of this GoM and a lot of discussions on the issue had taken place. The Secretary had already given the data. It was always known that the revenue was not going to decrease. As for Sikkim, it is a very small state and we all have full sympathy for them. It is another fact that their revenue has not decreased. In his view, if their infrastructure and other things are better; tourism will not be affected. Between GGR and face value, it is easier to calculate face value. If tax is levied on GGR, revenue will decrease and that needs to be foreseen. It will be welcome if Sikkim could be facilitated in some other way. The system that is running at present, due to which the revenue has increased, should be allowed to continue. The fear of Goa is also not right. It has the advantage of infrastructure, climatic conditions and beaches. Casino is not the only reason to go there. It is one of the attractions only. The fear of the concerned states should be removed. Many had commented on online gaming industry that it would be closed. Today more than 17 crores people are involved in online gaming whereas in share market, only 14 crores people are involved. Taxing on face value should continue.



5.182 The Hon'ble Member from Sikkim replied that taxation on this method of face value of sales of chips can encourage the players to purchase chips from fellow winning players who will not charge tax on the sale or from the bookie at the table without tax invoice. So, here also there could be evasion of tax.

5.183 On the observations made by Hon'ble Member from Sikkim, the Secretary observed that while players can use the method mentioned, revenues were still increasing.

5.184 The Hon'ble Member from Sikkim requested to provide one more chance to look into it, revisit the matter and get back again.

5.185 The Secretary stated that review was a continuous process. The Council had taken a view that issues once decided by the Council should not again be brought to the Council unless there was a specific Council direction to bring about a finality to the issue. This matter was deliberated in great detail and only after that the decision was arrived at, the revenues had also increased not only for online gaming also for casinos. He reiterated that tourism was not a function primarily of casino. Goa as well as Sikkim had so much of natural beauty, climate, beaches, hills, other monuments, etc. and those were the primary drivers. If the tax was a little high, tourists' participation might dip in such activities, but still, they would go and spend time in Goa and Sikkim. The other factor to consider is whether the same should be made the USP for tourism and if so, then the question is how far should it be encouraged. He suggested that other avenues to promote tourism might yield better results. He requested the Council to take on record the report presented by the TRU.

5.186 The Hon'ble Member from Karnataka stated that, in a lighter vein, even the online gaming had seasonality. During the IPL, there was a spike in online games. Further, they have studied the data on turnover of top five online gaming companies. The fifth top company was declaring 167% growth rate while the top company was declaring 359% growth in their turnover. So, maybe it has brought greater transparency. If the volumes were growing by 100-300%, it is because of the growth in consumption in the online games. Transparency of data is also helping.

5.187 The Hon'ble Chairperson credited the Council for the decision which was taken after so much of deliberations over a period of three years involving more than one round of discussions and which involved different interactions with different stakeholders. It was clear from the facts presented by the Karnataka's minister that the rate which the Council decided in its wisdom has not hurt the industry. The Hon'ble Chairperson appreciated the wisdom and the consideration with which decisions are taken in the Council as a result of which the industry flourishes, but revenues are also being earned. More importantly, tracking and tracing happens.

**Decision: The Council took on record the status of revenue report with regards to Casino and Online Gaming after its implementation from 01.10.2023.**

**Agenda Item 4 (g): Issuance of circular clarifying the scope of the phrase ' as is where is basis'**

5.188 JS, TRU-I stated that this has already been discussed earlier in the agenda pertaining to the recommendations of the Fitment Committee.

**Agenda Item 4 (h): Report of Committee of Officers on Taxation of Extra- Neutral Alcohol under GST for the past period (from 1.7.2017 to 20.10.2023)**

5.189 The Secretary then introduced the next agenda item relating to the Report of Committee of Officers on Taxation of Extra-Neutral Alcohol under GST for the past period (from 01.07.2017 to 20.10.2023). The GST Council in its 52<sup>nd</sup> meeting had decided to keep the Extra Neutral Alcohol for use in manufacture of alcoholic liquor for human consumption outside the ambit of GST. Joint Secretary, TRU-I stated that a Committee of Officers (CoO) was constituted as per directions of the GST Council in its 52<sup>nd</sup> Meeting held on 07.10.2023 with Joint Secretary, TRU-I as Convenor and with States of Andhra Pradesh, Karnataka, Madhya Pradesh, Maharashtra, Punjab, Rajasthan, Uttar Pradesh and West Bengal as members to study the taxation of Extra-Neutral Alcohol under GST for the past period (from 01.07.2017 to 20.10.2023).

5.190 JS, TRU-I stated that the Committee of Officers had conducted three meetings. The Committee examined the data collected from States/UTs and CGST formations including protective demands raised under GST/VAT on ENA and GST/VAT revenue collected on ENA /Rectified Spirit / Undenatured Ethyl Alcohol used for alcoholic liquor for human consumption. She further stated that the committee noticed divergent practices among the states wherein some states were charging only VAT while State of Karnataka was charging only GST and some other states were charging both VAT and GST. Further, State of Uttar Pradesh had started collecting GST following the decision of Hon'ble Allahabad High Court in the case of M/s Jain Distillery Private Limited. As per the collective data (including the given by State of Delhi and State of Jharkhand), GST collection is Rs.473 crores, VAT collection is Rs.6,528 crores whereas the GST demand notices have been issued for about Rs. 680 crores and VAT demand notices have been issued for about Rs.39 crores.

5.191 One of the solutions discussed in the meetings was whether to regularise the past on “as is where is basis”. The issue on whether States have the power to levy VAT on ENA under Entry 8 of List II is currently sub-judice before the Hon'ble Supreme Court on an appeal filed by State of UP against Allahabad HC judgement in the case of M/s Jain Distillery Private Limited State of UP informed the Committee that the matter is likely to be decided soon. Members of the Committee raised the apprehension that in the event the Hon'ble Apex Court upholds the HC decision then all States would have to refund the VAT collected. In such a situation if the past period is regularized on ‘as is where is’ basis, recovery of GST against demands raised would also not be possible. Therefore, Committee of Officers has recommended that a view may be taken after the decision of the Hon'ble Supreme Court.

5.192 The Secretary requested the Council to accept the recommendation of the Committee of Officers to wait for the decision of the Supreme Court regarding the taxability of ENA with respect to VAT and GST.

**Decision: The Council accepted the report of Committee of Officers and recommended to wait for the decision of the Hon'ble Supreme Court regarding the taxability of Extra-Neutral Alcohol.**

#### **Agenda Item 4(i): Status update on Group of Ministers (GoM) on Rate Rationalization**

5.193 The Hon'ble Convenor of the GoM on Rate Rationalization presented a status update.

5.194 The Hon'ble Convenor of the GoM brought out that the GoM was set up based on the recommendations of the GST Council in its 45<sup>th</sup> Meeting. It was entrusted with the important task related to rate rationalization. He observed that while taking into consideration any measures aimed to increase the revenue, it must be ensured that the life of common citizens does not get adversely impacted. He further stated that the GoM has been reconstituted several times and that currently, apart from him (the Hon'ble Deputy Chief Minister of Bihar) the GoM includes Hon'ble Ministers from the State Governments of Karnataka, Uttar Pradesh, Rajasthan, West Bengal and Kerala as its members. He also mentioned that the four Terms of Reference (ToR) of the GoM are:

- i. review the supply of goods and services exempt under GST;
- ii. review the instances of inverted duty structure;
- iii. review the current tax slab rates and
- iv. review the current rate slab structure of GST.

5.195 In addition, certain other issues have also been referred to the GoM. In the 47<sup>th</sup> meeting of the GST Council, the GoM had submitted its interim report containing recommendations on corrections in inverted duty structure and review of exemptions on supply of goods and services in the GST rate structure. The GoM had also requested 3 months' time for the GoM to come up with its final report. The interim report was accepted by the GST Council and 3 months' extension was also provided to submit a final report. In addition, the GST Council during various Council meetings, had referred certain additional issues to the GoM for a holistic and comprehensive examination such as:

- (i) Issue relating to correction of Inverted Duty structure in Textile Sector was referred to GoM in the 46<sup>th</sup> GST Council Meeting;
- (ii) issue relating to reduction of GST rate on silk, silk weaving material and handloom weavers was referred to GoM in the 47<sup>th</sup> GST Council Meeting and
- (iii) issue relating to rationalisation of rates of inputs in Fertiliser sector was referred to the GoM in the 53<sup>rd</sup> GST Council Meeting.

5.196 He informed that the 4<sup>th</sup> meeting of the GoM was recently held on 22<sup>nd</sup> August, 2024 in Delhi and that in the next meeting, the GoM shall consider the remaining two terms of reference related to the review of the current tax slab rates and review of the current rate slab structure of GST.

5.197 The Hon'ble Convenor of GoM further stated that in the GoM Meeting held on 22<sup>nd</sup> August, 2024, the remaining two terms of reference pending before the GoM were discussed in detail and it was decided to hold the next meeting of GoM on 25<sup>th</sup> September, 2024. The recommendations of the GoM on the Terms of Reference and the other issues referred to it for examination shall be incorporated in the Final Report and placed before the GST Council in due course.

5.198 The Secretary sought suggestions and inputs on rate rationalization, especially in relation to the five-rate structure of GST and rate rationalization which are the remaining two terms of reference of the GoM.

5.199 The Hon'ble Member from Uttar Pradesh suggested that the issue of "rate rationalization of GST on Shoes", on which they had received a representation from the Shoe Manufacturers Association, may be referred to the GoM on Rate Rationalization for comprehensive examination.

5.200 The Secretary clarified that this issue was related to the duty inversion and that the GoM had already submitted their report on this term of reference. However, he added that the Council may reconsider the issue, if required.

5.201 The Hon'ble Member from Uttar Pradesh again proposed that the issue of reduction in GST rate from 12% to 5% on shoes with MRP less than Rs.1000/- may be examined by the GoM on Rate Rationalization.

5.202 The Hon'ble Member from Gujarat concurred with the proposal of the Hon'ble Member from Uttar Pradesh.

**Decision: The Council took note of the status update as presented by the convenor of the GoM on rate rationalization. It also agreed to refer the issue of reduction in GST rate from 12% to 5% on shoes with MRP less than Rs.1000/- to the GoM for comprehensive examination.**

**Agenda Item 4 (j): Status update on Group of Ministers (GoM) on boosting real estate sector under GST regime**

5.203 The Hon'ble Member from Goa as the Convenor of GoM for boosting real estate sector under GST regime referred to the last meeting dated 22.08.2024 of GoM in Delhi.

5.204 He asked the Joint Secretary, TRU-II, to provide the status report of the first two meetings of the GoM on boosting Real Estate Sector held in 2019 as he had not attended these meetings thereafter, he would provide the status update of the third meeting of GoM.

5.205 JS, TRU-II stated that the GST Council in its 32<sup>nd</sup> meeting held on 10<sup>th</sup> January, 2019 had recommended constitution of a Group of Ministers on boosting the Real Estate sector under GST regime. At present, the Convenor of GoM is the Hon'ble Chief Minister of Goa and the Hon'ble Ministers from the States of Bihar, Maharashtra, Kerala, Punjab, Uttar Pradesh and Gujarat are its members. Since its constitution, the GoM had conducted three meetings. The first meeting was held on 08.02.2019 and second meeting of the GoM was held on 21.11.2019. Third meeting had been recently held on 22.08.2024.

5.206 He stated that the Terms of Reference of the GoM are:

- i. Analyse tax rate of GST for boosting real estate sector by providing a composition scheme for residential construction units;
- ii. Examine and suggest ways for composition scheme or any other scheme, for boosting the real estate sector and suggest scheme for transition vis-a-vis introduction of suggested scheme;
- iii. Examine various aspects of levy of GST on Transfer of Developmental Rights (TDR) and Development Rights in a Joint Development Agreement;
- iv. Examine legality of inclusion/exclusion of land or any other ingredient, in composition and suggest the valuation mechanism: and

- v. Examine and suggest any other aspect relevant to boost Real Estate Sector.

5.207 JS, TRU-II further stated that the earlier GoM had given certain recommendations on these terms of reference. As far as the first ToR on GST rate for residential construction units by providing a composition scheme was concerned, based on the recommendations of the first GoM, the effective rate of GST was brought down from 8% with Input Tax Credit (ITC) to 1% without ITC for the affordable residential apartments and GST rate was brought down from 12% with ITC to 5% without ITC for other than the affordable residential apartments. At the same time, levy of GST on TDR and Development Rights was also discussed in the earlier GoM and that GoM had recommended for intermediate tax on Development Rights given by the land owner to the builder to be exempt and liability to pay the tax on such development rights to be shifted from land owner to builders under the Reverse Charge Mechanism (RCM). This recommendation of the earlier GoM was also accepted by the Council. As far as the ToR related to examining any other relevant aspect is concerned, the earlier GoM in its second meeting had recommended to exempt GST for an entity having 20% or more ownership of government for granting long term lease of land (30 years, or more) for industrial plot. Earlier this limit was 50% which was brought down to 20%.

5.208 Thereafter, the Hon'ble Convenor of the GoM stated that the third meeting of GoM had been held on 22.08.2024 wherein the GoM discussed all the issues pending before it. It was suggested to seek reports from states who have given the status of industry to other sectors (including tourism sector) with a view to examine the issue of inclusion of 'other businesses' in the existing exemption entry to exempt GST payable on long term lease of 30 years or above. With respect to the issue of redevelopment of buildings in own co-operative society, Hon'ble Convenor informed that the State of Maharashtra has been requested to submit a detailed proposal. Similarly, State of Maharashtra has been requested to provide details on supply of construction services provided by the Co-operative Housing Society (CHS). To review the limit of Rs.45 lakhs in the definition of affordable residential apartment for metropolitan areas, the Convenor stated that the GoM is examining if the value limit should be on space basis and not on rate basis. He said that the last GoM meeting was held after a gap of four years and now the GoM is trying to expedite its meetings so that it can conclude the recommendations of GoM. He also informed that the next GoM meeting was scheduled to be held on 24<sup>th</sup> September, 2024. The Convenor stated that all the members of GoM had given good suggestions. He specially appreciated the suggestions given by the Hon'ble Member from Uttar Pradesh. He further added that the GoM shall prepare concrete recommendations by the next Council meeting.

**Decision: The Council took note of the status update of GoM on boosting real estate sector under GST regime.**

**Agenda Item 5: Recommendations of the 21<sup>st</sup> meeting of the IT Grievance Redressal Committee for approval/decision of the GST Council:**

6.1 Joint Secretary, GST Council Secretariat presented the next agenda item relating to the recommendations of the 21<sup>st</sup> meeting of ITGRC which was held on 01.08.2024, for approval/decision of the GST Council.

6.2 JS, GST Council Secretariat stated that a total of 55 issues were tabled as agenda in the meeting of ITGRC. The first 32 issues pertained to data fixes for the period upto March, 2024. The issues which were brought before ITGRC were technical glitches which the taxpayers faced and GSTN was required to do a back-end data fix for such corner scenarios. These issues were divided into those which had financial implications and those which did not involve any financial implications. Data fixes done by GSTN in respect of 27 technical issues with no financial implications were taken note of by the ITGRC. ITGRC took note of the data fixes carried out by GSTN in 765 cases involving an amount of Rs. 1289.60/- with respect to 3 technical issues where there were financial implications and the correct data was known. The data fixes carried out by the GSTN in case of two court directions impacting three cases were also taken note of by the ITGRC. In addition, data fix in 23 cases had been done between April to June 2024. There were 13 technical issues with no financial implication where data was known. ITGRC took note of the data fixes done in 9 issues, 4 issues were deferred for the next meeting. 10 technical issues with financial implication were also deferred for the next meeting. Further, an update on an issue recommended by the ITGRC in the previous ITGRC meeting, could also not be taken up due to paucity of time. One recommendation of the ITGRC was in cases where the taxpayers face a login error due to double quotes in the legal name. The ITGRC recommended that GSTN should take note of the limitation imposed by the current technology and recommended that special characters can be allowed in the system for the legal name of taxpayer.

6.3 The Secretary stated that recommendations of the ITGRC were also agreed to in the Officers' Meeting held on 08<sup>th</sup> September, 2024.

**Decision: The GST Council approved the recommendations made by the ITGRC during its 21<sup>st</sup> meeting and took note of the data fixes carried out by GSTN.**

**Agenda Item 6: Performance Report of the Competition of India (CCI), State Level Screening Committee (SLSC) and DG (Anti-Profiteering) for 1<sup>st</sup> quarter of the F.Y.2024-25 along with Performance Report of Standing Committee (SC) for 3<sup>rd</sup> quarter and 4<sup>th</sup> quarter of F.Y. 2023-24 and 1<sup>st</sup> quarter of F.Y. 2024-25 for the information of the GST Council.**

7.1 The Secretary presented the agenda pertaining to the Performance Report of the Competition of India (CCI), State Level Screening Committee (SLSC) and DG (Anti-Profiteering) for 1<sup>st</sup> quarter of the F.Y.2024-25 along with Performance Report of Standing Committee (SC) for 3<sup>rd</sup> quarter and 4<sup>th</sup> quarter of F.Y. 2023-24 and 1<sup>st</sup> quarter of F.Y. 2024-25 for the information of the GST Council

7.2 He informed that this agenda was taken note of in the Officers' Meeting held on 8<sup>th</sup> September, 2024.

**Decision: The Council took note of the Performance Report of CCI, SLSC, DG (AP) and Standing Committee as presented in the agenda.**

**Agenda Item 7: Issues recommended by Goods and Services Tax Network (GSTN)**

8.1 The Secretary then introduced the agenda item relating to issues recommended by Goods and Services Tax Network (GSTN) and asked the CEO, GSTN to present the agenda.

8.2 CEO, GSTN stated that there are three developments which are in pipeline and important which are being placed before GST Council for information and approval. He stated that in GST, e-invoicing was initiated four years back for B2B transactions. B2C transactions are still not e-invoiced. So, a pilot project for B2C e-invoicing is proposed to be initiated. Second agenda item is regarding integration of UPI, Debit card and Credit card payments and the present status thereof. Third agenda item is regarding some important structural change in the return design of GST, which is partly implemented and partly in pipeline, which will lead to better error free filing of the GST returns. Also there are two ledgers which are being designed i.e. Reverse Charge ledger and ITC Reclaim ledger. Then there is an IMS (Invoice Management System) and GSTR-1 correction system which is called GSTR-1A.

#### **8(a) B2C e-Invoicing Pilot Project**

8.3 CEO, GSTN stated that B2B e-invoicing is in place but the difficult end of retail e-invoicing is retail and in retail, invoicing is often not done and even if done, it is not known whether the invoice has been reported to the GST authorities or not. GSTN has done some technology studies and building upon the learning of the B2B e-invoicing project, the pilot project of B2C e-invoicing is proposed. It would be implemented completely on a voluntary basis as a soft touch approach with retail trade will be needed. He stated that the project will be done in a few selected sectors and with those states which are willing to join this pilot project. It was also informed that fairly decent number of states have expressed interest in this pilot project during discussion in the officer's meeting.

8.4 Further, CEO, GSTN brought out the advantages of digitizing the retail transactions. First, it will help in controlling tax evasion. Second, it will be a green initiative as invoices are stored in a digital format and paper invoices are done away with. This will save many trees and would be environment friendly. He informed that it would be cost efficient also, as the paper invoice management and maintenance costs rupees 3 to 4 per invoice to the industry, whereas the cost of digital invoice comes to just a few paise.

8.5 CEO, GSTN informed that they also intend to add a feature of verification of authenticity of the invoice. This would mean that when the retailer gets the invoice, he will get it on his mobile phone and within 48 hours, he will be able to check whether the supplier i.e. retail shopkeeper has reported this invoice. The system will be automatic and continuous. He stated that it will be a kind of public movement, where the citizens of the country will be able to see that the tax which they have paid with their total consideration to a retailer has actually been reported to the GST authorities or not.

8.6 CEO, GSTN stated that the proposal before the Hon'ble Council is to accord in principle approval for initiating B2C e-Invoicing pilot project on a voluntary basis. He also requested the Council to direct the Law committee to recommend necessary amendments in the law to enable the same, which may require some change depending on which sectors and which states are willing to participate and also authorize GSTN Board to prepare and finalize the commercial model for this. It was proposed that in the initial stage, for the retailers who volunteer to take up B2C e-invoicing, GSTN will provide some support for digitizing and updating their ERP system.

8.7 The Secretary added that one of the advantages will also be that going forward if refunds to foreign tourists are operationalized, then for the customs officer at the airport it will become very easy to check whether the tax has actually been paid, if it is an e invoice. Further the Secretary stated that this agenda was discussed in the officers' meeting and received large-scale support and enthusiasm for implementation. It is proposed to be introduced on voluntary basis and then going forward it can be made mandatory in sectors prone to tax evasion.

8.8 The Hon'ble Member from West Bengal expressed willingness to take up the project in the restaurant sector. The Hon'ble Member from Kerala stated that they are ready to take up the same on pilot basis. The Hon'ble Member from Andhra Pradesh also expressed willingness and proposed that the sectors can be state specific so that they can take up those sectors which are priority for the state. The Hon'ble Member from Delhi also volunteered for the project. The Secretary informed that in the first stage, the technology would be tested as to whether it is glitch-free and working smoothly. Once tested the spread would be expanded. The Hon'ble Chairperson stated that the sector specific request as made by the Hon'ble Member from Andhra Pradesh could be in the second stage after completion of the pilot. The Hon'ble Members from Gujarat, Punjab, Uttar Pradesh and Madhya Pradesh also expressed their willingness to join the pilot project.

**Decision: The GST Council approved the agenda regarding Pilot project for B2C e-invoicing.**

#### **8(b) Integration of UPI, credit card and debit card payment option by Accounting Authorities.**

8.9 The Secretary asked the CEO, GSTN to present the next agenda regarding UPI, credit card and debit card payment integration, which is for information and a request for the states to implement the same.

8.10 CEO, GSTN informed the Council of the present status of UPI, credit card and debit card payment integration and also requested to the remaining states to also integrate UPI, credit card and debit card payments. He stated that their treasury will need to take one more piece of information by API integration and that the States which are remaining to be integrated are all very capable. He also informed that after they had made this presentation in Officer's meeting, and that Arunachal Pradesh already integrated while most of the remaining states expressed their readiness to integrate within two weeks. Accordingly he requested other states also to take note and complete the process of integration for the entire country so that the taxpayers could use these three modes of payment and this would be a great facilitation measure for them.

#### **8(c) Enhancement in the existing GST Return Architecture**

8.11 The Secretary then prefaced the next agenda item regarding important structural changes in the return design of GST, by stating that there are two primary objectives of the presentation by CEO, GSTN on the new return architecture which has been built with the approval of the Council. He stated that there are a lot of mismatches between the returns GSTR 1 & GSTR 3B on one hand and GSTR 2A & GSTR 3B on the other hand. Further he stated that due to lot of mismatches, notices are being issued, and many of them have not resulted in any additional benefit or accrual of revenue because the taxpayers are actually able to explain the said mismatches. He further stated that the new change



in return design will avoid these mismatches and in fact eliminate the mismatches and number of notices running into lakhs. It will also benefit the taxpayers by eliminating the inconvenience caused to the taxpayers. Further he stated that the second important benefit that will accrue is the reduction in tax evasion through fake billing and bogus firms. The system had been developed with the above objectives in mind.

8.12 Further, the Secretary requested the CEO GSTN to take the Council through the essential features of the system so that the knowledge and awareness amongst the taxpayers could be spread. He stated that if there are any suggestions from the Hon'ble Members of the Council, the same can be taken on board in further improving the system.

8.13 CEO, GSTN stated that certain ledgers have been added for ITC mismatch. One of them is ITC Reclaim ledger. In respect of the ITC Reclaim ledger, he explained that if a taxpayer gets a credit of 100 rupees in a month and he is availing only 80 rupees, the system earlier was not tracking the balance 20 rupees. ITC Reclaim ledger now essentially leads to the system tracking of the credit that has not been availed in the month in which the ITC had accrued. And in future when the taxpayer reclaims the accrued ITC along with that month's credit, the system would show to him the past credit balance of 20 rupees plus this month's credit, which could be availed. Further he stated that at present the system is running in what is called a warning mode, which means, if the taxpayer wishes to take more credit than the sum of month's available credit and the credit available in the opening balance, it pops up a warning message to the taxpayer but allows him to avail the said excess credit. But sometime in the future, it presents an opportunity to lock the same and not allow erroneous return wherein excess ITC has been availed to be filed.

8.14 Further he stated that in the Reverse Charge Mechanism ledger, wherein the taxpayer himself pays the tax and then takes the credit, a similar mechanism is proposed for carrying forward the same in the ledger. He explained that currently, if a taxpayer's total tax payment is 100 rupees, but he utilizes 50 rupees of credit and decides to carry forward the remaining 50 rupees, this remaining 50 rupees was not being tracked in the system in the past. He stated that now it can be tracked in the system and if the taxpayer tries at a future date to take more credit than available, initially a warning message is being given.

8.15 CEO, GSTN stated that both the ledgers have an opening balance statement which is being made available to the trade so that taxpayers can give one time balance of the amount of credit they had failed to utilise in these ledgers for the past period, and also there would be a facility for one time amendment. He stated that thereafter these ledgers will start running and tracking the ITC credits.

8.16 Further he stated that at present the ITC statement which is presented to the taxpayer on 14th of every month has multiple sources from which the ITC credit comes and these credits come from individual invoices. He further stated that the system was not tracking as to what happens to the individual invoices. So, a new feature which is proposed to be added is to provide the recipients with "Reject, Accept, No action and Pending" options in a Invoice Management System Dashboard for individual invoices. He further informed that now the buyer will have to clearly state in relation to each of the invoices of his purchase as to what is his position whether he would be availing the credit or rolling it to the ITC Reclaim ledger or rejecting the transaction.

8.17 Further he stated that this is a optional facility. This has been designed as a voluntary IT facilitation measure for the recipients. If the taxpayer decides not to take any action then it will be deemed that all the invoices which have come to him in his ITC statement GSTR 2B are being accepted. So this will also allow for better matching and tracking of ITC.

8.18 He stated that this has been on the wish list of the tax administrations for a long while now, that the ITC gap is closed and ITC claim is completely in line with what is legitimately due. It is expected that mismatches would not occur and both sides gain in terms of taxpayer not getting notice and the tax administrations gaining additional revenue by closing the gap of ITC, which is being misused now as fake credit.

8.19 Further the CEO GSTN informed that GSTR Form 1A is a GSTR-1 correction Form, which has already been rolled out. He further stated that on 11<sup>th</sup> of the month, when the invoices are reported in GSTR- 1, it is auto filled as liability in GSTR-3B. Now an intermediate form GSTR 1A is provided, which is again a completely optional form, which can be ignored by the taxpayer if it is not needed by him. He further added that if taxpayer wishes to change his liability, which he had declared in GSTR1, before filing of GSTR 3B, then he can fill GSTR Form 1A. So, the taxpayer's liability will then change to GSTR-1 plus GSTR-1A, which would be auto populated in GSTR-3B. He further stated that this again will allow the authorities to ensure that the total liability which taxpayer mandatorily must file and pay in GSTR 3B is sum total of GSTR1 and 1A because taxpayer has been given the facility to file as well as correct the same, which means error correction mechanism has also been added in the system. He stated that the same has already been rolled out and in the first month reasonable number of taxpayers have used it. Many taxpayers have tested it but not filed the return. They have filled the data and tested whether their GSTR-3B is getting updated or not.

8.20 Further, he stated that no major glitches in this system have been reported and it is expected that in two to three months' time, the system will mature. So, in two to three months' time, the possibility of not allowing erroneous returns to be filed in GST system from the liability side could be looked at.

8.21 CEO, GSTN requested the GST Council to take note of the above developments of ITC Reclaim ledger, RCM ledger and Invoice Management System. Further he requested the GST Council to approve the timelines of opportunity given for declaration of opening balance and amendment thereof in ITC Reclaim ledger and RCM ledger and authorize the Law Committee to revise timelines if necessary. This should present an opportunity in due course of time to prevent erroneous claim of ITC and will reduce erroneous return filing.

8.22 The Secretary stated that they have witnessed lot of buoyancy over the last few years because of the introduction of the GSTN system. But the next wave of tax buoyancy will need us to take more technology related measures, two of which have been presented, one being e-invoicing and the other is the available opportunity in future for removing the gap between the credit and the liability etc. to make it more convenient for the tax payers to file their returns and at the same time to prevent fake billing.

8.23 The Secretary requested the Council to approve the timelines as suggested and also invited the Hon'ble members of the Council for comments, if any to make their interventions.

## **Decision: The GST Council**

- i. Took note of the developments related to ITC Reclaim ledger, RCM ledger, IMS and FORM GSTR-1A.**
- ii. Approved the timelines of opportunity given for declaration of opening balance (till 31.10.24) and amendment thereof (by 30.11.2024) in ITC re-claim ledger and RCM ledger.**
- iii. Authorised the Law Committee to recommend any revision in time lines and any other supplementary decision needed for the roll-out of these functionalities if necessary.**

### **Agenda Item 8:**

The Secretary requested the Joint Secretary (TPRU), DoR to present the agenda items pertaining to Department of Revenue (DoR) consisting of five sub-items viz., review of revenue position, status update on Compensation Cess, IGST settlement, GSTAT and sharing of data.

### **Agenda Item 8(a): Review of revenue position under Goods and Service Tax**

9.1 Joint Secretary (TPRU), DoR presented the agenda and stated that it lists out the revenue for the last eight months and brought out that a good growth rate was seen in the GST collections for the past eight months. He informed that revenue has grown more than 10% in most of the months except for the month of June, 2024 when there was a minor dip. He further stated that the Special Drive against fake registration that was carried out between May-August, 2023 had yielded revenue in those months and that the ongoing Second drive on the fake registrations is also expected to yield good revenue in the coming months. He informed that the figures detailing revenue position with respect to States provide both pre-settlement and post settlement revenue of States. He mentioned that the average growth rate overall during April to August 2024 is 9% pre-settlement and 11% post settlement. He mentioned that States that are performing below the national average have may take steps to improve their performance.

9.2 The Secretary sought comments or interventions by the Hon'ble Members, if any. There being no observations, he requested the Joint Secretary (TPRU), DoR to present the next agenda on Compensation Cess.

**The Council took note of the revenue position under GST.**

### **Agenda Item 8(b): Status update on Compensation Cess**

9.3 Introducing the agenda item relating to Status update on Compensation Cess, the Secretary mentioned that the GST Council in its 52<sup>nd</sup> Meeting had decided that a status update on Compensation Cess be presented before the Council, which is being done now.

9.4 JS (TPRU), DoR presented the agenda. He stated that the data shows the actuals of Compensation Cess collected upto August, 2024 and that a projection has been made for the period from September, 2024 to March, 2025 based on the assumption that there will be 10% annual growth over last year's revenue. He presented the deductions that need to be made to this amount which

includes compensation paid till August, 2024, back-to-back (B2B) loans, estimated compensation payable and interest projected on back-to-back loans. He informed that this shows a projected shortfall of approx. Rs. 1,31,000 crore in compensation account as on March, 2025. An amount of Rs.13,000 crore has been budgeted as the final compensation to States as some States have to give final AG figures.

9.5 He further stated that assuming that the revenue growth rate is 10% for 2025-26 then the surplus at the end of the year would be around Rs. 40,000 crores. He clarified that this calculation is only an estimate and that this can vary by a few thousand crores. This may roughly translate to 2.8 months of revenue in F.Y 2025-26. He stated that Compensation Cess therefore would need to be continued for sure till December, 2025 and may be some part of January, 2026 as well for enabling repayment of obligations under this account. A decision needs to be taken with respect to how the surplus of 2025-26 can be utilized. Further, a decision needs to be taken for the period beyond 2025-26 as to in what manner and form the Compensation Cess may be recharacterized. The matter was deliberated in the Officers' Meeting and that there was general agreement that the responsibility can be entrusted to the Fitment Committee for further deliberations and make suitable recommendations on how to restructure the Compensation Cess.

9.6 The Hon'ble Member from Kerala stated that the issue related to Compensation Cess requires a lot of study and deliberation. He mentioned that last year it was reported that the Compensation Cess levy would be completed by the current year but now it is informed that it needs to be extended for another year. He added that this might even require some amendment in the Act through Parliament and State legislature. He added that the issue is not restricted to levy of Compensation Cess but that the future of Compensation Cess needs to be looked into from the perspective of experience gained from the implementation of the GST. He further mentioned that the revenue neutral rate has come down from 15.5% to less than 12% and that in 2017 around 200 items were falling in the bracket of 28% but now the rate has come down for many such items. He added that they had conducted a study about the impact of reduction in GST rates and that it was found that the benefit in reduction of rates was not passed down to the end consumer. He emphasized that the issue of reduction of revenue neutral rate is a matter of serious concern to the States as the States are facing severe financial crunch. He mentioned that if 14% growth was there from year to year then the State of Kerala would have got about Rs. 15,000-16,000 crores this year. He suggested that a Group of Ministers (GoM) needs to be constituted to analyze the Compensation Cess as it has major implications.

9.7 The Secretary clarified that it was never communicated that the Compensation Cess will not require to be levied after the present financial year (F.Y). It was communicated even in the earlier meetings that it will be continued beyond this F.Y.

9.8 The Hon'ble Chairperson clarified that back-to-back loans were taken and the Compensation Cess period was extended based on previous calculations that the levy of Compensation Cess needs to be extended until March 2026. She added that what would have been indicated in one of the earlier meetings would be that maybe the B2B loans and the interest can be cleared before March, 2026. She further informed that the Council has already approved and authorised the collection of Compensation Cess until March, 2026 only to enable the repayment of B2B loans and the interest. She mentioned that the JS, TPRU (DoR) has now projected that the B2B loans and the interest can be hopefully repaid by December, 2025 or January, 2026. She clarified that the present discussion is about what needs to be done with respect to the cess collected post repayment of all obligations. She explained

that Compensation Cess was originally collected to make compensation payments to States and that it was based on a protected revenue projection. Consequently, a decision needs to be made regarding whether the Cess should continue beyond March 2026. It was further clarified that if it is decided to extend the Cess, it will need to be rephrased by the Council, as it can no longer be called "Compensation Cess." She further mentioned that as per the provisions of law the Compensation Cess was to be levied only till 2022 but the period for levy was extended to March, 2026 by way of notification based on an opinion taken from the Attorney General of India. The Hon'ble Chairperson stated that the GST Council can decide as to whether the issue needs to be examined by the Fitment committee or by a Group of Ministers assisted by the Fitment Committee.

9.9 The Hon'ble Member from Karnataka expressed gratitude to the Chairperson for tabling the agenda and for providing a detailed status update on the Compensation Cess, including the current position and projections for the foreseeable near future. He stated that this provides better clarity towards what lies ahead for the future. He mentioned that he would like to present before the Council the present situation of his State and a few other States. He stated that they are bound by the decisions they have made in the past and he is only trying to highlight the situation which Karnataka and maybe a few other States are in and how to resolve the same. He stated that before introduction of GST Karnataka's CAGR of own tax revenue was 13.7% for 5 years so, prior to GST the State was growing at 14%. He further stated that it has often been said 14% compensation was generous but the state's growth was nearly the same. Karnataka's contribution to overall GST has been good for the past years. He mentioned that two years ago the State's contribution was 8.91% of the total GST and for the year 2023-24 the rate of contribution has gone upto 9.54% as ascertained from the publicly available data on GSTN. He remarked that the State's contribution to total GST collection has gone up in the last few years. He added that when all India growth rate was 20.7% then the growth rate of Karnataka's tax collection was 28% and for last year the national growth rate was 14.9% whereas Karnataka's growth rate was 18.2%. He submitted that therefore, the growth rate of the State has been above the national growth rate in tax collection.

9.10 The Hon'ble Member from Karnataka mentioned that the States' contribution to national GST collection has also gone up and that the State was growing at a faster rate than the national average. He added that when the actual revenue of the State is forecast against the protected revenue i.e., 14% then it is seen that the actual revenue of the State has gone down by about Rs. 20,000 crores in FY 2023-24. He added that on an average the revenue of the State has come down when compared to the pre-GST vis-à-vis post GST despite the fact that the average growth rate of the State and the State's contribution to overall GST have been going up. He stated that if 14% growth rate was continuing then the State would have been getting Rs. 95,000 crores but at present the State is only getting about Rs. 71,000 crores. He then elaborated that the State has tried to analyse this trend by comparing the State's revenue collection as against State's GSDP and it was seen that the State revenue against GSDP has dropped by 1% whereas State's collection against GSDP has remained same. He mentioned that the revenue accruing to the State against GSDP has dropped by 1% and that this has led to the conclusion that as GST is destination-based tax there is net outgo from the State. He mentioned that in 2022-23 the rate of SGST revenue grew by 27% but IGST revenue grew by 18% and therefore, the total revenue growth was about 22% and for the year 2023-24 the rate of SGST revenue grew by 18% and IGST revenue grew by 13% and therefore, the total revenue growth was about 16%. He added that for the present year at present the rate of SGST revenue is 12% and IGST revenue grew by 7% and therefore, the overall revenue growth is 9%. He remarked that it is observed that the State is getting

less revenue despite the increase in collections. He further also clarified that this observation is not made against the principle of destination-based taxation under GST. He elaborated that the GST share of Karnataka in GSDP has also increased and that 2 years ago it was 4.8% it has gone up to 5.41% and this year it is at 5.81%. He remarked that the tax efficiency of the State is higher than the national average yet the net revenue accruing to the State is less in comparison. He mentioned that on account of destination principle a lot of revenue collected under IGST is going to other States. He also mentioned that another factor for this dip in revenue is that now as exports are zero rated a lot of refunds are happening whereas in the earlier VAT regime the CST collected was retained as there was no provision for refund or ITC and this used to result in increase in revenue. He mentioned that some of the larger producing States like Karnataka that do not have a large consumer base is ending up with a substantial loss. He suggested that the competent forum for addressing these issues would be the Finance Commission as they have the mandate to assess the fiscal needs and fiscal capacities of each State. He stated that based on this understanding this issue was taken up by the State with the Finance Commission when they visited Karnataka, but the response received from the Finance Commission was that this is a GST related issue, and that the solution lies with the GST Council. He further mentioned that post of the expiry of compensation period it is seen that the loss of revenue for Karnataka is 0.6% - 0.7% of GSDP. He added that Karnataka being a producer State has invested heavily on infrastructure- physical, social and human and most of these require periodic servicing for their maintenance. He then mentioned that the State plays a significant role in job creation and boosting export yet is incurring long term loss of revenue. He suggested that while discussing the future of Compensation Cess, these challenges faced by the State can also be taken up for consideration. Further, he proposed that a Group of Ministers, rather than the Fitment Committee, would be better suited to handle these issues, as the Committee might find them beyond its scope.

9.11 The Hon'ble Member from Telangana said that as can be seen from the figures presented the revenue realised by the end of 2025-26 will exceed the amount required to discharge the loan amount and he submitted that such amount may be brought in the ambit of SGST equal to the Cess for the year 2025-26. He added that this will help the States to augment the revenue for meeting the developmental obligations. He also added that this would be a fair distribution as Cess was brought to augment the revenue of the States. He submitted that the matter may please be referred to GoM to study it in detail and give their recommendations.

9.12 The Hon'ble Member from Punjab submitted that they agreed with the concerns expressed by Karnataka and Kerala and stated that their state's revenue was also affected by implementation of GST. He added that the revenue of Punjab has come down by Rs. 20,000 crores post GST when compared with the pre-GST revenue figures. He added that in view of this the issue of Compensation Cess may be examined in detail and it may be considered for extension as it will help augment the revenue of the States.

9.13 The Secretary stated that the growth rate of GST for the country post implementation of GST has been high vis-à-vis the growth rate of taxes that got subsumed in the GST. He also mentioned that the data has been presented before the Parliament and was also made available in public domain. He added that the Centre is yet to do a State wise analysis of revenue and therefore, State specific data is not available, but if required, such a study can be undertaken. He also stated that any tax that is imposed and collected after end of compensation cess, will have to be distributed among the States as per accepted principles i.e. destination based taxation. He stated that a decision needs to be taken as to

the form in which it will be continued i.e. whether it is to be levied as a cess or as a higher rate of tax and this would also necessitate legislative changes. He stated that the Council can take a decision as to whether the issue needs to be looked into by the Fitment Committee or a GoM.

9.14 The Hon'ble Member from Uttar Pradesh remarked that the GST was rolled out with the consensus of all the Members of the Council. He stated that it is a matter of pride that a larger producing State like Karnataka is making great contribution to the country through its innovations but the financial situation of the State, as presented by its Member could be attributable to many factors and not just the implementation of GST. He added that the State needs to analyse the situation from an overall perspective to get a better picture.

9.15 The Hon'ble Chairperson stated that the entire data provided by Karnataka can be looked into for better understanding and she also added that if any other State so desires, they can also provide the data for analysis. She mentioned that the observations made by the Hon'ble Member from Karnataka did not account for the element of Covid and that the elements of Covid need to be included in the analysis otherwise it will yield only a partial picture. She added that the if GDSP calculation for past 5 years is being done without making provisions for the impact of Covid then it would be unfair to the efforts put in by the GST Council. She added that the GST Council is a constitutional body and is entrusted with the power to take all decisions in relation to GST. The only point where issues related to GST can be conflated to Finance Commission is when a decision needs to be taken with respect to devolution of the same. It is at this point that the Finance Commission comes in and provides the formula for devolution of taxes between Centre and State. She also added that the percentage share allocation to the States is not limited to indirect tax but also includes income tax excluding cess and surcharge.

9.16 The Hon'ble Chairperson mentioned that at the time of launch of GST an Empowered Committee of Ministers headed by a Finance Minister from an opposition party (to the party in power in Centre) was formed to decide whether the GST should be a consumption based tax or origin based tax. She also added that at that time apprehensions were raised by the manufacturing States and that these were considered. She further stated that she agreed with the Hon'ble Member from Karnataka that the matter will require political inputs and therefore, a GoM can be formed to look into the issue. She also added that the Centre need to be represented in the GoM and that Minister of State (Finance) can be the representative of the Centre in the proposed GoM. The GoM can look into all the data and analyse the situation post 2017 to ascertain the number of States that have grown post GST. She added that the huge disruptions that occurred on account of Covid cannot be ignored while calculating the average. She stated that the pre-GST growth rate for the years 2012-13 to 2015-16 was 8.3%, GDP growth rate was 11.5% and the tax buoyancy for the period was 0.72. For the period 2018-19 to 2022-23 the GST growth rate is 12.3%, GDP growth rate is 9.8% and the tax buoyancy is 1.25. She clarified that this growth rate was marked by disruptions on account of covid. She added that the Council is to be guided by facts and data, and this alone will help the Council in taking a considered view. She suggested that as extended period for levy of compensation cess is coming to an end the Council can consider forming a GoM and Members are welcome to join the GoM. Each State can provide its data which will be studied. She added that this would enable the Council to take a decision on the way forward when the extended period for levy of compensation cess comes to an end by March, 2026.

9.17 The Hon'ble Member from Karnataka welcomed and agreed with the proposal made by the Hon'ble Chairperson to form a GoM to look into the issue related to compensation cess. He further

clarified that as a Member of the initial GST Council meetings he was part of the detailed deliberations in the Council as to the impact of GST but despite the challenges the proposal was agreed to in the larger interest of the nation. He further clarified that the statements and data provided by him are against the GSDP and that GSDP factors in the ups and downs of the economy. He stated that the GSDP is inclusive of the effect of Covid and that they are mindful of the impact caused by Covid. He further clarified that what the State wanted to impress on the Finance Commission was that GST has had an impact on the fiscal situation of the State and they wanted the Finance commission to take note of this effect on the State's fiscal capacity. He again submitted that Karnataka's GSDP growth rate for 2021-22 was 20.5% as against the national growth rate of 18.4% and for the year 2023-24 Karnataka's growth rate was 10.2% as against national growth rate of 8.9%. He also provided the figures with respect to GST collections and submitted that for 2021-22 Karnataka's growth rate was 27% as against the national growth rate of 27%. For the year 2022-23 Karnataka's growth rate was 28% as against the national growth rate of 21% and for the current year Karnataka's growth rate is 18% as against the national growth rate of 15%. He submitted that it can be seen from the figures that Karnataka has been consistently generating revenue and expanding the economy. He also submitted that Karnataka's contribution to national GST collection has also been rising and that for the year 2021-22 Karnataka's contribution to total GST collection was 8.74% and in 2023-24 this has increased to 9.5%. He reiterated that the State stands by the decisions taken in the Council and that the request is that the Council should consider these challenges while arriving at a considered decision on Compensation Cess. He submitted that the future of Compensation Cess be discussed having regard to the interest of States that have incurred revenue loss in long term and also added that these States can be identified from the data set.

9.18 The Secretary stated that the state of Karnataka has been doing well on GST as can be seen from its growth rate vis-à-vis the national average. He stated that GST is collected where the goods are manufactured but it gets transferred to the States where it is consumed and therefore, the producing and consumer States share a symbiotic relation. He clarified that GST is a destination-based tax and the natural corollary of it is that the tax goes to the consuming States. He added that the State of Karnataka has also gained on employment and other taxes such as property taxes which are collected in the State.

9.19 The Hon'ble Member from Karnataka reiterated the State's commitment to destination-based tax but added that their only submission is that their SOTR has dropped by around 0.7% as against the GSDP. He submitted that the State is proud that they are contributing to the nation building as a producing State but their only request is that the difficulties faced by the State may be taken into consideration while discussing the future of Compensation Cess.

9.20 The Hon'ble Chairperson mentioned that the concern expressed by Karnataka has been taken note of and that if other large producing States like Maharashtra and Haryana were present, they might have also shared these concerns. She added that once the GoM is formed there can be in-depth discussion on this issue.

9.21 The Secretary stated that there is consensus among the Members for constituting a GoM on Compensation Cess with Minister of Finance (State) as the Convenor and he added that the composition of the GoM can be decided by the Hon'ble Chairperson as has been the practice with respect to other GoMs.



**Decision: The GST Council approved the constitution of a GoM on restructuring Compensation Cess with Minister of Finance (State) as the Convenor and other Members as decided by the Hon'ble Chairperson of the GST Council.**

**Agenda Item 8(c): IGST Settlement**

9.22 The Secretary requested the Joint Secretary (TPRU), DoR to present the agenda item relating to IGST settlement.

9.23 JS (TPRU), DoR stated that the negative balance in IGST account was discussed in the last Council meeting. He informed the Council that the negative balance in IGST account was Rs. 5,516 crores for the last Financial Year. In the current financial year negative balance was reported in IGST account in all months except for the months of June and August 2024. The cumulative negative balance in the IGST account is Rs. 14,218 crores. He stated that historically the practice was to apportion the positive balance between the Centre and the States in 50:50 ratio and also to recover whenever there was negative in the same ratio. He further mentioned that the positive balance was further apportioned to the states in the ratio of their subsumed revenue in the base year (FY 2015-16) and the negative balance was apportioned in the ratio of the respective month's IGST settlement. He stated that as the matter is being looked into afresh it is felt that the ratio should reflect the dynamics that have changed over the years. He added that the base year 2015-16 has lost its relevance and that the ratio needs to be relooked. He stated that there is a need to revise the method of apportionment and proposed that the actual IGST settlement ratio may be considered for apportionment of both positive and negative balance among the States. He further submitted that to bring an element of stability it is suggested that the last 3 years average IGST settlement be looked into. He also submitted that the negative balance of Rs. 14,218 crore is proposed to be shared between the Centre and the States. He further clarified that the negative balance of Rs. 7,109 crores will not be recovered in one step but is proposed to be recovered over 4 months starting from September 2024. He further mentioned that the positive or negative balance, if any in the month of September, 2024 would be apportioned in the month of October, 2024 and this practice will continue for the remaining months except for March, 2025. He stated that for March, 2025 the apportionment of positive or negative balance will have to be made in that month itself. He also added that this proposal will continue to apply for the future months. He further submitted that as directed by the Hon'ble Chairperson in the last Council meeting DoR conducted a meeting with all States to explain the method of apportionment of IGST but there are still some unresolved issues. He informed the Council that this was discussed in the Officers' meeting and it was proposed that a Committee of Officers under the Chairmanship of Additional Secretary, DoR will look into these issues and in case any legislative changes are required, then the same can be referred to the Law Committee.

9.24 The Hon'ble Member from Uttar Pradesh stated that their only suggestion is that the formula used for apportionment of positive balance may also be used for the apportionment of negative balance and added that in the absence of this, the State of Uttar Pradesh will incur loss of revenue. He added that it was earlier agreed that the positive balance would be apportioned to the State at 8.3% and therefore, he submitted that the recovery of negative balance can also be made at the same rate.

9.25 The Hon'ble Member from Punjab stated there is no clarity with respect to the exact reason for the negative balance in revenue and he added that there is also no data on its impact on the States. He therefore proposed that either a GoM or a Committee of officers be made to look into these issues and that this exercise needs to be done prior to initiating the process of recovery. He added that the Committee can consist of officials of both Centre and State and they can analyse the complete data and find out the cause for the shortfall.

9.26 The Hon'ble Member from Bihar stated that their suggestion is similar to that made by the Hon'ble Member from Uttar Pradesh i.e. the formula used for apportionment of positive balance may also be used for the apportionment of negative balance.

9.27 The Hon'ble Member from West Bengal stated that the new formula proposed for apportionment needs to be studied in detail and she added that this will have revenue implications for importing States like West Bengal. She added that they agree with the proposal made by Hon'ble Member from Punjab that a Committee of Officers be formed to look into this issue. She also mentioned that another aspect they would like to bring to the notice of the Council is that excess advance settlement made up to June, 2022 has reduced the amount of compensation received by the State. She added that the recovery of negative balance would reduce the revenue of the State and therefore, it was proposed that the States may be compensated to the extent of compensation that was less received.

9.28 The Hon'ble Member from Telangana stated that for earlier periods the IGST settlement was done at 4.03% based on the revenue figures of 2015-16 and that now the present proposal is to make the recovery at 5.07%. He therefore submitted that the same formula used for apportionment of positive balance may also be used for the apportionment of negative balance. He further stated that the matter needs to be examined in detail and therefore, the proposal is that the matter may be referred to a Committee of Officers.

9.29 The Hon'ble Member from Kerala stated that previously also the State has raised apprehensions about the settlement of IGST and he added that the negative balance in the IGST account shows that there are systemic issues in the IGST settlement. He stated that the reason for these issues need to be identified and analysed on priority. He mentioned that Kerala being a consumer State is affected by incorrect return filing and other issues in supply rules and that this is resulting in short settlement. He stated that proposal to make recovery of the negative balance should be held in abeyance until these pending issues are resolved.

9.30 The Secretary stated that in the Officers' meeting there was general agreement with respect to the formula that is to be used prospectively. He further mentioned that the issue raised by Uttar Pradesh and Telangana is that the apportionment of positive and negative balances are made at different ratios and he stated that this issue has been addressed in the revised methodology proposed by JS (TPRU), DOR. He mentioned that the Committee under the Chairmanship of Additional Secretary, DoR can look into these issues related to the past but going forward from 01.04.2024 the proposed new formula can be used for apportionment of positive and negative balances.

9.31 The officer from Tamil Nadu stated that in the Officers' Meeting they had requested that Committee under the Chairmanship of Additional Secretary, DoR can look into these issues. He added that they have identified certain forms/statements where information is not made available and that once this information is made available they are hopeful of cleaning up the future process wherein

they will be able to attribute positive/negative balance in IGST to a particular State. They further requested that the proposal for recovery of negative balance may please be kept in abeyance till such time.

9.32 The Hon'ble Chairperson mentioned that a Committee of Officers can be constituted for considering both the past recovery related issues and the future apportionment. She added that the negative balance is already showing on the Centre's balance and that this has put the system in a limbo. She invited the Members to be part of the Committee of Officers and suggested that they can work out a solution in one months' time i.e. by the end of October, 2024. She stated that the report can be placed before the GST Council in its next meeting scheduled for November, 2024.

9.33 The Hon'ble Member from Karnataka requested that provision may please be made for an online tutorial on IGST settlement for the Members for their own better understanding of the process and that the participation can be made on voluntary basis. The Hon'ble Chairperson agreed to the request and requested the Secretary to do the needful.

**Decision: The GST Council approved the constitution of a Committee of Officers under the chairmanship of Additional Secretary, Department of Revenue for looking into issues in IGST settlement and recommend ways to improve the settlement process including legislative amendments, system changes and the formula for apportionment of positive and negative balance in IGST account. The Committee of Officers to finalize the report by end of October, 2024 and present it in the next GST Council meeting.**

#### **Agenda Item 8 (d): GST Appellate Tribunal - Issues for approval**

9.34 The Secretary took up the agenda item relating to the GST Appellate Tribunal and requested the Joint Secretary (TPRU), DoR to present the agenda. Joint Secretary (TPRU), DoR presented the Agenda to the Council. He mentioned that the Finance (No. 2) Act, 2024, notified on August 16, 2024, introduced several amendments to the CGST Act, 2017, including changes to sections 109 and 171. These amendments involve granting the Principal Bench of GSTAT the authority to examine anti-profiteering measures under GST. He sought the GST Council's approval to notify the provisions of sections 109 and 171 of the CGST Act, with immediate effect. He informed the Council that following this, a formal notification will be issued to assign anti-profiteering matters to the Principal Bench at the earliest by 1<sup>st</sup> of October 2024. He added that the notification for the said has already been approved by the GST Council in its earlier meeting.

9.35 JS (TPRU), DoR further informed that certain changes have been requested by the States i.e. Kerala, Uttar Pradesh and Punjab in respect of location of the State Bench of GSTAT and that these changes have been incorporated in the draft notification as circulated in the agenda note. Joint Secretary further informed that the jurisdiction for each of the State Benches is required to be notified and that a draft has been circulated along with the agenda note and since then updates from Gujarat, Tamil Nadu, and Haryana have also been received regarding their updated jurisdictions. He informed that these updates will be incorporated, though there are still some minor corrections being discussed with the states. He informed the Council that five days have been given to the States for communicating any corrections in the names of the districts to be updated in the notification. He further requested that going forward the Council may empower the GST Implementation Committee

(GIC) to handle jurisdiction- related issues, as they may arise frequently, and this empowerment would allow for timely decisions without needing to wait for the Council meetings.

**Decision: GST Council approved the draft notification as presented in the agenda regarding the location of State Benches of GSTAT and their jurisdiction and permitted DoR to make corrections in the names of the districts as may be communicated by the States within 5 days. The Council further delegated to the GST Implementation Committee to decide on issues related to jurisdiction, upon request of the States. The same may be brought to Council for information and post-facto ratification.**

**Agenda Item 8 (e): Sharing of personally Identifiable Information of Taxpayers with other Ministries/Departments.**

9.36 Joint Secretary (TPRU), DoR informed that several requests have been received from various agencies and ministries to share specific information containing personally identifiable data. He informed the Council that these requests were discussed in the GST Implementation Committee (GIC), but a decision could not be made and as a result, the matter was brought before the GST Council. He further stated that during the officers' meeting, there was consensus that these requests could be approved. He further informed that there are additional data-sharing requests from states like Tamil Nadu and proposed that the GST Implementation Committee (GIC) be authorized to approve these requests on a case-by-case basis, adhering to the safeguards as detailed in the agenda note. He informed that the current requests are from the Ministry of Labour and Employment, Gujarat Infrastructure Development Board (GIDB), National Industrial Corridor Development Corporation Limited (NICDC), Directorate General of Commercial Intelligence & Statistics, Ministry of Commerce & Industry, and the IMF project on GST Rate Sensitivity. He recommended to the Council that these requests be approved considering that the purpose of these requests would fall within the exceptions carved out in section 158(3) of the CGST Act.

**Decision: The GST Council approved the data sharing agenda as presented and going forward empowered GIC to approve other similar requests on a case-by-case basis adhering to the safeguards detailed in the agenda note.**

**Agenda Item 9: Ad-hoc Exemptions Orders issued under Section 25(2) of the Customs Act, 1962 to be placed before the GST Council for information**

The Secretary informed the Council that two Ad-hoc exemption orders had been issued since last meeting of the GST Council. The First Order No. 4 of 2024 dated 27/06/2024 pertained to exemption from Customs duty on import of reading eye glasses by M/s Supreme Task India donated by Restoring Vision, USA and the second Order No. 05 of 2024 dated 23/07/2024 was regarding exemption from Customs duty on re-importation of one unit of Liebherr Heavy Lift Crawler Crane (Model: LR 1350/1, Sl. No. 074113) by Bharat Heavy Electricals Limited (BHEL). He stated that the two orders were placed before the Council for information.

**The Council took note of the ad-hoc exemption orders issued.**

10. The Secretary then thanked the Hon'ble Chairperson, Hon'ble Members of the Council and the participating officers for their discussion on the agenda for the meeting and the decisions taken.

**List of Hon'ble Ministers from States/UTs who participated in the 54<sup>th</sup> Meeting of the GST Council held on 09<sup>th</sup> September, 2024**

<b>S. No.</b>	<b>Name of Centre/States/UTs</b>	<b>Name of Hon'ble Ministers/Member of GST Council</b>	<b>Charge</b>
1	GOI	Smt. Nirmala Sitharaman	Union Finance Minister
2	GOI	Sh. Pankaj Chaudhary	Minister of State for Finance
3	Andhra Pradesh	Sh. Payyavula Keshav	Minister for Finance, Planning, Commercial Taxes and Legislative affairs
4	Arunachal Pradesh	Sh. Chowna Mein	Deputy Chief Minister/Minister of Finance
5	Assam	Smt. Ajanta Neog	Finance Minister
6	Bihar	Sh. Samrat Choudhary	Deputy Chief Minister
7	Chattisgarh	Sh. O.P. Choudhary	Minister of Finance and Commercial Tax
8	Delhi	Ms. Atishi Marlena	Minister for Finance
9	Goa	Dr. Pramod P. Sawant	Chief Minister/Finance Minister
10	Gujarat	Sh. Kanubhai Desai	Minister for Finance
11	Jammu & Kashmir	Sh. R.R.Bhatnagar	Advisor to Hon'ble Lieutenant Governor
12	Karnataka	Sh. Krishna Byre Gowda	Minister for Revenue Department
13	Kerala	Sh. K. N. Balagopal	Minister for Finance
14	Madhya Pradesh	Sh. Jagdish Devda	Deputy Chief Minister/Minister of Commercial Tax & Finance

15	Maharashtra	Smt. Aditi Tatkare	Minister for Women and child development
16	Meghalaya	Sh. Conrad K. Sangma	Chief Minister
17	Mizoram	Dr. Vanlalhlana	Minister Taxation Department
18	Nagaland	Sh. K. G. Kenye	Minister for Power and Parliament Affairs
19	Punjab	Sh. Harpal Singh Cheema	Finance Minister
20	Rajasthan	Sh. Gajendra Singh	Minister of Medical Health and Services (ESI)
21	Sikkim	Sh. G. T. Dhungel	Minister for Health & Family Welfare and Culture Department
22	Telangana	Sh. Mallu Bhatti Vikramarka	Deputy Chief Minister and Minister for Finance
23	Uttar Pradesh	Sh. Suresh Kumar Khanna	Minister of Finance, Parliamentary Affairs
24	Uttarakhand	Sh. Premchand Aggarwal	Finance Minister
25	West Bengal	Smt. Chandrima Bhattacharya	Finance Minister

**Annexure – 2**

**List of Officers from Centre and the States/UTs who participated in the 54<sup>th</sup> Meeting of the GST Council held on 09<sup>th</sup> September, 2024**

<b>S.No.</b>	<b>Name of CBIC/State/GSTC/GOI/GSTN/DoR/TRU/Policy Wing/Directorates</b>	<b>Name of Officers</b>	<b>Designation</b>
1	DoR	Sh. Sanjay Malhotra	Revenue Secretary
2	CBIC	Sh. Sanjay Kumar Agarwal	Chairman CBIC
3	CBIC	Sh. Rajiv Talwar	Member (Compliance Management)
4	CBIC	Sh. Shashank Priya	Member (GST)
5	CBIC	Sh. Vivek Ranjan	Member (Tax Policy and Legal)
6	DoR	Sh. Vivek Aggarwal	Additional Secretary, Revenue
7	DGGI	Sh. Anil Kumar Gupta	Pr. Director General
8	DGGST	Ms. Seema Arora	Pr. Director General
9	DG Systems	Sh. Yogendra Garg	Pr. Director General
10	GST Policy Wing	Sh. Sanjay Mangal	Principal Commissioner
11	DoR	Sh. Naval Kishore Ram	Joint Secretary, Revenue
12	DoR	Sh. Balasubramanian Krishnamurthy	Joint Secretary, TPRU
13	GST Council Secretariat	Sh. Pankaj Kumar Singh	Additional Secretary (GST Council Secretariat)
14	GSTN	Sh. Manish Kumar Sinha	CEO
15	TRU	Ms. Limatula Yaden	JS, TRU - I
16	TRU	Sh. Sachin Jain	JS, TRU - II
17	DGGI	Sh. Rajesh Jindal	Director General
18	DGGI	Sh. Ataur Rahman	Additional Director General
19	GST Council Secretariat	Ms. B. Sumidaa Devi	Joint Secretary
20	DG Systems	Sh. Rewat Bahl	Additional Director General
21	GSTN	Sh. Pramod Kumar	EVP, BIPA
22	GSTN	Sh. Alok Kumar	EVP, Services
23	GST Policy Wing	Sh. Gaurav Singh	Commissioner



24	GST Policy Wing	Sh. Raghavendra Pal Singh	Additional Commissioner
25	GST Policy Wing	Dr. Gurbaz Sandhu	Additional Commissioner
26	GST Policy Wing	Ms. Kangale Shrunkhala Motiram	Additional Commissioner
27	TRU	Dr. Puneeta Bedi	Director, TRU - II
28	TRU	Sh. Rakesh Dahiya	Director, TRU - I
29	GST Council Secretariat	Ms. Shaifali G. Singh	Director
30	TRU	Ms. Amreeta Titus	DS, TRU - I
31	TRU	Sh. Satvik Dev	DS, TRU - II
32	DGGST	Sh. T. Manjunath	Additional Director
33	GST Policy Wing	Sh. Nitesh Gupta	Deputy Commissioner
34	GST Policy Wing	Ms. Soumya	Deputy Commissioner
35	GST Policy Wing	Ms. Saumya Gupta	Deputy Commissioner
36	DoR	Sh. Vikash Kumar	Deputy Secretary
37	DoR	Sh. Sunil Kumar	Under Secretary
38	DoR	Sh. Vijay Singh	Section Officer
39	DoR	Sh. Deepak Bansal	Assistant Section Officer
40	DoR	Sh. Muthuraman C	Under Secretary
41	DoR	Sh. Dinesh Kumar Meena	Section Officer
42	Government of India	Sh. S.S. Nakul	PS to FM
43	Government of India	Sh. Anirudh S. Pulipaka	PS to FM
44	Government of India	Sh. Ankit Jalan	Additional PS
45	Government of India	Sh. B. N. Bhaskar	Additional PS
46	Government of India	Sh. Sernya Bhutia	Assistant PS
47	Government of India	Sh. Rishirendra Kumar	PS to MoS
48	Government of India	Sh. Alkesh Uttam	OSD to MoS
49	DoR	Deepak Kapoor	OSD to Revenue Secretary
50	CBIC	Shri. Aditya Bhardwaj	OSD to Chairman
51	GSTN	Sh. Naveen Agrawal	OSD to CEO, GSTN
52	GST Council Secretariat	Sh. Anil Kumar	Deputy Secretary

53	GST Council Secretariat	Ms. Reshma R Kurup	Under Secretary
54	GST Council Secretariat	Sh. Sridhar Das	Under Secretary
55	GST Council Secretariat	Ms. P. R. Reshmi	Under Secretary
56	GST Council Secretariat	Sh. Anil Kumar Moria	Under Secretary
57	GST Council Secretariat	Sh. Vineet Kumar	Superintendent
58	GST Council Secretariat	Ms. Sonia	Superintendent
59	GST Council Secretariat	Sh. Mohan Lal	Superintendent
60	GST Council Secretariat	Ms. Ambika Rani	Superintendent
61	GST Council Secretariat	Sh. Niranjana Kishore	Superintendent
62	GST Council Secretariat	Sh. Om Ram Meena	Section Officer
63	GST Council Secretariat	Sh. Sandeep Kumar	Superintendent
64	GST Council Secretariat	Sh. Khupmang Neihial	Superintendent
65	GST Council Secretariat	Sh. Himanshu Bhardwaj	Superintendent
66	GST Council Secretariat	Sh. Pankaj Kumar Singh	Superintendent
67	GST Council Secretariat	Sh. Sudhir Kumar	Section Officer
68	GST Council Secretariat	Sh. Ashwani Sharma	Section Officer
69	TRU	Ms. Smita Roy	TO, TRU - II
70	TRU	Sh. Dilmil Singh Soach	OSD , TRU - II
71	TRU	Sh. Wanere Vikram Vijay	Under Secretary, TRU - I
72	TRU	Ms. Anna Sosa Thomas	TO, TRU - II
73	TRU	Sh. Ananya Kumar Singh	TO, TRU - I
74	TRU	Sh. Stanzin Wangyal	TO, TRU - II
75	TRU	Sh. Dheeraj Sharma	TO, TRU - I
76	TRU	Sh. Ashok	Inspector
77	PIB	Ms. Nanu Bhasin	ADG (M&C)
78	PIB	Sh. Kush Mohan Nahar	Media and Communication Officer
79	GST Council Secretariat	Sh. Anand Singh	Inspector
80	GST Council Secretariat	Sh. Karan Arora	Assistant Section Officer

81	GST Council Secretariat	Ms. Neha Jainwal	E. A.
82	GST Council Secretariat	Sh. Manish Gupta	E. A.
83	GST Council Secretariat	Sh. Rantej Singh	T. A.
84	GST Council Secretariat	Sh. Satbir Sah	T. A.
85	Andhra Pradesh	Sh. Peeyush Kumar	Principal Secretary, Finance (CT)
86	Andhra Pradesh	Sh. K. Ravi Sankar	Commissioner (ST), Policy
87	Andhra Pradesh	Sh. S.Sekhar	Addl. Commissioner(ST)/Oo CCST
88	Andhra Pradesh	Sh. M. Jayakrishna	OSD To Hon'ble Minister for Finance, Planning, Commercial Taxes and Legislative affairs
89	Arunachal Pradesh	Sh. Lobsang Tsering	Commissioner, Tax & Excise
90	Arunachal Pradesh	Sh. Nakut Padung	Superintendent of State Tax
91	Assam	Sh. Jayant Narlikar	Commissioner & Secretary, Finance Department
92	Assam	Sh. Pallav Gopal Jha	Principal Commissioner of State Tax
93	Assam	Sh. Jitu Doley	Secretary, Finance Department
94	Assam	Md. Shakeel Saadullah	Special Commissioner of State Tax
95	Assam	Sh. Bedabrata Saikia	Superintendent of State Tax
96	Bihar	Dr. Pratima	Commissioner- cum-Secretary Commercial Taxes
97	Bihar	Sh. Krishna Kumar	Joint Secretary Commercial Taxes
98	Bihar	Sh. Binod Kumar Jha	Additional Commissioner State Tax
99	Bihar	Sh. Ranjeet Kumar	OSD Commercial Taxes
100	Chandigarh	Sh. Rupesh Kumar	Excise & Taxation Commissioner
101	Chandigarh	Sh. Harpreet Singh	Assistant Excise & Taxation Commissioner
102	Chandigarh	Sh. Pradeep Kumar	Excise & Taxation Officer
103	Chattisgarh	Sh. Mukesh Bansal	Secretary, Finance and Commercial Tax
104	Chattisgarh	Sh. Pushpendra Kumar Meena	Commissioner, State Tax
105	Delhi	Ms. Chanchal Yadav	Commissioner (State Tax)
106	Delhi	Sh. Ajay Kumar Bisht	Special Commissioner (State Tax)
107	Delhi	Sh. Karanjit Vadodaria	Additional Commissioner (State Tax)
108	Goa	Sh. Tusharkumar Joshi	OSD to CM

109	Goa	Sh. S.S.Gill	Commissioner of State Tax
110	Goa	Sh. Vishant S.N.Gaunekar	Additional Commissioner of State Tax-I
111	Goa	Sh. Ashutosh	APS to CM
112	Gujarat	Sh. Dr. T. Natarajan, IAS	Principal Secretary, Finance Department, Government of Gujarat
113	Gujarat	Sh. Rajeev Topno, IAS	Chief Commissioner of State Tax
114	Gujarat	Sh. K. D. Shukla	Joint Commissioner, Commercial Taxes
115	Haryana	Devender Kalyan	Principal Secretary, Excise and Taxation Department
116	Haryana	Sh. Ashok Kumar Meena	Excise & Taxation Commissioner-cum-Secretary
117	Haryana	Dr. Hemant Kumar	Additional Commissioner, GST, Excise and taxation Department
118	Haryana	Sh. Harsh Singh	Additional Commissioner, TRU, Excise and taxation Department
119	Himachal Pradesh	Dr. Yunus	Commissioner of State Tax & Excise
120	Himachal Pradesh	Sh. Rakesh Sharma	Additional Commissioner of State Tax & Excise
121	Jammu & Kashmir	Sh. Santosh. D.Vaidya	Principal Secretary to Government
122	Jammu & Kashmir	Sh. P.K.Bhat	Commissioner
123	Jammu & Kashmir	Sh. Shakeel Maqbool	Additional Commissioner
124	Jharkhand	Sh. Amitabh Kaushal	Secretary, Commercial Taxes
125	Jharkhand	Sh. Ameet Kumar	Commissioner of Commercial Taxes
126	Jharkhand	Sh. Brajesh Kumar	Assistant Commissioner of State Taxes
127	Karnataka	Ms. C.Shikha	Commissioner of Commercial Tax
128	Karnataka	Dr. Ravi Prasad	Additional Commissioner of Commercial Tax
129	Kerala	Sh. Patil Ajit Bhagwatrao	Commissioner of State Tax
130	Kerala	Sh. Abraham Renn S	Special Commissioner, State GST
131	Kerala	Dr. Shyjan D	Private Secretary to Hon'ble Minister for Finance
132	Kerala	Sh.Sunilkumar V	Deputy Commissioner (Policy Division)
133	Kerala	Smt.Shobha T.C	State Tax Officer (Policy Division)
134	Kerala	Sh. Rajeeshkumar C P	Deputy State Tax Officer (Policy Division)
135	Madhya Pradesh	Sh. Dhanaraju S	Commissioner, State Tax

136	Madhya Pradesh	Sh. Manoj Kumar Choubey	Additional Commissioner, State Tax
137	Madhya Pradesh	Sh. Dilip Raj Dwivedi	Special Assistant of Deputy CM
138	Maharashtra	Sh. Asheesh Sharma	Commissioner of State Tax
139	Maharashtra	Smt. Shaila A	Secretary to GOM Reforms
140	Maharashtra	Sh. B M Gore	Deputy Commissioner of State Tax
141	Maharashtra	Sh. Pankaj Sharma	Personal Assistant to Minister
142	Maharashtra	Sh. Rahul Desai	PA to Minister
143	Manipur	Smt. Mercina R. Panmei	Commissioner of Taxes
144	Manipur	Sh Y. Indrakumar Singh	Joint Commissioner of Taxes
145	Meghalaya	Sh. Mukesh Kumar	OSD to Chief Minister
146	Meghalaya	Sh. Ramakrishna Chitturi	Commissioner of State Tax
147	Meghalaya	Sh. V. R. Challam	Deputy Commissioner State Tax
148	Mizoram	Sh. R. Zosiamliana	Commissioner of State Tax
149	Mizoram	Sh. H. K. Lalhawngliana	Additional Commissioner of State Tax
150	Nagaland	Sh. Abhinav Shivam	Commissioner of State Tax
151	Nagaland	Sh. Y. Mhathung Murry	Special Commissioner of State Tax
152	Odisha	Ms. Yamini Sarangi	Commissioner of Commercial Tax and GST
153	Odisha	Sh. Rajat Kumar Pattnaik	Special Commissioner, CT & GST
154	Odisha	Sh. Nihar Ranjan Nayak	Additional Commissioner of Commercial Tax and GST
155	Puducherry	Sh. L. Mohamed Mansoor	Commissioner of State Tax
156	Puducherry	Smt S. Rewathi	Assistant Commissioner (A&I) of State Tax
157	Punjab	Sh. Vikas Pratap	Financial Commissioner (Taxation)
158	Punjab	Sh. Varun Roojam	Commissioner of State Tax
159	Punjab	Smt Harsimrat Kaur	Deputy Commissioner of State Tax
160	Punjab	Smt Amritdeep Kaur	State Tax Officer
161	Punjab	Sh. Bharat Sharma	State Tax Officer
162	Rajasthan	Dr. Ravi Kumar Surpur	Secretary Finance Revenue

163	Rajasthan	Sh. Prakash Rajpurohit	Chief Commissioner of State Tax
164	Rajasthan	Sh. Arvind Mishra	Advisor State Tax
165	Sikkim	Sh. Pawan Awasthy	Principal Director, Finance Department
166	Sikkim	Sh. Manoj Rai	Commissioner Commercial Taxes
167	Tamil Nadu	Sh. Brajendra Navnit	Principal Secretary
168	Tamil Nadu	Dr.D. Jagannathan	Commissioner of Commercial Taxes
169	Tamil Nadu	Thiru S. Subash Chandra Bose	Additional Commissioner (Policy & Public Relations)
170	Tamil Nadu	Thiru.S.E. Prabhu	Deputy Commissioner (Policy & Planning)
171	Tamil Nadu	Sh. V. V. Ramkumar	Assistant Commissioner
172	Telangana	Sh. S.A.M Rizvi	Principal Secretary to Government, Revenue (CT& Excise) & (I/C) Commissioner (CT)
173	Telangana	Sh. N. Sai Kishore	Additional Commissioner(ST) (Grade-I)Enforcement
174	Telangana	Sh. K. Ravi	Joint Commissioner (ST) Policy
175	Tripura	Sh. Vivek H. B.	Chief Commissioner of State Tax
176	Tripura	Sh. Ashin Barman	Assistant Commissioner of Taxes
177	Uttar Pradesh	Sh. M Devaraj	Principal Secretary to Govt of UP
178	Uttar Pradesh	Dr. Nitin Bansal	Commissioner, State Tax, U.P
179	Uttar Pradesh	Sh. Paritosh Kumar Mishra	Deputy Commissioner, State Tax HQ, Lucknow
180	Uttar Pradesh	Sh. Amit Pandey	PS to Honourable Minister
181	Uttarakhand	Sh. Vinod Kumar Suman	Secretary (Finance)
182	Uttarakhand	Dr. Ahmed Iqbal	Commissioner, State Tax
183	Uttarakhand	Sh. B. S. Nagnyal	Additional Commissioner
184	Uttarakhand	Sh. Anurag Mishra	Joint Commissioner, State Tax
185	Uttarakhand	Sh. Ranjeet Singh	Assistant Commissioner
186	West Bengal	Sh. Prabhat Kumar Mishra	Additional Chief Secretary
187	West Bengal	Sh. Devi Prasad Karanam	Commissioner, State Tax
188	West Bengal	Sh. Rajib Sengupta	Additional Commissioner, State Tax
189	West Bengal	Sh. Shantanu Naha	OSD to FM









# Ratification of Notifications and Circulars

## Agenda 2: Ratification of Notifications, Circulars etc. (1/6)

[Vol 1- Pg. 151-157]

Act/ Rules	Notificati ons/ Circulars Nos.	Description/Remarks
CGST Act/ CGST Rules	Five (05) Central Tax Notif ications issued (No. 12/2024 to 16/2024) & Three (03) Central Tax (rate) Notificati on issued (No. 02/2024 to 04/2024)	<p>Notifications to implement various decisions of GST Council taken in 53<sup>rd</sup> meeting. Some of the important decisions are:</p> <ul style="list-style-type: none"> <li>i. Making amendments (Amendment, 2024) to the CGST Rules, 2017</li> <li>ii. Rescinding Notification No. 27/2022-Central Tax dated 26.12.2022.</li> <li>iii. Exempting the registered person whose aggregate turnover in FY 2023-24 is upto Rs. Two crores, from filing annual return for the said financial year.</li> <li>iv. Amendment of Notification No. 52/2018-Central Tax, dated 20.09.2018.</li> <li>v. Notifying section 11 to 13 of Finance Act (No.1) 2024.</li> <li>vi. Amendment of Notification No. 01/2017-Central Tax (Rate) dated 28.06.2017.</li> <li>vii. Amendment of Notification No. 02/2017-Central Tax (Rate) dated 28.06.2017.</li> <li>viii. Amendment of Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017.</li> </ul>

**Agenda 2: Ratification of Notifications, Circulars etc. (2/6)**

[Vol 1- Pg. 151-157]

Act/ Rules	Notifications/ Circulars Nos.	Description/Remarks
UTGST Act/ UTGST Rules	<b>One (01) Union Territory Tax Notification</b> issued (No. 01/2024) & <b>Three (03) Union Territory Tax (rate) Notifications</b> issued (No. 02/2024 to 04/2024)	i. Amendment of Notification No. 12/2018-Union Territory Tax dated 28.09.2018. ii. Amendment of Notification No. 01/2017-Union Territory Tax (Rate) dated 28.06.2017 iii. Amendment of Notification No. 02/2017-Union Territory Tax (Rate) dated 28.06.2017. iv. Amendment of Notification No. 12/2017-Union Territory Tax (Rate) dated 28.06.2017.
IGST Act/ IGST Rules	<b>One (01) Integrated Tax Notification</b> issued (No. 01/2024) & <b>Three (03) Integrated Tax (rate) Notifications</b> issued (No. 02/2024 to 04/2024)	i. Amendment of Notification No. 02/2018-Integrated Tax dated 20.09.2018. ii. Amendment of Notification No. 01/2017- Integrated Tax (Rate) dated 28.06.2017. iii. Amendment of Notification No. 02/2017-Integrated Tax (Rate) dated 28.06.2017. iv. Amendment of Notification No. 9/2017-Integrated Tax (Rate) dated 28.06.2017.

**Agenda 2: Ratification of Notifications, Circulars etc. (3/6)**

[Vol 1- Pg. 151-157]

Act/ Rules	Notifications/Circulars Nos.	Description/Remarks
Goods and Services Tax (Compensation to States) Act, 2017	<b>One (01) Compensation cess (rate) Notification</b> issued (No. 01/2024)	Providing exemption from Compensation Cess on supplies under heading 2202 by URCs to authorised customers.

## Agenda 2: Ratification of Notifications and Circulars, etc. (4/6)

[Vol 1- Pg. 151-157]

Act/ Rules	Notifications/Circulars Nos.	Description/Remarks
Circulars	<b>Twenty two (22) Circulars</b> issued (Circular No. 207/10/2024-GST dated 26.06.2024 to Circular No. 229/23/2024-GST dated 15.07.2024)	<p>Circulars to implement various decisions of GST Council taken in its 53<sup>rd</sup> meeting. <b>The issues covered in these circulars are:</b></p> <ul style="list-style-type: none"> <li>i. Reduction of Government Litigation – fixing monetary limits for filing appeals or applications by the Department before GSTAT, High Courts and Supreme Court..</li> <li>ii. Clarifications on various issues pertaining to special procedure for the manufacturers of the specified commodities.</li> <li>iii. Clarification on the provisions of clause (ca) of Section 10(1) of the Integrated Goods and Service Tax Act, 2017 relating to place of supply.</li> <li>iv. Clarification on valuation of supply of import of services by a related person where recipient is eligible to full input tax credit.</li> <li>v. Clarification on time limit under Section 16(4) of CGST Act, 2017 in respect of RCM supplies received from unregistered persons.</li> <li>vi. Clarification on mechanism for providing evidence of compliance of conditions of Section 15(3)(b)(ii) of the CGST Act, 2017 by the suppliers.</li> <li>vii. Seeking clarity on taxability of re-imbursement of securities/shares as SOP/ESPP/RSU provided by a company to its employees.</li> </ul>

## Agenda 2: Ratification of Notifications and Circulars, etc. (5/6)

[Vol 1- Pg. 151-157]

Act/ Rules	Notifications/Circulars Nos.	Description/Remarks
Circulars	<b>Twenty two (22) Circulars</b> issued (Circular No. 207/10/2024-GST dated 26.06.2024 to Circular No. 229/23/2024-GST dated 15.07.2024)	<ul style="list-style-type: none"> <li>viii. Clarification on the requirement of reversal of input tax credit in respect of the portion of the premium for life insurance policies which is not included in taxable value.</li> <li>ix. Clarification on taxability of wreck and salvage values in motor insurance claims.</li> <li>x. Clarification in respect of GST liability and input tax credit (ITC) availability in cases involving Warranty/ Extended Warranty, in furtherance to Circular No. 195/07/2023-GST dated 17.07.2023.</li> <li>xi. Entitlement of ITC by the insurance companies on the expenses incurred for repair of motor vehicles in case of reimbursement mode of insurance claim settlement.</li> <li>xii. Clarification regarding taxability of the transaction of providing loan by an overseas affiliate to its Indian affiliate or by a person to a related person.</li> <li>xiii. Clarification on availability of input tax credit on ducts and manholes used in network of optical fiber cables (OFCs) in terms of section 17(5) of the CGST Act, 2017.</li> <li>xiv. Clarification on place of supply applicable for custodial services provided by banks to Foreign Portfolio Investors.</li> <li>xv. Time of supply on Annuity Payments under HAM Projects.</li> </ul>




## Agenda 2: Ratification of Notifications and Circulars, etc. (6/6)

[Vol 1- Pg. 151-157]

Act/ Rules	Notifications/ Circulars Nos.	Description/Remarks
Circulars	<b>Twenty two (22) Circulars</b> issued (Circular No. 207/10/202 4-GST dated 26.06.2024 to Circular No. 229/23/202 4-GST dated 15.07.2024)	<p>xvi. Time of supply in respect of supply of allotment of Spectrum to Telecom companies in cases where an option is given to the Telecom Companies for payment of license fee and Spectrum usage charges in instalments in addition to an option of upfront payment.</p> <p>xvii. Guidelines for recovery of outstanding dues, in cases wherein first appeal has been disposed of, till Appellate Tribunal comes into operation.</p> <p>xviii. Clarification on various issues pertaining to taxability and valuation of supply of services of providing corporate guarantee between related persons.</p> <p>xix. Mechanism for refund of additional Integrated Tax (IGST) paid on account of upward revision in price of the goods subsequent to export.</p> <p>xx. Processing of refund applications filed by Canteen Stores Department (CSD).</p> <p>xxi. Clarifications regarding applicability of GST on certain services -reg.</p> <p>xxii. Clarification regarding GST rates &amp; classification (goods) based on the recommendations of the GST Council in its 53rd meeting held on 22nd June, 2024, at New Delhi –reg.</p>

# **Issues recommended by Law Committee**

**Summary of discussions on  
Agendas in Officers' Meeting held on  
08<sup>th</sup> September 2024**

Agenda No	Issue/Proposal	Status during Officers Meeting
<b>3(i)</b> [Vol I- Pg. 158-167]	<ul style="list-style-type: none"> <li>▪ <b>Clarification on refund of IGST paid on exports under rule 96(10) of the CGST Rules, 2017 and amendments in Rule 89 and Rule 96 of CGST Rules, 2017</b></li> <li>▪ Clarification may be issued through a Circular that in the light of the Explanation to rule 96 (10) of CGST Rules, in cases where the benefit of such specified concessional notifications had been availed at the time of imports of the inputs, but where IGST and compensation cess on the said imported inputs is paid subsequently, along with interest, and the Bill of Entry in respect of the same is got reassessed through Customs, then the refunds of IGST sanctioned may be considered to be regularized.</li> <li>▪ Rule 96(10), rule 89(4A) &amp; rule 89(4B) may be omitted from CGST Rules, 2017 prospectively.               <ul style="list-style-type: none"> <li>✓ After the deletion of the said rules, in the cases where the benefit of specified concessional/ exemption notifications (like Advance authorization, EOU, etc.) had been availed on inputs/raw materials imported or procured domestically, the refund on account of exports can be claimed either through the ITC refund route or through the IGST refund route.</li> <li>✓ In cases where refund on account of export is claimed through ITC refund route, such refund of accumulated ITC to be claimed under rule 89(4) of CGST Rules.</li> </ul> </li> <li>▪ Consequential amendments may be made in rule 86 (4B), rule 89 (4) and rule 89 (5) of CGST Rules.</li> </ul>	<u>Agreed.</u> 

Agenda No	Issue/Proposal	Status during Officers Meeting
<b>3(ii)</b> [Vol I- Pg. 168-180]	<p><b>Clarification on the place of supply of advertising services provided to foreign entities (1/2)</b></p> <p><b>Issue I -Whether the advertising company can be considered as an intermediary between the foreign client and the media owners as per section 2(13) of IGST Act?</b></p> <p><b>Issue- II -Whether the representative of foreign client in India or the target audience of the advertisement in India can be considered as “recipient” of the services being supplied by the advertising company under section 2(93) of CGST Act, 2017?</b></p> <p><b>Issue- III -Whether the advertising services provided by the advertising companies to foreign clients can be considered as performance-based services as per section 13(3) of the IGST act, 2017?</b></p> <p><b>Law committee recommended to clarify through a Circular that:</b></p> <ul style="list-style-type: none"> <li>▪ The advertising company is involved in the main supply of advertising services, including resale of media space to the foreign client, on principal-to-principal basis and <b>does not appear to fulfil the criteria of “intermediary”</b> under section 2(13) of the IGST Act and the said circular dated 20.09.2021.</li> <li>▪ The <b>recipient of the advertising services provided by the advertising company is the foreign client</b>, and not the Indian representative of the foreign client based in India or the target audience of the advertisements in India, as per section 2(93) of the CGST Act, 2017.</li> </ul>	<u>Agreed.</u> 

Agenda No	Issue/Proposal	Status during Officers Meeting
3(ii) [Vol 1- Pg. 168-180]	<p><b>Clarification on the place of supply of advertising services provided to foreign entities (2/2)</b></p> <ul style="list-style-type: none"> <li>The services being provided by the advertising company are neither in respect of goods being made physically available by the recipient of services, nor require physical presence of the recipient with the advertising company for availing such services, and accordingly, <b>such services cannot be considered as performance based services</b> under section 13(3) of IGST Act.</li> <li>Accordingly, the place of supply of such advertising services does not appear to be covered under any of the provisions of sub-sections (3) to (13) of the Section 13 of the IGST Act, 2017, and therefore, <b>place of supply of the such advertising services shall be the location of the said foreign client, i.e., outside India, as per Section 13(2) of IGST Act, 2017.</b></li> <li>However, in cases where <b>advertising company acts merely as an agent of foreign client</b> for arranging media space from media owner, and does not provide services on principal to principal basis, the <b>advertisement company would be treated as “intermediary”</b> in accordance with section 2(13) of IGST Act and <b>place of supply of such services</b> provided by the advertisement company would be <b>determinable as per section 13(8)(b) of IGST Act</b>, i.e., the place of location of the advertisement company.</li> </ul>	Agreed

Agenda No	Issue/Proposal	Status during Officers Meeting
3(iii) [Vol 1- Pg. 181-185]	<p><b>Amendment in CGST Rules, 2017 Tribunal</b></p> <p><b>Issue I: Consequential Amendment in Form REG-20 &amp; REG-31 due to amendment in rule 10A, 21(h) and 21(i) of CGST Rules</b></p> <ul style="list-style-type: none"> <li>The Law Committee recommended amendments in <b>FORM GST REG-20 &amp; FORM GST REG-31</b> accordingly.</li> </ul>	<p><u>Agreed.</u></p> <p>State of Punjab mentioned that the number of days within which the bank details have to be submitted after registration may be reduced to 15 days. It was observed that the same required detailed examination by the Law Committee and Punjab was accordingly requested to send a proposal in this regard to the Law Committee.</p> <p>State of Tamil Nādu mentioned that in FORM GST REG-20, the words ‘jurisdictional officer’ and ‘jurisdictional tax officer’ may be replaced with the word ‘proper officer’, in order to align the same with the Act. It was discussed that if the suggestion of Tamil Nādu is agreed, similar changes may also be required in a number of other forms, and therefore the issue is required to be comprehensively examined by the Law Committee, regarding need for any such amendment as suggested by Tamil Nādu.</p>



Agenda No	Issue/Proposal	Status during Officers Meeting
<b>3(iii)</b> [Vol 1- Pg. 186-187]	<p><b>Issue II : Amendment in FORM INS-01 in the light of enactment of Bharatiya Nyaya Sanhita (BNS), 2023</b></p> <ul style="list-style-type: none"> <li>Law Committee recommended amendment in <b>FORM GST INS-01</b> to replace the references to various sections of IPC, 1860 in the said form with that of BNS</li> </ul>	<a href="#">Agreed.</a>

Agenda No	Issue/Proposal	Status during Officers Meeting
<b>3(iii)</b> [Vol 1- Pg. 188-195]	<p><b>Issue III : Amendment in Rules and Forms due to insertion of section 74A in CGST Act, 2017</b></p> <ul style="list-style-type: none"> <li>Law Committee recommended <b>consequential amendments in rule 36(3), rule 88B(1), rule 88D(3), rule 96B(1), rule 121 and rule 142 of CGST Rules, 2017 and FORM GST DRC-01A.</b></li> <li>Law Committee also recommended that in the dropdown option for “<b>Section / sub-section under which SCN is being issued</b>” in <b>FORM GST DRC-01</b> on the common portal, option for ‘Issuance of demand under section 74A(1) read with section 74A(5(i))’ and ‘Issuance of demand under section 74A(1) read with section 74A(5(ii))’ may also be provided, <b>so as to differentiate between the cases where fraud, suppression, misrepresentation of facts is involved and where not involved.</b></li> </ul>	<a href="#">Agreed.</a>

Agenda No	Issue/Proposal	Status during Officers Meeting
3(iv) [Vol 1- Pg. 196- 203]	<p><b>Clarification regarding the availability of Input Tax Credit on demo vehicles by the dealers of the vehicle manufacturers (1/2)</b></p> <p><b>The Law Committee recommended that the issues may be clarified through a circular as below:</b></p> <ul style="list-style-type: none"> <li>As demo vehicles are used by the dealers to provide trial run and to demonstrate features of the vehicle to potential buyers, it helps the potential buyers to make a decision to purchase a particular kind of motor vehicle. <ul style="list-style-type: none"> <li>✓ Therefore, as demo vehicles promote sale of similar type of motor vehicles, they can be considered as <b>being used for making ‘further supply of such motor vehicles’</b>.</li> <li>✓ Accordingly, <b>input tax credit in respect of demo vehicles is not blocked for the dealer under clause (a) of section 17(5) of CGST Act, as it is excluded from such blockage in terms of sub-clause (A) of the said clause.</b></li> </ul> </li> <li>However, in cases, <b>where the dealer merely acts as agent or service provider to the vehicle manufacturer for providing marketing service and for providing facility of vehicle test drive to the potential customers on behalf of the manufacturer, and is not directly involved in sale and purchase of the vehicles,</b> the demo vehicle purchased by the dealer cannot be used for making <b>‘further supply of such motor vehicles’</b>. <ul style="list-style-type: none"> <li>✓ In such cases, <b>input tax credit in respect of demo vehicles would not be available to the dealer in terms of section 17(5)(a) of CGST Act.</b></li> </ul> </li> </ul>	<p><a href="#"><u>Agreed.</u></a></p> <p>A view emerged that there may also be a need of a general review of provisions of blocking of credit under Section 17(5) of CGST Act, 2017 at an appropriate time.</p>

Agenda No	Issue/Proposal	Status during Officers Meeting
3(iv) [Vol 1- Pg. 196- 203]	<p><b>Clarification regarding the availability of Input Tax Credit on demo vehicles by the dealers of the vehicle manufacturers. (2/2)</b></p> <ul style="list-style-type: none"> <li>Where such vehicles are <b>capitalized</b> in the books of accounts by the dealer, the said vehicle falls into the definition of <b>“capital goods”</b> under section 2(19) of CGST Act. <ul style="list-style-type: none"> <li>✓ As per provision of section 16(1) of CGST Act, subject to such conditions and restrictions as may be prescribed, a <b>recipient of goods is entitled to take input tax credit in respect of tax charged on the inward supply of any goods</b>, which as per definition of “goods” under section 2(52) of CGST Act, <b>includes even capital goods.</b></li> <li>✓ Accordingly, <b>availability of input tax credit on Demo vehicles is not affected by way of capitalization</b> of such vehicles in the books of account of the authorized dealers, subject to other provisions of the Act.</li> <li>✓ However, availability of <b>input tax credit (ITC)</b> in such cases would be <b>subject to the provisions of section 16(3) of CGST Act, i.e. ITC would not be available to the extent depreciation has been claimed under Income Tax Act, 1961.</b></li> </ul> </li> </ul>	<p><a href="#"><u>Agreed.</u></a></p>

Agenda No	Issue/Proposal	Status during Officers Meeting
3(v) [Vol 1- Pg. 204- 219]	<p>Providing a mechanism for implementing sub-sections (5) and (6) of Section 16 of the CGST Act, 2017 (1/4)</p> <p><b>To implement the said provisions, the Law Committee has made the following recommendations:</b></p> <ul style="list-style-type: none"> <li>▪ As the said amendments are being done retrospectively with effect from 01.07.2017, <b>the Centre may notify the said provisions of the Finance Act immediately so that the benefit of the same is made available to the taxpayers immediately.</b></li> <li>✓ Whenever States will notify the said provisions after amendment in their respective SGST Acts, they will also have to notify the said provisions retrospectively.</li> </ul>	<p><u>Agreed.</u></p> <p>State of Bihar enquired as to whether rectification will be required in respect of those orders also where the amount of ITC involved has already been fully recovered .</p> <p>In this regard, it was discussed that while there will be no restriction on rectification of orders in such cases, however no refund of tax paid or recovered already will be available as per Section 150 of Finance (No. 2) Act, 2024.</p>

Agenda No	Issue/Proposal	Status during Officers Meeting
3(v) [Vol 1- Pg. 204- 219]	<p>Providing a mechanism for implementing sub-sections (5) and (6) of Section 16 of the CGST Act, 2017 (2/4)</p> <ul style="list-style-type: none"> <li>▪ <b>In respect of cases,</b> <ul style="list-style-type: none"> <li>✓ where demand notice has not been issued; or</li> <li>✓ where demand notice has been issued but order has not been issued by the adjudicating authority; or</li> <li>✓ where order has been issued and appeal has been filed but no appeal order has been issued; or</li> <li>✓ where order has been issued and revision proceedings have been initiated has been filed but no order has been issued by the revisional authority,</li> </ul> </li> </ul> <p><b>the concerned proper officer/ adjudicating officer/ appellate authority/ revisional authority may decide the case by taking into consideration the said provisions of sub-section (5) and sub-section (6) of section 16 of CGST Act.</b></p>	<p><u>Agreed.</u></p> <p>State of Andhra Pradesh mentioned that in para 4 of the proposed circular, it may be added that the restriction on refund under Section 150 of Finance (No. 2) Act, 2024, is not applicable on the amount paid as pre-deposit for filing of appeals. Accordingly, it was suggested to add the following at the end of para 4 of the draft circular:</p> <p><b>“However, it is clarified that said restriction on refund under section 150 of the Finance (No. 2) Act, 2024 will not apply to the refund of an amount paid as pre-deposit by the taxpayer as per sub-section (6) of section 107 or sub-section (8) of section 112 of the CGST Act, at the time of filing of an appeal, where such appeals are decided in favor of the said taxpayer. ”</b></p>



Agenda No	Issue/Proposal	Status during Officers Meeting
<b>3(v)</b> [Vol 1- Pg. 204-219]	<p><b>Providing a mechanism for implementing sub-sections (5) and (6) of Section 16 of the CGST Act, 2017 (3/4)</b></p> <ul style="list-style-type: none"> <li>▪ In respect of cases,               <ul style="list-style-type: none"> <li>✓ where demand order has been issued confirming the demand but where no appeal has been filed with the appellate authority yet, or</li> <li>✓ where appeal order has been issued by the appellate authority or order has been issued by the revisional authority but no appeal has been filed with Appellate Tribunal yet,</li> </ul> </li> <li>and the benefit of <b>sub-section (5) and sub-section (6) of section 16 of CGST Act is now available, a special procedure for rectification of the said orders</b> under section 148 of the CGST Act to be followed by such class of taxable persons may be notified.</li> <li>▪ The said special procedure to provide <b>for filing of application for rectification of the order by the taxpayer on the common portal within six months</b> of issuance of the notification for the special procedure.</li> <li>▪ <b>Proper officer to take decision</b> and pass order in respect of such rectification application <b>within three months from date of filing such application, as far as possible.</b></li> <li>▪ The said <b>notification for special procedure may be issued by the Centre immediately</b> on notifying the above mentioned provisions of the Finance Act.</li> <li>▪ Whenever the States will issue similar notification under their respective SGST Acts, they may also issue the same with effect from the date on which Centre issues the said notification.</li> </ul>	<a href="#">Agreed.</a>

Agenda No	Issue/Proposal	Status during Officers Meeting
<b>3(v)</b> [Vol 1- Pg. 204-219]	<p><b>Providing a mechanism for implementing sub-sections (5) and (6) of Section 16 of the CGST Act, 2017 (4/4)</b></p> <ul style="list-style-type: none"> <li>➤ To <b>clarify through a circular</b> various issues pertaining to implementation of the provisions of sub-section (5) or sub-section (6) of section 16 of the CGST Act.</li> <li>➤ An <b>MIS may be made available by GSTN for tax authorities <i>inter alia</i></b> including the number of cases where rectification application filed, number of cases where application is disposed of and number of cases where the application is pending for more than three months, enabling them to monitor the progress of the action taken by the tax officers in respect of the applications for rectification filed under the above special procedure.</li> </ul>	<a href="#">Agreed.</a>

Agenda No	Issue/Proposal	Status during Officers Meeting
<b>3(vi)</b> [Vol 1- Pg. 220- 231]	<p><b>Clarification on place of supply in case of data hosting services provided by service providers located in India to cloud computing service providers located outside India (1/2)</b></p> <ul style="list-style-type: none"> <li>• Law committee recommended to issue a circular to clarify that:               <ul style="list-style-type: none"> <li>✓ Data hosting services provided by data hosting service provider to its overseas cloud computing service providers cannot be considered as intermediary services and hence, the place of supply of the same cannot be determined as per section 13(8)(b) of IGST Act.</li> <li>✓ Data hosting services provided by data hosting service provider to the said cloud computing service providers cannot be considered in relation to the goods “made available” by the said cloud computing service providers to the data hosting service provider in India and hence, the place of supply of the same cannot be determined under section 13(3)(a) of the IGST Act.</li> <li>✓ Data hosting services cannot be considered as services provided directly in relation to immovable property or physical premises and hence, the place of supply of such services cannot be determined under section 13(4) of IGST Act.</li> </ul> </li> </ul>	<u>Agreed.</u>

Agenda No	Issue/Proposal	Status during Officers Meeting
<b>3(vi)</b> [Vol 1- Pg. 220- 231]	<p><b>Clarification on place of supply in case of data hosting services provided by service providers located in India to cloud computing service providers located outside India (2/2)</b></p> <ul style="list-style-type: none"> <li>• Law committee recommended to issue a circular to clarify that:               <ul style="list-style-type: none"> <li>✓ Place of supply for the data hosting services provided by the data hosting service provider in India to overseas cloud computing service providers does not fit into any specific provisions outlined in sections 13(3) to 13(13) of the IGST Act, 2017.</li> <li>✓ The place of supply of the said services therefore needs to be determined as per the default provision under section 13(2) of the IGST Act, i.e. the location of the recipient of the services.</li> <li>✓ Since the overseas cloud computing service providers receiving the data hosting services are located outside India, the place of supply of the said services is to be considered as outside India according to section 13(2) of the IGST Act, 2017.</li> </ul> </li> </ul>	<u>Agreed.</u>



Agenda No	Issue/Proposal	Status during Officers Meeting
3(vii) [Vol 3- Pg. 07-47]	<p><b>Amendment in CGST Rules, 2017 and relevant forms subsequent to insertion of Section 128A and the clarification on various related issues (1/2)</b></p> <ul style="list-style-type: none"> <li>Law Committee has made the following recommendations to implement the provisions of section 128A of CGST Act: <ul style="list-style-type: none"> <li>✓ <b>Insertion of a new Rule 164</b> in CGST Rules to prescribe the procedure and conditions from conclusion of proceedings under sub-section (1) of section 128 A of CGST Act.</li> <li>✓ <b>Insertion of seven new Forms</b>, viz FORM GST SPL -01, FORM GST SPL -02, FORM GST SPL -03, FORM GST SPL -04, FORM GST SPL -05, FORM GST SPL -05A, FORM GST SPL -06 and FORM GST SPL -07 in CGST Rules.</li> </ul> </li> <li>Law Committee also recommended: <ul style="list-style-type: none"> <li>✓ <b>Issuance of a circular to clarify the procedure</b> to be followed by the taxpayers and the tax officers in order to avail and implement the benefit provided under Section 128A of the CGST Act and <b>to clarify various issues</b> related to implementation of the said provisions.</li> </ul> </li> </ul>	<p><u>Agreed.</u></p> <p>State of Tamil Nādu mentioned that in the undertaking to be provided in FORM GST SPL-01, instead of the word 'order', the same should be 'notice'.</p> <p>The said suggestion was agreed to.</p> <p>It was discussed that instructions may be issued by the tax administrations to their officers not to pursue recovery of interest and penalty, in cases where entire due tax amount has been deposited, and where such interest and penalty are eligible for waiver under Section 128A of CGST Act, 2017.</p>

Agenda No	Issue/Proposal	Status during Officers Meeting
3(vii) [Vol 3- Pg. 07-47]	<p><b>Amendment in CGST Rules, 2017 and relevant forms subsequent to insertion of Section 128A and the clarification on various related issues (2/2)</b></p> <ul style="list-style-type: none"> <li>Law Committee also recommended: <ul style="list-style-type: none"> <li>✓ <b>Issuance of a notification under sub-section (1) of Section 128A of CGST Act</b> in order to provide for a date on or before which the payment of tax may be made by different class of registered persons, to avail the benefit of waiver of interest or penalty or both provided under Section 128A of the CGST Act. <ul style="list-style-type: none"> <li>The date under the said notification may also be decided by the Council.</li> </ul> </li> </ul> </li> <li><b>The Council may decide the date on which provisions of section 146 of Finance (No.2) Act, 2024 may be notified so as to bring into effect section 128A of CGST Act.</b></li> <li><b>The Council may also decide about the dates from which other provisions of Finance (No.2) Act, 2024 may be notified (other than Section 118 and Section 150 of Finance (No. 2) Act, 2024.</b></li> </ul>	<p><u>Agreed.</u></p> <p>In the officers' meeting, it was recommended that Section 128A of CGST Act and other sections of Finance (No.2) Act, 2024 may be notified w.e.f. 1<sup>st</sup> November 2024, by Centre as well as States.</p> <p>Further, the date on or before which the payment of tax may be made, may be notified as 31<sup>st</sup> March, 2025, under Section 128A(1) of CGST Act, 2017.</p>

THANK YOU

54<sup>th</sup> GST Council Meeting

Recommendations of Fitment Committee  
on  
Goods and Services

9<sup>th</sup> September, 2024

Summary of Discussion  
in  
Officers' meeting  
on  
Recommendations of Fitment Committee



## Agenda Items

- **Total 57 issues examined**

- Goods : 13
- Services: 44

## Goods

- **Total 13 issues examined**

- Recommendations for making **changes** in GST rates/ issuing clarifications- **6**

[Agenda 4 (a) : Vol-I: Annexure-I :pages 233 to 238]

[‘As is where is’ basis-Agenda 4 (g) : Vol-III: page 56]

- Recommendations for making **no change** - **7**

[Agenda 4 (b):Vol-I: Annexure-II: pages 239-244]

## Services

- **Total 44 issues examined**

- Recommendations for making **changes** in GST rates/ issuing clarifications- **20**

[Vol. I, Agenda Item 4, Annexure-IV :pages 245 to 303]

[Vol. III, Agenda Item 4(c )(Part-II), Annexure-IV :pages 49 to 52]

- Recommendations for making **no change** - **15**

[Vol. I, Agenda Item 4, Annexure-V :pages 304 to 333]

- Issues **deferred** for further examination - **9**

[Vol. I, Agenda Item 4, Annexure-VI :pages 334 to 345]

[Vol. III, Agenda Item 4(e)(Part-II), Annexure-IV :pages53-55]

## Services

- Status update on the taxation of supplies in casinos, horse racing & online gaming for information of the Council.

[Vol. I, Agenda Item 4, Annexure-VI :pages 334 to 345]

- Status update on Group of Ministers (GoM) on boosting real estate sector under GST regime for information of the Council.

[Vol. III, Agenda Item 4(j)(Part-II) :pages 60-63]

## Recommendations of the Fitment Committee:

### Goods

#### Goods- Change recommended (1/ 5) :

Agenda No.	Issue/Proposal	Status after officers' meeting
4 (a) (Annexure-I) <a href="#">S. No. 1</a> Vol-I: Page Nos. 233-234	<ul style="list-style-type: none"> <li>➤ Request to issue clarification on classification of Roof Mounted Package Unit (RMPU) Air Conditioners for railways as to whether these goods fall under heading 8607 (<i>including parts of railways or tramway locomotives</i>) with 18% GST or under heading 8415 (including air-conditioning machines) with 28% GST, due to contradictory AAR rulings.</li> <li>➤ The Fitment Committee observed that there is no ambiguity in the classification . However, in order to make it explicitly clear, recommended to issue a clarification that Roof Mounted Package Unit (RMPU) Air Conditioning Machines for Railways would be classified under HSN 8415 attracting a GST rate of 28 %.</li> </ul>	Agreed in Officers Meeting
4(a) (Annexure-I) <a href="#">S. No. 2</a> Vol-I: Page Nos. 235	<ul style="list-style-type: none"> <li>➤ Request to clarify as to whether car seats are classifiable under CTH 9401 or CTH 8708.</li> <li>➤ The Fitment Committee observed that there is no ambiguity in the GST rate on car seats which are classifiable under 9401 attracting 18% and recommended to clarify the same.</li> <li>➤ The Fitment Committee also recommended to prospectively prescribe a uniform rate of 28% for car seats of motor cars as it is leviable for car seats of motorcycles by amending the notification, for the sake of parity.</li> </ul>	Agreed in Officers Meeting

**Goods- Change recommended (2/5) :**

Agenda No.	Issue/Proposal	Status after officers' meeting
4(a) (Annexure-I) <a href="#">S. No. 3</a> Vol-I: Page Nos. 235-237	<ul style="list-style-type: none"> <li>➤ Based on recommendation of GST Council in its 48<sup>th</sup> meeting, it was clarified that snack pellets manufactured through process of extrusion appropriately classifiable under tariff item 1905 90 30, which covers goods with description 'Extruded or expanded products, savoury or salted', and thereby attract GST at the rate of 18%</li> <li>➤ In 50<sup>th</sup> meeting, GST rate on un-fried or un-cooked snack pellets, manufactured through process of extrusion, classifiable under HS 19059030 was reduced to 5%.</li> <li>➤ Request is to reduce GST rate on extruded snack pellets in ready-to-eat form from 18% to 12% and clarify that they will attract 12% GST under HS 210690 (namkeens entry).</li> </ul>	<p>➤ <b>Agreed in Officers Meeting.</b></p> <p><b>While agreeing to the proposal , in light of suggestions to look into the sector as a whole to simplify / reduce complexity to avoid disputes. it was agreed this may be referred to Fitment Committee.</b></p> <p>➤ <b>Maharashtra:</b> Rate for pre-packaged items and other than pre-packaged items should be separate. Keep packaged items at a higher rate.</p> <p>➤ <b>Kerala:</b> Rather than taxing based on pre-packaged or not, food products should be taxed on whether they are essential or non-essential. Non-essential food products should be taxed at a higher rate.</p>

**Goods- Change recommended (2/5) :**

Agenda No.	Issue/Proposal	Status after officers' meeting
4(a) (Annexure-I) <a href="#">S. No. 3</a> Vol-I: Page Nos. 235-237	<ul style="list-style-type: none"> <li>➤ To obviate disputes, Fitment Committee recommended to reduce GST rate on extruded or expanded products, savoury or salted (other than un-fried or un-cooked snack pellets manufactured through process of extrusion) falling under HS 19059030 to 12% at par with namkeens, bhujia, mixture, chabena (pre-packaged and labelled) or similar edible preparation in ready for consumption form.</li> <li>➤ Fitment Committee also recommended to clarify that for the past period 18% rate is applicable and 12% rate is applicable only prospectively.</li> </ul>	<p>It was also agreed that matter of whether to regularise past practice may be referred to Fitment Committee</p>

**Goods- Change recommended (3/5) :**

Agenda No.	Issue/Proposal	Status after officers' meeting
4(a) (Annexure-I) <a href="#">S. No. 4</a> Vol-I: Page Nos. 237-238	<p>➤ Request is to reduce rate on metal scrap from 18% to 5% (with ITC) /2% (without ITC)/ 5% or 18% (under RCM) ; Exempt when sold by dealers and RCM in last leg when sold to manufacturers or 5% or 1% without ITC for traders only; or wholesaler to manufacture-option of 18% under FCM or 5% under RCM.</p> <p>➤ The issue of rate reduction on metal scrap from 18% to 5% has already been decided in 47th GST Council meeting.</p> <p>➤ The only issue referred to Fitment Committee is regarding levy of GST on RCM basis and Council also recommended that State of Punjab could be invited for deliberations.</p> <p align="right"><i>contd....</i></p>	

**Goods- Change recommended (3/5) :**

Agenda No.	Issue/Proposal	Status after officers' meeting
4(a) (Annexure-I) <a href="#">S. No. 4</a> Vol-I: Page Nos. 237-238	<p>➤ The Fitment Committee recommended to :</p> <p>❖ introduce <b>TDS @ 2%</b> on supply of metal scrap by <b>registered person to registered person. (B to B)</b> and</p> <p>❖ introduce <b>RCM</b> on supply of scrap by <b>unregistered person to registered person</b> provided that:</p> <p>(a) the supplier shall take registration as and when it crosses threshold limit and accordingly, exclusion to be created in Notification 5/2017-Central tax dated 19.06.2017, and</p> <p>(b) recipient who is liable to pay under RCM shall pay tax even if supplier is under threshold limit.</p>	<p><b>Agreed in Officers meeting.</b></p> <p><b>As additional points, it was agreed to refer the following two issues raised by States for examination by the Fitment Committee:</b></p> <p>(i) Reduction of rate on scrap from 18 to 5%</p> <p>(ii) making e-way bills mandatory for all transactions of scrap irrespective of value</p> <p><b>Tamil Nadu:</b> Additionally , e-way bills to be made mandatory irrespective of value for all movements using 4 –wheelers.</p> <p><b>Punjab</b> also reiterated their request to make e-way bills mandatory for all transactions irrespective of value.</p> <p><b>Telangana:</b> Additionally, rate may also be reduced to 5%.</p>



**Goods- Change recommended (4/5) :**

Agenda No.	Issue/Proposal	Status after officers' meeting
4(a) (Annexure-I) <a href="#">S. No. 5</a> Vol-I: Page Nos. 238	<ul style="list-style-type: none"> <li>➤ Request is to reduce GST rate from 12% to 5% on three drugs used for treatment of cancer: (i)Trastuzumab Deruxtecan (ii) Osimertinib (iii) Durvalumab</li> <li>➤ These medicines are used in the treatment of lung cancer, biliary tract cancer and breast cancer.</li> <li>➤ In Union July Budget 2024-25, considering the high cost of these medicines, customs duty has been fully exempted on these drugs.</li> <li>➤ Specified drugs including certain drugs used for treatment of cancer already attract concessional GST rate of 5%.</li> <li>➤ Fitment Committee, after considering the high cost of treatment in cancer, recommended to reduce the GST rate from 12% to 5% on all the three cancer drugs.</li> </ul>	Agreed in Officers meeting

**Goods- Clarification recommended (5/5):**

Agenda No.	Issue/Proposal	Status after officers' meeting
Agenda 4 (g): Vol-III: page 56	<ul style="list-style-type: none"> <li>➤ Request is to issue a clarification on scope of regularization done on 'as is where is' basis.</li> <li>➤ <a href="#">Situations</a> where 'as is where is' basis regularization has been recommended: <ul style="list-style-type: none"> <li>❖ where genuine doubts have arisen as there are two competing entries with different rates in the notifications</li> <li>❖ where genuine doubts have arisen due to ambiguity in the language of notifications</li> <li>❖ where issues have arisen due to diverse interpretation resulting in a situation where some suppliers have paid a lower rate of GST (including nil rate on account of an exemption entry) and some suppliers have paid a higher rate of GST</li> </ul> </li> <li>➤ Fitment Committee recommended to issue a circular to clarify the scope of 'as is where is' basis as many issues regularised in the <a href="#">past</a> do not fit within scope of <a href="#">Section 11A</a>.</li> </ul>	Agreed in Officers meeting

**Goods-No change recommended (1/5) :**

Agenda No.	Issue/Proposal	Status after officers' meeting
4(b)(Annexure-II) <a href="#">S. No. 1</a> Vol-I: Page Nos. 239	<ul style="list-style-type: none"> <li>➤ Request is to issue clarification on the rate <b>on paper sack</b> for the period 01.07.2017 to 30.09.2021</li> <li>➤ GST Council in its 45<sup>th</sup> Meeting recommended to provide uniform rate of 18% GST on all carton boxes made up of corrugated or non-corrugated boxes under heading 4819 in order to resolve the ambiguity, which was implemented wef 01.10.21. Paper sack ( 4819 30 /4819 40) always attract GST rate of 18%. Thus, after this recommendations all items of 4819 attracted 18%.</li> <li>➤ Thereafter GST Council in 53<sup>rd</sup> meeting recommended 12% on carton boxes, case of corrugated/non-corrugated falling under heading 481910 and 481920.</li> <li>➤ The Fitment Committee recommended to maintain status quo as there was no ambiguity with respect to paper sack which always attracts 18%.</li> </ul>	Agreed in Officers meeting

**Goods-No change recommended (2/5) :**

Agenda No.	Issue/Proposal	Status after officers' meeting
4(b)(Annexure-II) <a href="#">S. No. 2</a> Vol-I: Page Nos. 239-240	<ul style="list-style-type: none"> <li>➤ Request is to increase GST rate on agro shade nets to 12 % from 5%.</li> <li>➤ Agro shade nets are used to control temperature to help off season ripening of fruits and vegetables. It also acts as a windshield to prevent damage to plants. BIS recognises agro shade nets as technical textiles</li> <li>➤ Manmade filaments attract 18% GST, yarn attracts 12% GST and fabrics attract 5% GST.</li> <li>➤ Main raw material is HDPE (High Density Poly ethylene) granules which attract 18% GST leading to inverted duty structure. Fabrics attract 5% GST.</li> <li>➤ In 45<sup>th</sup> Council meeting, the matter of inverted duty structure taken up but in 46<sup>th</sup> Council meeting, the issue was deferred and recommended that GoM on Rate Rationalisation take up the matter.</li> <li>➤ Fitment Committee recommended to maintain status quo as report on GoM on Rate Rationalisation is awaited.</li> </ul>	Agreed in Officers meeting

**Goods-No change recommended (3/5) :**

Agenda No.	Issue/Proposal	Status after officers' meeting
4(b)(Annexure-II) <a href="#">S. No. 3</a> Vol-I: Page No. 240	<ul style="list-style-type: none"> <li>➤ Request is to clarify the applicable rate of GST on Compressed Bio Gas(CBG).</li> <li>➤ Issue was deferred in 37th GST Council meeting held on 20th September 2019.</li> <li>➤ There is no separate entry for CBG. GST rate is 5% at par with bio gas.</li> <li>➤ Fitment Committee recommended that no clarification is required to be issued as it is a non-issue now.</li> </ul>	Agreed in Officers meeting
4(b)(Annexure-II) <a href="#">S. No. 4</a> Vol-I: Page No. 240	<ul style="list-style-type: none"> <li>➤ Request is to reduce the GST rate on feedstock like reformat, DHD feed, SRGO, VGO from 18% to 5%.</li> <li>➤ Matter discussed in 47th GST Council Meeting and felt revenue implication as far as the OMC's are concerned is not significant.</li> <li>➤ Fitment Committee recommended to maintain status quo.</li> </ul>	Agreed in Officers meeting

**Goods-No change recommended (4/5) :**

Agenda No.	Issue/Proposal	Status after officers' meeting
4(b)(Annexure-II) <a href="#">S. No. 5</a> Vol-I: Page Nos. 240-242	<ul style="list-style-type: none"> <li>➤ Request is to reduce rate of GST on key parts (Cathode coating, Separators) of Li-Ion battery from 28% to 18% and avoid inversion of rate of GST.</li> <li>➤ Cathodes and Separators are present in all batteries including lead-acid, nickel-cadmium, nickel-metal hydride etc</li> <li>➤ Providing concession to these goods will create distortions and will be prone to misclassification leading to disputes.</li> <li>➤ The Fitment Committee recommended to maintain status quo.</li> </ul>	Agreed in Officers meeting
4(b)(Annexure-II) <a href="#">S. No. 6</a> Vol-I: Page Nos. 242-243	<ul style="list-style-type: none"> <li>➤ Request is to reduce rate of GST on parts used in manufacture of EV from 18%/28% to 5%.</li> <li>➤ The concession for the end use of manufacturing EVs are difficult to monitor and enforce and will introduce inversion in the supply chain of such EV parts.</li> <li>➤ The same has already been deliberated by the GST Council in the 47th Meeting and no change was recommended.</li> <li>➤ The Fitment Committee recommended to maintain status quo</li> </ul>	Agreed in Officers meeting by all States barring <b>Andhra Pradesh</b> which has requested to reduce the rate to 5%.



Goods-**No change recommended (5/5) :**

Agenda No.	Issue/Proposal	Status after officers' meeting
4(b)(Annexure-II) <a href="#">S. No. 7</a> Vol-I: Page Nos. 243-244	<ul style="list-style-type: none"> <li>➤ Request is to reduce GST rate on braided elastics from 12% to 5% at par with woven and knitted elastic.</li> <li>➤ Braided Elastic is made with strands of latex rubber and textile fibres.</li> <li>➤ It is covered under HS 5604 under the entry '<i>rubber thread and cord, textile covered; textile yarn, and strip and the like of heading 5404 or 5405, impregnated coated, covered or sheathed with rubber or plastics.</i>'</li> <li>➤ As per HS Explanatory notes, HS 5604 can also cover yarn that has been surface-treated to improve its adhesion to the rubber in which it is subsequently incorporated during the manufacture of articles such as tyres, machinery belts or belting, and tubes. This HS can also cover imitation catguts consisting of textile yarn with a heavy dressing of plastics which are used in the manufacture of sports rackets, fishing lines, belts etc.</li> <li>➤ Average pre-GST rate was around 13%.</li> <li>➤ The Fitment Committee recommended to maintain status quo to avoid further inversion in tax structure.</li> </ul>	Agreed in Officers meeting  <b>Gujarat</b> requested to reduce GST rate from 12% to 5%.

Recommendations of the Fitment Committee:  
**Services**

**Services- Change recommended (20) :**

Agenda No.	Issue/Proposal	Status after officers' meeting
4(c) (Annexure-IV) <a href="#">S.No. 1</a> Vol-I: Page No. 245-246	<ul style="list-style-type: none"> <li>➤ <b>To clarify that GST @ 5% is applicable on helicopter services for pilgrims.</b></li> <li>➤ GST @ 5% will be applicable on the transport of passengers by helicopters on seat share basis.</li> <li>➤ Charter of helicopter will continue to attract 18% GST.</li> </ul>	Agreed in the Officers Meeting. To insert entry in rate notification for helicopter services on seat share basis @ 5% and to regularize the past period on as is where is basis. To also clarify that charter will continue to attract 18%.
4(c) (Annexure-IV) <a href="#">S.No. 2</a> Vol-I: Page No. 246-249	<ul style="list-style-type: none"> <li>➤ <b>To clarify whether incidental/ ancillary services such as loading, unloading, packing, unpacking, transshipment, temporary warehousing etc., provided in relation to transportation of goods by road is to be treated as part of Goods Transport Agency (GTA) service, being composite supply, or these services are to be treated as separate independent supplies.</b></li> <li>➤ Clarify that when ancillary/intermediate services are provided by GTA in the course of transportation of goods by road and the GTA also issues consignment note, the service will constitute a composite supply and all such ancillary/intermediate services like loading/unloading, packing/unpacking, transshipment, temporary warehousing etc. will be treated as part of the composite supply.</li> <li>➤ The method of invoicing used by GTAs will not generally alter the nature of the composite supply of service. However, if such services are not provided in the course of transportation of goods and invoiced separately, then these services will not be treated as composite supply of transport of goods.</li> </ul>	Agreed in the Officers Meeting

**Services- Change recommended (20) :**

Agenda No.	Issue/Proposal	Status after officers' meeting
4(c) (Annexure-IV) <a href="#">S.No. 3</a> Vol-I: Page No. 250-252	<ul style="list-style-type: none"> <li>➤ <b>To clarify that no GST is leviable on the empty tankers returning after delivering milk in case if Ro-Ro service is used for transportation of milk</b></li> <li>➤ Clarify by way of letter to the concerned authority that the transport of empty tankers returning after delivery of milk is taxable and not exempt.</li> <li>➤ Exemption on the said transport of empty tankers returning after delivery of milk was not recommended.</li> </ul>	Agreed in the Officers Meeting
4(c) (Annexure-IV) <a href="#">S.No. 4</a> Vol-I: Page No. 252-253	<ul style="list-style-type: none"> <li>➤ <b>To exempt EV charging services at public charging stations or to clarify whether the activity of charging electric vehicles (EVs) in a charging station essentially involves supply of electricity and should be chargeable at the same rate applicable to supply of electricity</b></li> <li>➤ Clarify that charging of electric vehicles at public charging stations does not include sale of electricity to any person nor does this activity involve further distribution or transmission of electricity.</li> <li>➤ Exemption from GST on electric vehicle charging at public charging stations was not recommended.</li> </ul>	Deferred for re-examination In Officers meeting

**Services- Change recommended (20) :**

Agenda No.	Issue/Proposal	Status after officers' meeting
4(c) (Annexure-IV) <a href="#">S.No. 5</a> Vol-I: Page No. 253-257	<ul style="list-style-type: none"> <li>➤ <b>To modify Circular No. 34/8/2018- GST dated 01.03.2018 in respect of taxation of ancillary services of transmission and distribution of electricity</b></li> <li>➤ Modify the Circular No. 34/8/2018 GST dated 01.03.2018 clarifying that supply of services such as application fees for providing electricity connection, rental charges against electricity meter, testing fees for meters/transformers/capacitors, labor charges from customers for shifting of meters/service lines, charges for duplicate bills etc. which are incidental, ancillary or integral to the supply of transmission and distribution of electricity by transmission and distribution utilities to their consumers, when provided as a composite supply are exempt.</li> <li>➤ SLP in the Hon'ble Supreme Court may be withdrawn simultaneously with the issuance of the above clarification after the Council's recommendation.</li> </ul>	Agreed in the Officers Meeting

**Services- Change recommended (20) :**

Agenda No.	Issue/Proposal	Status after officers' meeting
4(c) (Annexure-IV) <a href="#">S.No. 6</a> Vol-I: Page No. 257-260	<ul style="list-style-type: none"> <li>➤ <b>To clarify the applicability of GST on the affiliation fee collected by universities from affiliated colleges</b></li> <li>➤ Clarify by way of circular that the affiliation services provided by universities to their constituent colleges are not covered within the ambit of exemptions provided to educational institutions in the Notification No. 12/2017-CT(R) dated 28.06.2017 and GST at the rate of 18% is applicable on the affiliation services provided by the universities.</li> </ul>	Agreed in the Officers Meeting.
4(c) (Annexure-IV) <a href="#">S.No. 7</a> Vol-I: Page No. 260-264	<ul style="list-style-type: none"> <li>➤ <b>To clarify the applicability of GST on the affiliation fees charged by Central and State Educational Boards</b></li> <li>➤ Regularize the collection of GST on affiliation fee charged by State/Central educational boards to schools on 'as is where is' basis for the period from 01.07.2017 to 17.06.2021 i.e., the date of issuance of Circular no. 151/07/2021 clarifying that accreditation services of boards are taxable at the rate of 18%.</li> <li>➤ Prospectively, exemption may be given to affiliation services provided by State/Central educational boards to government schools.</li> </ul>	Agreed in the Officers Meeting. Exemption may be extended to educational councils and similarly placed bodies which affiliate with Government schools.

**Services- Change recommended (20) :**

Agenda No.	Issue/Proposal	Status after officers' meeting
4(c) (Annexure-IV) <a href="#">S.No. 8</a> Vol-I: Page No. 264-269	<ul style="list-style-type: none"> <li>➤ <b>To clarify the applicability of GST on approved flying training courses conducted by Flying Training Organizations (FTOs) approved by DGCA</b></li> <li>➤ Clarify by way of a circular that approved flying training courses conducted by DGCA approved Flying Training Organizations are exempt from GST.</li> </ul>	Agreed in the Officers Meeting. Punjab to send request regarding taxing flying training courses other than those given to students.
4(c) (Annexure-IV) <a href="#">S.No. 9</a> Vol-I: Page No. 269-272	<ul style="list-style-type: none"> <li>➤ <b>To replace National Council for Vocational Training (NCVT) with National Council for Vocational Education and Training (NCVET) in the Notification No. 12/2017-CT(R) dated 28.06.2017 and include the services provided by the recognized Awarding Bodies, Assessment Agencies, Training Bodies and Skill Related Information Providers approved by NCVET in the exempted list.</b></li> <li>➤ Amendments required in SL Nos. 69, 71 and para 2(h) of Notification No. 12/2017-CT(R) dated 28.06.2017 may be made to align the said entries with the revised vocational education and training framework set up under the NCVET.</li> <li>➤ To continue the exemption to NSDC in its present form.</li> <li>➤ The proposal of MSDE in relation to exempting activities of Skill Related Information Providers (SRIPs) may not be accepted since no such exemption exists currently.</li> </ul>	Agreed

**Services- Change recommended (20) :**

Agenda No.	Issue/Proposal	Status after officers' meeting
4(c) (Annexure-IV) <a href="#">S.No. 10</a> Vol-I: Page No. 272-275	<ul style="list-style-type: none"> <li>➤ <b>To clarify that for the period prior to 01.10.2021, the tax rate applicable is 12% where the film distributor or sub-distributor acts on a principal basis to acquire and distribute films.</b></li> <li>➤ Regularize the GST liability for the past period prior to 01.10.2021 on 'as is where is' basis, where the film distributor or sub-distributor acts on a principal basis to acquire and distribute films.</li> </ul>	Agreed in the Officers Meeting
4(c) (Annexure-IV) <a href="#">S.No. 11</a> Vol-I: Page No. 275-279	<ul style="list-style-type: none"> <li>➤ <b>To clarify taxability on Preferential Location Charges (PLC) collected along with consideration for sale/ transfer of constructed/ under-constructed residential/commercial properties.</b></li> <li>➤ Clarify that Location charges or Preferential Location Charges (PLC) paid along with the consideration for the construction services of residential/commercial/industrial complex before issuance of completion certificate forms part of composite supply where supply of construction services is the main service and PLC is naturally bundled with it and are eligible for same tax treatment as the main supply i.e., construction service.</li> </ul>	Agreed in the Officers Meeting



**Services- Change recommended (20) :**

Agenda No.	Issue/Proposal	Status after officers' meeting
4(c) (Annexure-IV) <a href="#">S.No. 12</a> Vol-I: Page No. 279-282	<ul style="list-style-type: none"> <li>➤ <b>To ascertain value of land for deciding value of construction services in case of sale of commercial / residential apartments.</b></li> <li>➤ Draft Valuation Rules to ascertain the value of land for deciding the value of construction services in sale of commercial/residential apartments to be based on the notified circle rates wherever available or where the circle rates are not available, then value of land may be deemed.</li> <li>➤ Law Committee to make necessary amendment as agreed in Rule 32 of CGST Rules, 2017 .</li> </ul>	Agreed in the Officers Meeting Draft Rules were presented in Officers Meeting and it was recommended to place the same before Council for approval
4(c) (Annexure-IV) <a href="#">S.No. 13</a> Vol-I: Page No. 282-286	<ul style="list-style-type: none"> <li>➤ <b>To levy GST on renting of commercial property by unregistered person to registered person on Reverse Charge Mechanism (RCM) basis.</b></li> <li>➤ Bring renting of commercial property by unregistered person to registered person under RCM.</li> </ul>	Agreed in the Officers Meeting

**Services- Change recommended (20) :**

Agenda No.	Issue/Proposal	Status after officers' meeting
4(c) (Annexure-IV) <a href="#">S.No. 14</a> Vol-I: Page No. 286-290	<ul style="list-style-type: none"> <li>➤ <b>To clarify applicability of GST on sale of participating interest in case of farm-in farm out contracts in oil and gas exploration sector.</b></li> <li>➤ Clarify that sale of participating interest in farm-in and farm-out contracts is taxable.</li> </ul>	Deferred in light of fresh request received from the Ministry of Petroleum & Natural Gas in Officers Meeting
4(c) (Annexure-IV) <a href="#">S.No. 15</a> Vol-I: Page No. 290-292	<ul style="list-style-type: none"> <li>➤ <b>To clarify whether exemption under entry 34 of notification No. 12/2017-CTR dated 28.06.2017 is available to payment aggregators for transactions transacted through credit card, debit card, charge card or other payment cards over digital networks up to Rs. 2000/-</b></li> <li>➤ Clarify that the services provided by payment aggregators in relation to the transaction transacted through credit card, debit card, charge card or other payment cards over digital networks upto Rs. 2000/- are not eligible for exemption under entry at Sl. No. 34 of the notification No.12/2017-CTR dated 28.06.2017 and are taxable.</li> </ul>	Agreed in the Officers Meeting

**Services- Change recommended (20) :**

Agenda No.	Issue/Proposal	Status after officers' meeting
4(c) (Annexure-IV) <a href="#">S.No. 16</a> Vol-I: Page No. 292-295	<p>➤ <b>To clarify whether concession amount paid to NHAI by concessionaire for grant of rights under Toll Operate and Transfer model (TOT) is liable to GST or not, as toll is exempt under Notification- 12/2017 - Central Tax (Rate) dated 28.06.2017.</b></p> <p>➤ Clarify that the concession amount paid to NHAI by concessionaire is taxable and not covered under entry at Sl. No. 23 of Notification No. 12/2017-CT(R).</p>	Deferred for re-examination in officers meeting

**Services- Change recommended (20) :**

Agenda No.	Issue/Proposal	Status after officers' meeting
4(c) (Annexure-IV) <a href="#">S.No. 17</a> Vol-I: Page No. 295-298	<p>➤ <b>Applicability of GST on Research grants or donations received from Government or private agencies</b></p> <p>➤ To grant exemption to the following service under heading 9981: <i>Supply of research and development services by-</i>  <i>(a) a Government Entity; or</i>  <i>(b) a research association, university, college or other institution, notified under clauses (ii) or (iii) of sub-section (1) of section 35 of the Income Tax Act, 1961</i>  <i>to Central Government, State Government, Union territory, local authority or Government Entity against consideration received from them in the form of grants.</i></p> <p>➤ A condition may also be inserted stating that a research association, university, college or other institution shall be eligible for the exemption only if it is duly notified under section 35 of the Income Tax Act, 1961 at the time of supply of the research service.</p> <p>➤ Past cases may be regularized on 'as is where is' basis.</p>	Agreed in the Officers Meeting. Fitment Committee to examine the taxability of pure research carried out for the wider public good.

**Services- Change recommended (20) :**

Agenda No.	Issue/Proposal	Status after officers' meeting
4(c) (Annexure-IV) <a href="#">S.No. 18</a> Vol-I: Page No. 298-303	<p>➤ <b>To clarify that GST is not applicable on import of services by an establishment of a foreign airlines company from a related person or any of its establishment outside India OR Any other relief mechanism or amendment effective from 01.07.2017 that meets the request.</b></p> <p>➤ Exempt import of services by an establishment of a foreign airlines company from a related person or any of its establishment outside India, when made without consideration</p> <p>➤ Regularize the past period on 'as is where is' basis.</p>	Agreed in the Officers Meeting

**Services- Change recommended (20) :**

Agenda No.	Issue/Proposal	Status after officers' meeting
4(c) (Part II) (Annexure-IV) <a href="#">S.No. 19</a> Vol-III: Page No. 49-51	<p>➤ <b>To reduce or exempt the GST paid by individuals on health insurance premiums</b></p> <p>➤ Following options were discussed (<i>revenue implication indicated against each</i>):</p> <p>a)Exempting all individual health insurance premiums (<i>Rs. 3,495 crores</i>);</p> <p>b)Exempting individual health insurance premiums which are paid by senior citizens and individual health insurance premiums (irrespective of age) where the coverage is up to Rs. 5 lakhs (<i>Rs. 2,110 crores</i>);</p> <p>c)Exempting only those individual health insurance premiums which are paid by senior citizens (<i>Rs. 645 crores</i>); or</p> <p>d)Reducing the rate of GST on all individual health insurance services to 5% without ITC (<i>Rs. 1,730 crores</i>).</p> <p>➤ GST Council may decide from the above options and a similar benefit may be extended to reinsurance services also. It was further recommended that the GST Council may also record its desire that the benefit given in GST rates, if any, must be passed on to the policy holders.</p>	To be discussed in the Council

**Services- Change recommended (20) :**

Agenda No.	Issue/Proposal	Status after officers' meeting
4(c) (Part II) (Annexure-IV) <a href="#">S.No. 20</a> Vol-III: Page No. 51-52	<ul style="list-style-type: none"> <li>➤ <b>To reduce or exempt the GST paid by individuals on term life insurance plans</b></li> <li>➤ To exempt pure term individual life insurance policies along with reinsurance thereof.</li> <li>➤ The GST Council may also record its desire that the benefit given in GST rates, if any, must be passed on to the policy holders.</li> </ul>	To be discussed in the Council

**Services-No change recommended (15)**

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Agenda No.	Issue/Proposal	Status after officers' meeting
4(d) (Annexure-V) <a href="#">S.No. 1</a> Vol-I: Page No. 304-305	<ul style="list-style-type: none"> <li>➤ Horticulture services supporting the environmental cause should be fully exempted from GST instead of 25% due to their potential role in improving air quality</li> <li>➤ The request may not be accepted.</li> </ul>	Agreed in the Officers Meeting
4(d) (Annexure-V) <a href="#">S.No. 2</a> Vol-I: Page No. 305-306	<ul style="list-style-type: none"> <li>➤ To reconsider 5% GST applicable on all bus bookings through e-commerce platforms.</li> <li>➤ The request may not be accepted.</li> </ul>	Agreed in the Officers Meeting
4(d) (Annexure-V) <a href="#">S.No. 3</a> Vol-I: Page No. 306-307	<ul style="list-style-type: none"> <li>➤ To include "any body corporate" or "corporation" established under any State Act or Central Act or a "Government company" for purpose of exclusion under Section 9(5) of CGST Act, 2017.</li> <li>➤ The request may not be accepted.</li> </ul>	Agreed in the Officers Meeting



### Services-No change recommended (15)

Agenda No.	Issue/Proposal	Status after officers' meeting
4(d) (Annexure-V) <a href="#">S.No. 4</a> Vol-I: Page No. 308-311	<ul style="list-style-type: none"> <li>➤ To clarify that the delivery services provided by the delivery partners through Electronic Commerce Operator (ECO) are not taxable due to providers being below the threshold of Rs. 20 lakhs OR to bring delivery services made in respect of those supplies made through ECOs under section 9(5) of CGST Act, 2017 with prospective effect and these delivery services may be taxed at 5%.</li> <li>➤ Both the above requests do not merit consideration and hence may not be accepted.</li> </ul>	Deferred for further examination in Officers meeting
4(d) (Annexure-V) <a href="#">S.No. 5</a> Vol-I: Page No. 311-313	<ul style="list-style-type: none"> <li>➤ To clarify that prior to 01.10.2021, GST @5% paid on job work activities qua alcoholic beverages be treated as fully GST paid and no recovery of differential tax, over and above 5%, should arise.</li> <li>➤ The request may not be accepted.</li> </ul>	Agreed in the Officers Meeting
4(d) (Annexure-V) <a href="#">S.No. 6</a> Vol-I: Page No. 313-315	<ul style="list-style-type: none"> <li>➤ To exempt GST on Health Insurance premium for Persons with Mental Illness (PMI) which is a scheduled Disability under the Rights of Persons with Disabilities Act 2016 (RPWD Act).</li> </ul>	Agreed in officers meeting to take up the matter as part of agenda on Health Insurance

### Services-No change recommended (15)

Agenda No.	Issue/Proposal	Status after officers' meeting
4(d) (Annexure-V) <a href="#">S.No. 7 &amp; 8</a> Vol-I: Page No. 315-322	<ul style="list-style-type: none"> <li>➤ <b>Law Committee has referred the following four matters to Fitment Committee:</b> <ul style="list-style-type: none"> <li>▪ To prescribe End-use certification system / form for notification No. 12/2017-CT (Rate) [entry no. 3], which exempts pure services provided to Government, Local Authority in relation to Municipality functions.</li> <li>▪ Request to clarify that the service of hiring manpower for providing services of Health, Public Garden, Promotion of education etc. are the functions entrusted to Municipality under Article 243W of the Constitution</li> <li>▪ To clarify that the service of "Enumeration &amp; Supervision" provided by the implementing agency, i.e. CSC-SPV, to MoSPI is exempt from GST under exemption entry 3 of notification No. 12/2017-CT(R) dated 28.06.2017</li> <li>▪ To clarify that the services of spatial planning study, provided by the institutes to Ministry of Panchayati Raj is exempt from GST under exemption entry at Sl. No. 3 of notification No. 12/2017-CT(R) dated 28.06.2017.</li> </ul> </li> <li>➤ <b>To clarify about liability of GST on Man Power Supply Services received by Panchayats, Municipalities and local bodies.</b></li> <li>➤ No further clarifications are required on this issue and hence the requests may not be accepted.</li> </ul>	Agreed in the Officers Meeting

### Services-No change recommended (15)

Agenda No.	Issue/Proposal	Status after officers' meeting
4(d) (Annexure-V) <a href="#">S.No. 9</a> Vol-I: Page No. 322-325	<ul style="list-style-type: none"> <li>➤ Writ Petition (C) No. 2036/2019 before Hon'ble Delhi High Court has been filed by an Association of Private Security Industry wherein, they have inter-alia contested the exclusion of body corporates from making payment under Reverse Charge Mechanism (RCM) in respect of security services. (Entry at Sl. No. 14 of the Notification No. 13/2017-CT (R).</li> <li>➤ The request may not be accepted.</li> </ul>	Agreed in the Officers Meeting
4(d) (Annexure-V) <a href="#">S.No. 10</a> Vol-I: Page No. 325-326	<ul style="list-style-type: none"> <li>➤ To exempt GST on the services provided by Goethe Institutes/Max Mueller Bhavans, funded by the German Federal Foreign Office, in India for the period from 01.07.2017 to 31.03.2023.</li> <li>➤ The request may not be accepted.</li> </ul>	Agreed in the Officers Meeting
4(d) (Annexure-V) <a href="#">S.No. 11</a> Vol-I: Page No. 326-328	<ul style="list-style-type: none"> <li>➤ Request to exclude the Legislative Area Development Fund from the ambit of GST.</li> <li>➤ The request may not be accepted.</li> </ul>	Agreed in the Officers Meeting

### Services-No change recommended (15)

Agenda No.	Issue/Proposal	Status after officers' meeting
4(d)(Annexure-V) <a href="#">S.No. 12</a> Vol-I: Page No. 328-329	<ul style="list-style-type: none"> <li>➤ On helicopters uniform rate of 5% GST should be charged on purchases charter and all services rendered by helicopters including rental paid for hangarage.</li> <li>➤ The request may not be accepted.</li> </ul>	Agreed in the Officers Meeting
4(d) (Annexure-V) <a href="#">S.No. 13</a> Vol-I: Page No. 329-330	<ul style="list-style-type: none"> <li>➤ Rationalize GST on cargo services from 18% to 5% to bring it in line with other services.</li> <li>➤ The request may not be accepted.</li> </ul>	Agreed in the Officers Meeting

### Services-**No change recommended (15)**

:

Agenda No.	Issue/Proposal	Status after officers' meeting
4(d)(Annexure-V) <a href="#">S.No. 14</a> Vol-I: Page No. 330-332	<ul style="list-style-type: none"> <li>➤ To clarify whether ITC of other business verticals can be used to discharge GST on outward liability in respect of restaurant service given the restriction of input tax credit as specified in Notification No. 11/2017-CT (Rate) dated 28.06.2017, as amended, against entry at Sl. No. 7 &amp; in 8, 9, 10, 23, 25, 31A.</li> <li>➤ This agenda has been withdrawn and hence no action is due</li> </ul>	Agreed in the Officers Meeting
4(d) (Annexure-V) <a href="#">S.No. 15</a> Vol-I: Page No. 332-333	<ul style="list-style-type: none"> <li>➤ To exempt GST on services related to water harvest scheme.</li> <li>➤ This agenda has been withdrawn and hence no action is due</li> </ul>	Agreed in the Officers Meeting

### Services- **Deferred (9) :**

Agenda No.	Issue/Proposal	Status after officers' meeting
4(e) (Annexure-VI) <a href="#">S.No. 1</a> Vol-I: Page No. 334-336	<ul style="list-style-type: none"> <li>➤ To issue clarification regarding tax liabilities being demanded from casinos and online gaming industry for the past period (i.e., for the period from 2017-2023) and to regularise the GST paid on as is where is basis for the period 01.07.2017 to 30.09.2023.</li> <li>➤ The matter may be deferred.</li> </ul>	Agreed
4(e) (Annexure-VI) <a href="#">S.No. 2</a> Vol-I: Page No. 336-336	<ul style="list-style-type: none"> <li>➤ To clarify the nature and taxability of various supplies in relation to crypto eco-system</li> <li>➤ The matter may be deferred.</li> </ul>	Agreed
4(e) (Annexure-VI) <a href="#">S.No. 3</a> Vol-I: Page No. 336-338	<ul style="list-style-type: none"> <li>➤ To clarify whether GST is applicable on charges/ fees like FSI paid by builders to local authorities under Reverse Charge Mechanism (RCM)</li> <li>➤ The matter may be deferred.</li> </ul>	Agreed

**Services- Deferred (9) :**

Agenda No.	Issue/Proposal	Status after officers' meeting
4(d) (Annexure-VI) <a href="#">S.No. 4</a> Vol-I : Page No. 338-339	<ul style="list-style-type: none"> <li>➤ To clarify that as long as transport of goods is undertaken entirely by road and the person transporting the goods issues consignment note, the service would be treated as Goods Transport Agency (GTA) service instead of courier services.</li> <li>➤ Defer the issue for more comprehensive examination.</li> </ul>	Agreed
4(d) (Annexure-VI) <a href="#">S.No. 5</a> Vol-I : Page No. 339-339	<ul style="list-style-type: none"> <li>➤ To examine the inclusion of services under the notification No. 17/2017-CTR dated 28.06.2017 under which four services have been notified on which GST is paid by Electronic Commerce Operator under section 9(5) of CGST Act, 2017.</li> <li>➤ Law Committee and Fitment Committee to jointly examine the issue. Defer the issue.</li> </ul>	Agreed

**Services- Deferred (9) :**

Agenda No.	Issue/Proposal	Status after officers' meeting
4(e) (Annexure-VI) <a href="#">S.No. 6</a> Vol-I: Page No. 339-341	<ul style="list-style-type: none"> <li>➤ To clarify whether all the services provided by an educational institution to its students, faculty and staff, irrespective of the SAC, are exempt from levy of GST.</li> <li>➤ The matter may be deferred.</li> </ul>	Agreed
4(e) (Annexure-VI) <a href="#">S.No. 7</a> Vol-I: Page No. 341-344	<ul style="list-style-type: none"> <li>➤ Harmonisation of GST Rate Schedule on Services and the Classification of Services adopted for GST</li> <li>➤ The matter may be deferred.</li> </ul>	Agreed
4(e) (Annexure-VI) <a href="#">S.No. 8</a> Vol-I: Page No. 344-345	<ul style="list-style-type: none"> <li>➤ To notify Delhi Development Authority (DDA) as a Local Authority and to remove the reference of DDA from the answer to question #5 of the "FAQs on GST in Government Services Sector"</li> <li>➤ The matter may be deferred.</li> </ul>	Agreed

## Services- Deferred (9) :

Agenda No.	Issue/Proposal	Status after officers' meeting
4(c) (Part II) (Annexure-VI) <a href="#">S.No. 6</a> Vol-III: Page No. 53-55	<ul style="list-style-type: none"> <li>➤ To amend Schedule I of the CGST Act to declare that there is no supply by Head Office of foreign shipping lines to its Indian GST registration or their agents with retrospective effect from 01.07.2017.</li> <li>➤ Since amendment to the schedule I would require completion of various legislative processes, following may be considered: <ul style="list-style-type: none"> <li>•Notification may be issued retrospectively w.e.f 01.07.2017 to grant exemption for all alleged deemed supplies from Head office of Foreign shipping lines to its Indian GST registrations or agents in India.</li> <li>•For ease of reporting in GST returns the value of alleged deemed supplies could also be clarified as nil.</li> <li>•The exemption notification could also be supported by decision from GST Council to conclude all investigations in the matter.</li> <li>•Once the amendments in the Schedule I of the CGST Act are completed, exemption notification may be rescinded. The process may be completed within next three months.</li> </ul> </li> <li>➤ Request for parity in treatment in respect of GST for Indian shipping industry similar to exemptions being granted to foreign shipping lines for coastal and EXIM water transport services</li> <li>➤ The issue may be deferred for more comprehensive examination and collection of data.</li> </ul>	Agreed

## Services

- Status update on the taxation of supplies in casinos, horse racing & online gaming for information of the Council.

[Vol. I, Agenda Item 4, Annexure-VI :pages 334 to 345]

- Status update on Group of Ministers (GoM) on boosting real estate sector under GST regime for information of the Council.

[Vol. III, Agenda Item 4(j)(Part-II) :pages 60-63]



Agenda 4(a) (Annexure-I): Changes in GST rates/ issuing clarification (pages-233-238)

**1. Roof mounted air conditioners for Railways [8415]: (page 233-234)**

- Currently, Goods falling under heading **8415** ( *including air-conditioning machines*) attract a GST rate of 28% vide S. No. 119 of Schedule IV of notification No. 01/2017-CT (Rate) dated 28.06.2017
- Goods falling under chapter **8607** ( *including parts of railways or tramway locomotives*) attract a GST rate of 18% vide S. No. 398G of Schedule III of notification No. 01/2017-CT (Rate) dated 28.06.2017
- From a conjoint reading of Note 2 and Note 3 of Section XVII of Customs Tariff Act, goods of heading 8401 to 8479 (which includes 415 – Air Conditioning Machines) are **excluded** from the ambit of 'parts' covered under Chapter 86.
- In view of the above, Roof Mounted Package Unit (RMPU) Air Conditioning Machines for railways would be classified under 8415 attracting a GST rate of 28%.
- **Representation received:**
  - To issue clarification on HSN classification for these goods to clear whether these goods fall under heading 8607 with 18% GST applicable or under heading 8415 with 28% GST applicable due to contradictory AAR rulings.
- **Fitment Committee recommendations:-**
  - Fitment Committee after considering Note 2(e) to Section XVII of Customs Tariff Act, 1975 and General Explanatory Notes pertaining to HSN 8607 observed that there is no ambiguity in the classification. However, to make it explicitly clear, recommended to issue a clarification that Roof Mounted Package Unit (RMPU) Air Conditioning Machines for Railways would be classified under HSN 8415 attracting a GST rate of 28%.

Agenda 4(a) (Annexure-I)

**2. Car seat assembly [9401]: (pages 235)**

- CTH 9401 covers 'Seats, whether or not convertible into beds, and parts thereof' (9401 2000 specifically covers motor vehicle). The explanatory note to this heading mentions that seats meant for vehicles are covered under the ambit of CTH 9401
- Explanatory notes related to CTH 8708 ( parts and accessories of motor vehicles) do not mention of car seats. Thus, car seat assemblies fall under CTH 9401 and consequently attract GST @ 18%.
- With regard to seats for two wheelers, explanatory notes to chapter 9401 specifically excludes items under CTH 8714 ( including parts and accessories of two-wheelers) and explanatory for chapter 8714 has a list of inclusions, which mentions Saddles (seats). Thus, for two wheelers, the seats would be classifiable under CTH 8714 attracting 28% GST.
- **Representation received:**
  - To clarify whether car seats are classifiable under CTH 9401 or 8708.
- **Fitment Committee recommendations:**
  - Fitment Committee observed that there is no ambiguity in the GST rate on car seats which are classifiable under 9401 attracting 18% and recommended to clarify the same.
  - It is also recommended to prospectively prescribe a uniform rate of 28% for car seats of motor cars as it is leviable for car seats of motorcycles by amending the notification for the sake of parity.

#### Agenda 4(a) (Annexure-I)

### 3. Extruded or expanded snack products, savoury or salted: (pages 235-237)

- GST Council, in 48<sup>th</sup> meeting, recommended to clarify that snack pellets (such as 'fryums'), manufactured through the process of extrusion, are appropriately classifiable under tariff item 19059030 thereby attracting 18% GST.
- GST Council, in 50<sup>th</sup> meeting, recommended to reduce GST rate to 5% on supply of un-fried or un-cooked snack pellets, by whatever name called, manufactured through process of extrusion, falling under CTH 1905.
- **Representation received:**
  - To reduce rate to 12% and clarify that extruded snack pellets in ready- to-eat form will attract 12% GST under HSN 210690 of entry 46 of Schedule II of the rate notification.
- **Fitment Committee recommendations:**
  - To reduce GST rate on extruded or expanded products, savoury or salted (other than un-fried or un-cooked snack pellets, by whatever name called, manufactured through process of extrusion), falling under HS 19059030 **to 12% at par with namkeens**, bhujia, mixture, chabena (pre-packaged and labelled) and similar edible preparations in ready for consumption form, classifiable under HS 2106 90.
  - To clarify that for the past period 18% rate is applicable, as was clarified by the GST Council in the 48th meeting, and that the 12% rate is applicable only **prospectively**.

#### Agenda 4(a) (Annexure-I)

### 4. Metal Scrap: (page 237-238)

- The issue of rate reduction on metal scrap from 18% to 5% has already been decided in 47th GST Council meeting.
- The only issue referred to Fitment Committee is regarding levy of GST on RCM basis and Council also recommended that State of Punjab could be invited for deliberations.
- State of Karnataka and Punjab consulted industries. After industry consultation and study, State of Karnataka observed, *inter alia* that the proposal of levy of GST on reverse charge mechanism may not be feasible as the same breaks the chain of input tax credit and also leads to cascading of taxes and also breakage of audit trail. However, to prevent the evasion of tax and to create a conducive business atmosphere, some procedural measures were recommended by State of Karnataka.
- Punjab has suggested, *inter alia*, to tax iron scrap on RCM and exempt supply of scrap in the hands of traders. Under RCM, the manufacturer will have the liability to pay tax and this is administratively efficient to boost tax collection. Further, e-way bill should be mandatory for all transactions in scrap irrespective of value.

#### **Representations received:**

- (i) To reduce rate from 18% to 5%(with ITC) or 2% (without ITC) or 5% or 18% ( under RCM)
- (ii) Exempt when sold by dealers and RCM in last leg when sold to manufacturers, or 5%, or 1% without ITC, for traders only
- (iii) Wholesaler to manufacture-option of 18 % FCM or 5% RCM

*Continued....*

**4. Metal Scrap: (page 237-238)**

• **Fitment Committee recommendations:**

- introduce TDS @ 2% on supply of metal scrap by registered person to registered person. (B to B).
- introduce RCM on supply of scrap by **unregistered person to registered** person provided that:
  - (a) the supplier shall take **registration** as and when it crosses threshold limit and accordingly, exclusion to be created in Notification 5/2017-Central tax dated 19.06.2017, and
  - (b) recipient who is liable to pay under RCM shall pay tax even if supplier is under threshold limit.



**5. Cancer drugs** namely- Trastuzumab Deruxtecan; Osimertinib; Durvalumab:

(page 238)

- These medicines are used in the treatment of lung cancer, biliary tract cancer and breast cancer.
- Specified cancer drugs attract GST rate of 5%.
- In Union Budget of July 2024-25, considering the high cost of these medicines, the customs duty has been fully exempted on these drugs.
- Ministry of Health and Family Welfare (MoHFW) has recommended reduction of BCD/GST on three cancer drugs: Trastuzumab Deruxtecan, Osimertinib and Durvalumab.
- **Representation received:**
  - To reduce GST rate from 12% to 5%.
- **Fitment Committee recommendations:**
  - To reduce the GST rate from 12% to 5% on all the three cancer drugs considering the high cost of treatment in cancer.





### Volume III-Agenda 4(g)

Circulars issued to regularize past period on "As is where is" basis on the recommendation of the Council

- Supply of ice-cream by ice-cream parlours (47<sup>th</sup>)
- By-products of milling of dal/pulses such as chilka, kanda and churi (47<sup>th</sup> & 48<sup>th</sup>)
- Rab (49<sup>th</sup>)
- Un-fried/ un-cooked snack pellets manufactured through extrusion (50<sup>th</sup>)
- Fish soluble paste (50<sup>th</sup>)
- Desiccated coconut (50<sup>th</sup>)
- Biomass briquettes(50<sup>th</sup>)
- Supply of raw cotton by agriculturist to cooperatives(50<sup>th</sup>)
- Imitation zari thread or yarn known by any name in trade parlance(50<sup>th</sup>)
- Plates, cups made from areca leaves(50<sup>th</sup>)
- Trauma, spine, arthroplasty implants under HS 9021 (50<sup>th</sup>)
- Fire water sprinklers(53<sup>rd</sup>)
- Parts of poultry-keeping machinery(53<sup>rd</sup>)
- Pre-packaged and labelled agricultural farm produce more than 25 kg or 25 litre (53<sup>rd</sup>)
- Supplies of pulses and cereals made to or by an agency engaged by Government (53<sup>rd</sup>)



## Circulars

- Circular no. 177/09/2022-GST dated 3.8.2022 following the 47<sup>th</sup> GSTCM
- Circular no. 179/11/2022-GST dated 3.8.2022 following the 47<sup>th</sup> GSTCM
- Circular no. 189/01/2023-GST dated 13.1.2023 following the 48<sup>th</sup> GSTCM
- Circular no. 191/03/2023-GST dated 18.2.2023 following the 49<sup>th</sup> GSTCM
- Circular no. 200/12/2023-GST dated 11.7.2023 following the 50<sup>th</sup> GSTCM
- Circular no. 229/23/2024-GST dated 15.7.2024 following the 53<sup>rd</sup> GSTCM



## New Section 11A of GST Act

- Notwithstanding anything contained in this Act, if the Government is satisfied that-
  - (a) a **practice that was, or is, generally prevalent** regarding levy of central tax (including non-levy thereof) on any supply of goods or services or both; and
  - (b) such supplies were, or are, liable to,-
    - (i) central tax, in cases where according to the said practice, central tax was not, or is not being, levied, or
    - (ii) a higher amount of central tax than what was, or is being, levied, in accordance with the said practice,

*the Government, may on the recommendation of the Council, by notification in the Official Gazette, direct that the whole of the central tax payable on such supplies, or as the case may be, the central tax in excess of that payable on such supplies, but for the said practice, shall not be required to be paid in respect of the supplies on which the central tax was not, or is not being levied, or was, or is being, short-levied, in accordance with the said practice.*



### Agenda 4(b) (Annexure-II): Recommendations for no change (pages 239-244)

#### 1. Paper Sack: (page-239)

- Paper sacks are specifically classifiable under HSN 4819 **30** /4819 **40**
- Prior to 1st October, 2021 there were two specific entries in GST Tariff for CTH 4819:
  - (i) Sr. No. 122 of Schedule - II of notification No. 1/2017-Central Tax (Rate) provides for **12%** GST rate for CTH 4819. However, this entry is restricted to "Cartons, boxes and cases of **corrugated** paper or paper board".
  - (ii) Sr. No. 153A of Schedule - III of notification No. 1/2017-Central Tax (Rate) provides for **18%** GST rate for HS Code 4819 20, which covers "Cartons, boxes and cases of **non-corrugated** paper or paper board".
- Paper sacks are not covered under any of the specific entry and thus covered under residual entry (18%).
- GST Council in its 45<sup>th</sup> Meeting recommended to provide uniform rate of 18% GST on all carton boxes made up of corrugated or non-corrugated boxes under heading 4819 in order to resolve the ambiguity, which was implemented wef 01.10.21. Paper sack already attracted 18%. Thus, after these recommendations all items of 4819 attracted 18%.
- However, the council in its 53<sup>rd</sup> meeting recommended 12% on carton boxes, cases of corrugated/non-corrugated falling under 4819 **10** and 4819 **20**. Paper sack( 4819 **30** and 4819 **40**) always attract GST rate of 18%

#### Representation received:

- To issue clarification on the rate on paper sack for the period 01.07.2017 to 30.09.2021

#### Fitment Committee Recommendation:

- Fitment Committee recommended to maintain status quo as there was no ambiguity with respect to paper sack which always attract 18%.



#### Agenda 4(b) (Annexure-II)

### 2. Agro shade nets (6005 90 00): (pages 239-240)

- Filaments attract 18% GST, yarn attracts 12% GST and fabrics attract 5% GST.
- Agro shade net is a technical textile whose main raw material is HDPE (high density polyethylene) granules attracting 18% GST.
- There is an inversion in duty structure.
- In 46th GST Council meeting, matter on inverted duty structure in textiles was referred to GoM on rate Rationalisation.
- **Representation received:**
  - To increase rate from 5% to 12%.
- **Fitment Committee Recommendation:**
  - Status quo may be maintained as Final Report of GoM on rate Rationalisation awaited.



#### Agenda 4(b) (Annexure-II)

### 3. **Compressed Bio Gas (CBG):** (page 240)

- This is a deferred issue since 37th GST council meeting held in 2019.
- Biogas attracts GST @ 5%.
- Bio-gas is compressed for its injection into the pipeline network.
- Though there is no separate entry for CBG, GST rate on Compressed Biogas is 5% at par with bio gas.
- **Representation received:**
  - To clarify the applicable rate of GST on Compressed Bio Gas(CBG).
- **Fitment Committee Recommendation:**
  - No clarification is required to be issued as it is a non issue now.



#### Agenda 4(b) (Annexure-II)

#### **4. Feedstock like reformat, diesel hydrotreater (DHDT) feed, Straight Run Gas Oil (SRGO), Vacuum gas oil (VGO):** (page 240)

- Main refinery products namely, petrol, diesel and ATF are outside purview of GST.
- GST is levied on other refinery products including intermediate streams that are shared between refineries.
- Matter discussed in 47<sup>th</sup> GST Council, where it was felt revenue implication as far as OMCs are concerned is not significant.
- Distortion, if any, will be resolved when petroleum products would be brought under GST.
- Representation received:
  - To reduce rate to 5%
- Fitment Committee Recommendation:
  - To maintain status quo.



#### Agenda 4(b) (Annexure-II)

#### **5. Cathode Coating [8507 90 90] and Separators [8507 90 10] of Li-Ion battery:**

(pages 240-242)

- Since inception GST on Goods falling under 8507 ( including Li-ion batteries) attract GST rate of 28% .
- However, on the recommendation of the 28<sup>th</sup> GST Council, Lithium-ion batteries [8507 60 00] and on the recommendation of the 31<sup>st</sup> GST Council, Lithium-ion accumulators including Lithium-ion power banks [8507] GST rate of 18% was notified .
- Meity has forwarded a request from domestic industry of Li-ion batteries for reduction in GST rate on key parts of Li-ion batteries due to inversion. The parts are Cathode Coating [8507 90 90] and Separators [8507 90 10] of Li-Ion battery which fall under the heading 8507, and therefore automatically attract a GST rate of 28%.
- Cathodes and Separators are present in all batteries including lead-acid, nickel-cadmium, nickel-metal hydride etc
- Providing a concessional GST rate of 18% to only these goods while all other goods attract 28% amounts to providing an end-use based concession, which create distortions and are prone to misclassifications leading to disputes.

#### Representation received:

- To reduce rate from 28% to 18% on key parts of Li-ion batteries.

#### Fitment Committee Recommendation:

- Fitment Committee recommended to maintain status quo.





#### Agenda 4(b) (Annexure-II)

##### 6. **Part of EV(Li-ion cell, Battery pack, Electric Motor, High-voltage, etc):** (page 242-243)

- EVs have been kept at a concessional rate of 5% in order to promote its faster adoption. The refund on account of inverted duty structure is available to the OEMs.
- Reduction of rate to 5% will introduce inversion in the supply chain of such EV parts and may also lead to spurt in imports from manufacturing intensive countries.
- The issue has already been deliberated by the GST Council in the 47<sup>th</sup> Meeting. No rate change has been recommended.

##### Representation received:

- To reduce rate from 18%/28% to 5%.

##### Fitment Committee Recommendation:

- Fitment Committee recommended to maintain status quo.



#### Agenda 4(b) (Annexure-II)

##### 7. **Braided elastic tapes (HS 5604):** (pages 243-244)

- Braided Elastic is made with strands of latex rubber and textile fibres.
- It is covered under HS 5604 under the entry '*rubber thread and cord, textile covered; textile yarn, and strip and the like of heading 5404 or 5405, impregnated coated, covered or sheathed with rubber or plastics.*'
- As per HS Explanatory notes, HS 5604 can also cover yarn that has been surface-treated to improve its adhesion to the rubber in which it is subsequently incorporated during the manufacture of articles such as tyres, machinery belts or belting, and tubes. This HS can also cover imitation catguts consisting of textile yarn with a heavy dressing of plastics which are used in the manufacture of sports rackets, fishing lines, belts etc.
- Average pre-GST rate was around 13%.

##### Representation received:

- To reduce GST rate on Braided Elastics from 12% to 5% at par with woven and knitted elastic.

##### Fitment Committee Recommendation:

- Status quo may be maintained to avoid further inversion in tax structure.



## Agenda 4 (Annexure-IV)

### **1. To clarify that GST @ 5% is applicable on helicopter services for pilgrims. (pages 245-246)**

- Currently passenger transport service by air attracts the following GST rates:
  - Economy class – 5%
  - Other than economy class – 12%
  - Other than above (e.g. Charter of aircraft etc.) – 18%
- In helicopters, there is no distinction between economy and non-economy seats.
- In most of the cases, helicopters do not provide even basic facilities like those provided in economy class. Further, there is no additional facility provided in helicopters on additional fare. Services by way of transport of passengers on seat share basis and on charter of entire helicopter cannot be equated.

#### Recommendations of Fitment Committee:

##### To clarify that-

- **GST @ 5% will be applicable on the transport of passengers by helicopters on seat share basis.**
- **Charter of helicopter will continue to attract 18% GST.**



## Agenda 4 (Annexure-IV)

### **2. To clarify whether or not incidental/ ancillary services such as loading, unloading, packing, unpacking, transshipment, temporary warehousing etc., provided in relation to transportation of goods by road is to be treated as part of Goods Transport Agency (GTA) service, being composite supply (pages 246-249)**

- Revenue authorities have initiated proceedings against GTAs demanding 18% GST applicable on cargo handling services instead of 5% applicable to GTA services based on Q. No. 6 of FAQs issued by CBIC.
- Q No. 6 of FAQ states - “if such incidental services are provided as separate services and charged separately, whether in the same invoice or separate invoices, they shall be treated as separate supplies”. This is being interpreted by enforcement agencies to mean that if a GTA shows packing charges, loading, unloading charges etc., separately in the invoice, the GTA becomes liable to pay GST at the rate of 18% on these services by treating them as cargo handling services.

#### Recommendations of Fitment Committee:

- To clarify that when ancillary/intermediate services are provided by GTA in the course of transportation of goods by road and the GTA also issues consignment note, the service will constitute a composite supply and all such ancillary/intermediate services like loading/unloading, packing/unpacking, transshipment, temporary warehousing etc. will be treated as part of the composite supply.
- The method of invoicing used by GTAs will not generally alter the nature of the composite supply of service. However, if such services are not provided in the course of transportation of goods and invoiced separately, then these services will not be treated as composite supply of transport of goods.



### Agenda 4 (Annexure-IV)

#### **3. To clarify that no GST is leviable on the empty tankers returning after delivering milk in case if Ro-Ro service is used for transportation of milk (pages 250-252)**

- As per Sr. No. 20 of the Notification No. 12/2017-CTR dated 28.06.2017, transport of milk by rail is exempt from GST. Indian Railways is charging 5% GST on empty milk tankers returning after delivery of the milk.
- Request has been made to equate the current situation to movement of empty containers from Nepal and Bhutan wherein no tax is levied on the service associated with the transit cargo sent from India. In the case of transportation of empty containers returning from Nepal and Bhutan after delivery of transit cargo to India, it was clarified that exemption under Sl. No. 9B of Notification No. 12/2017-Central Tax (Rate) covers services associated with transit cargo both to and from Nepal and Bhutan.
- Services associated with transit cargo to Nepal and Bhutan were exempted in accordance with International treaties.
- Electronic Cargo Tracking System Regulations, 2019 govern transit cargo movement to & from Nepal under which electronic track and trace facility is in place to locate the cargo. Thus, it is verifiable that the empty container returning from Nepal or Bhutan is the same container which was used to deliver goods to Nepal or Bhutan.
- This sort of verification is not possible in case of empty tankers returning after delivering milk. It may not be plausible to equate the two situations.

#### **Recommendations of Fitment Committee:**

- **To clarify that the transport of empty tankers returning after delivery of milk is taxable and not exempt.**
- **Exemption on the said transport of empty tankers returning after delivery of milk was not recommended.**



### Agenda 4 (Annexure-IV)

#### **4. To exempt EV charging services at public charging stations or to clarify whether the activity of charging electric vehicles (EVs) in a charging station essentially involves supply of electricity and should be chargeable at the same rate applicable to supply of electricity (pages 252-253)**

- Ministry of Power vide Circular No. 23/08/2018-R&R dated 13.04.2018 has clarified that the charging of battery essentially involves utilization of electrical energy for its conversion to chemical energy, which gets stored in the battery. Thus, the charging of battery of an electric vehicle by a charging station involves a service requiring consumption of electricity by the charging station and earning revenue for this purpose from the owner of the vehicle.
- It has further been clarified that the activity does not in any way include sale of electricity to any person as the electricity is consumed within premises owned by the charging station, which may be connected to the distribution system or otherwise for receiving electricity.
- The activity does not involve further distribution or transmission of electricity, the charging station does not perform any of the activities namely transmission, distribution or trading of electricity, which require a license.
- Request to reduce GST on EV charging and battery swapping service to 5% from 18% has already been rejected by the 47<sup>th</sup> GST Council held in June 2022.

#### **Recommendations of Fitment Committee:**

- **To clarify that charging of electric vehicles does not include sale of electricity to any person nor does this activity involve further distribution or transmission of electricity.**
- **Exemption from GST on electric vehicle charging at public charging stations was not recommended.**





## Agenda 4 (Annexure-IV)

### **5. To modify Circular No. 34/8/2018- GST dated 01.03.2018 in respect of taxation of ancillary services of transmission and distribution of electricity (pages 253-257)**

- The issue is regarding ancillary services such as application fee for releasing connection of electricity, rental charges against metering equipment, testing fee for meters/ transformers, capacitors etc., labor charges from customers for shifting of meters or shifting of service lines, charges for duplicate bill etc. For transmission and distribution of electricity by transmission and distribution utilities.
- Vide Sl. No. 25 of Notification No. 12/2017-CTR dated 28.06.2017, transmission or distribution of electricity by an electricity transmission or distribution utility attracts nil GST rate.
- Vide Sl. No. 4 of Circular No. 34/8/2018-GST dated 1<sup>st</sup> March 2018, it has been clarified that certain ancillary services are taxable under GST w.e.f. 01.07.2017.
- However, this serial no. of the circular was struck down by the Hon'ble High Court of Gujarat in Torrent Power Ltd Vs UOI vide order dated 19.12.2018. The department has gone in appeal against the said order and the matter is pending before Hon'ble Supreme Court (SLP(C) No. 019431/2019).
- All such ancillary services, when provided by DISCOM or transmission and distribution utility to customers along with transmission or distribution of electricity, are naturally bundled and supplied in conjunction with principal supply of service, i.e., transmission and distribution of electricity, and will thus constitute composite supply in such cases.

#### Recommendations of Fitment Committee:

- To modify the Circular No. 34/8/2018 GST dated 01.03.2018 clarifying that supply of services such as application fees for providing electricity connection, rental charges against electricity meter, testing fees for meters/ transformers/capacitors, labor charges from customers for shifting of meters/service lines, charges for duplicate bills etc. which are incidental, ancillary or integral to the supply of transmission and distribution of electricity by transmission and distribution utilities to their consumers, when provided as a composite supply are exempt.
- SLP in the Hon'ble Supreme Court may be withdrawn simultaneously with the issuance of the above clarification after the Council's recommendation.

## Agenda 4 (Annexure-IV)

### **6. To clarify the applicability of GST on the affiliation fee collected by universities from affiliated colleges (pages 257-260)**

- Activity of affiliation is to monitor whether the institution possesses the required infrastructure in terms of space, technical prowess, financial liquidity, faculty strength, etc. and is thereby eligible for the privileges to conduct the course/program of study for the degree/title extended by the University to the students enrolled in such institutions.
- The affiliation services provided by the universities enable the colleges under it to conduct the course/ program and do not relate to admission of students to such course/program in the said colleges or conduct of examinations for admission in the said colleges.
- Thus, the affiliation services provided by universities to their constituent colleges are not covered within the ambit of exemptions provided for educational institutions in the notification No. 12/2017-CT(R) dated 28.06.2017.
- A similar request was deliberated in the 47<sup>th</sup> GST Council meeting held in June 2022 and a clarification has already been issued vide Circular No. 151/07/2021-GST dated 17.06.2021(Para 4(iii)). The said para reads as under:  
*"(iii) GST at the rate of 18% applies to other services provided by such boards, namely of providing accreditation to an institution or to a professional (accreditation fee or registration fee such as fee for FMGE screening test) so as to authorise them to provide their respective services."*

#### Recommendations of Fitment Committee:

- To clarify by way of circular that the affiliation services provided by universities to their constituent colleges are not covered within the ambit of exemptions provided to educational institutions in the Notification No. 12/2017-CT(R) dated 28.06.2017 and GST at the rate of 18% is applicable on the affiliation services provided by the universities.



## Agenda 4 (Annexure-IV)

### **7. To clarify the applicability of GST on the affiliation fees charged by Central and State Educational Boards (pages 260-264)**

- Request for exempting the affiliation service provided by CBSE was rejected by the 50<sup>th</sup> GST Council meeting held on 11.07.2023.
- A request has been made again to clarify that affiliation services provided by it to schools do not attract GST. Alternatively, the GST may only be charged prospectively.
- The affiliation services provided by CBSE, and other State and Central educational boards, to various schools are essentially in the nature of maintenance of certain quality standards by the school which enable it to operate under the aegis of the board and enable its students to appear for senior and senior-secondary examinations conducted by the board. CBSE, along with other educational boards, has been deemed to be an educational institution for the limited purpose of providing services by way of conduct of examinations to the students. The service by way of granting affiliation to schools is not a service by way of conduct of examination.
- Moreover, it was clarified vide Circular No. 151/07/2021-GST dated 17.06.2021 that GST at the rate of 18% applies to other services provided by Central and State Boards such as National Board of Examination (NBE), namely of providing accreditation to an institution.
- CBSE has also claimed eligibility for exemptions available to Government Authorities under Sl. Nos. 4 and 5 of Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017. However, the said exemption is not available to CBSE since it is not a 'Governmental Authority'.

#### Recommendations of Fitment Committee:

- To regularize the collection of GST on affiliation fee charged by State/Central educational boards to schools on 'as is where is' basis for the period from 01.07.2017 to 17.06.2021 i.e., the date of issuance of Circular no. 151/07/2021 clarifying that accreditation services of boards are taxable at the rate of 18%.
- Prospectively, exemption may be given to affiliation services provided by State/Central educational boards to government schools.



## Agenda 4 (Annexure-IV)

### **8. To clarify the applicability of GST on approved flying training courses conducted by Flying Training Organizations (FTOs) approved by DGCA (pages 264-269)**

- Based on the recommendations of 37<sup>th</sup> GST Council in its meeting held on 20<sup>th</sup> September, 2019, it has been clarified vide Circular No. 117/36/2019-GST dated 11.10.2019 that the courses conducted by approved maritime training institutes are exempt from levy of GST.
- Flying training institutes approved by DGCA have also requested for a similar clarification in respect of flying training imparted by them.
- DGCA approved Flying Training Organizations (FTOs) and the approved training programs imparted by them are covered under the Aircraft Act, 1934, the Aircraft Rules, 1937 and the Civil Aviation Requirements issued under the said Rules.
- The course completion certificate issued to the successful candidates is also recognized under the Civil Aviation Requirements (CAR) issued under the Act and Rules.
- Thus, approved flying trainings conducted by FTOs, meet the criteria of being '*education as a part of a curriculum for obtaining a qualification recognized by any law for the time being in force*' prescribed in sub-para(ii) of the definition of 'educational institution' and are eligible for the exemption under Sl. No. 66 of Notification No. 12/2017-CT(R) dated 28.06.2017.

#### Recommendations of Fitment Committee:

- To clarify by way of a circular that approved flying training courses conducted by DGCA approved Flying Training Organizations are exempt from GST.



## Agenda 4 (Annexure-IV)

**9. To replace National Council for Vocational Training (NCVT) with National Council for Vocational Education and Training (NCVET) in the Notification No. 12/2017-CT(R) dated 28.06.2017 and include the services provided by the recognized Awarding Bodies, Assessment Agencies, Training Bodies and Skill Related Information Providers approved by NCVET in the exempted list. (pages 269-272)**

- Currently, exemption has been provided vide S.No 69 and 71 notification No. 12/2017-CTR to **any** services provided by, the National Skill Development Corporation (NSDC), Sector Skill Council approved by the NSDC, an assessment agency approved by the Sector Skill Council or the NSDC; a training partner approved by the NSDC or the Sector Skill Council, in relation to National Skill Development Programme implemented by the National Skill Development Corporation, vocational skill development course under the National Skill Certification and Monetary Reward Scheme or any other Scheme implemented by the National Skill Development Corporation.
- Similarly, services provided by training providers (Project implementation agencies) under Deen Dayal Upadhyaya Gramin Kaushalya Yojana implemented by the Ministry of Rural Development, by way of offering skill or vocational training courses certified by the National Council for Vocational Training (NCVT).
- National Council for Vocational Education and Training (NCVET) has been set up vide notification of Ministry of Skill Development and Entrepreneurship (MSDE) dated 05.12.2018 subsuming the existing National Council for Vocational Training (NCVT) and the National Skill Development Agency (NSDA).

## Agenda 4 (Annexure-IV)

- The regulatory functions, especially w.r.t. approval/ recognition of various Awarding Bodies (ABs) and Assessment Agencies (AAs) which were earlier approved/ recognized by multiple entities like NCVT, Directorate General of Training (DGT) and National Skill Development Council (NSDC) etc. have been consolidated with NCVET.
- Recognition to various such Awarding Bodies (like Sector Skill Councils (SSC), Central Ministries, State Departments, DGT, Universities and autonomous government organizations, etc.) and Assessment Agencies is being granted by NCVET.
- The proposal is to align the existing entries pertaining to training and skill development in the GST exemption notification with the new regulatory architecture.
- Ministry of Skill Development has requested to continue exemption to NSDC in its present form.

### Recommendations of Fitment Committee:

- **Amendments required in Sl. Nos. 69, 71 and para 2(h) of Notification No. 12/2017-CT(R) dated 28.06.2017 may be made to align the said entries with the revised vocational education and training framework set up under the NCVET.**
- **To continue the exemption to NSDC in its present form.**
- **The proposal of MSDE in relation to exempting activities of Skill Related Information Providers (SRIPs) may not be accepted since no such exemption exists currently.**



## Agenda 4 (Annexure-IV)

### **10. To clarify that for the period prior to 01.10.2021, the tax rate applicable is 12% where the film distributor or sub-distributor acts on a principal basis to acquire and distribute films. (pages 272-275)**

- Prior to 1st October 2021, -
- “Motion Picture, videotape and television programme distribution services” under Heading 9996 attracted GST rate of 18% and
- “temporary or permanent transfer or permitting the use or enjoyment of intellectual property right in respect of goods other than IT technology software” under Heading 9973 which covered services by way of licensing of rights to broadcast or show films attracted 12%.
- The service of “granting permission to exhibit, broadcast and rent audiovisual works protected by copyrights” is covered by SAC 999614 and “licensing services for the right to broadcast and show original films” is covered by service code 997332.
- The GST rates on these services were also discussed in the 45th GST Council meeting held on 17.09.2021 wherein, the Council recommended to rationalize the GST rate and keep uniform rate of 18% on both entries. In the 45th GST Council meeting, it has also been recorded that there is an overlap between explanatory notes to services codes 999614 and 997332. While “granting permission to exhibit, broadcast and rent audiovisual works protected by copyrights” is covered by Service code 999614 and “licensing services for the right to broadcast and show original films” is covered by service code 997332 but there is no difference between “granting permission” and “licensing”.
- There is some overlap between the activities of “granting permission” and “licensing”.

#### Recommendations of Fitment Committee:

- **To regularize the past period prior to 01.10.2021 on ‘as is where is’ basis, where the film distributor or sub-distributor acts on a principal basis to acquire and distribute films.**



## Agenda 4 (Annexure-IV)

### **11. To clarify taxability on Preferential Location Charges (PLC) collected along with consideration for sale/ transfer of constructed/ under-constructed residential/commercial properties. (pages 275-279)**

- Haryana Appellate Authority has vide order dated 28.09.2020 held that preferential location is an exclusive service independent of construction services. Writ petition has been filed against the said order.
- The petitioner has contended that sale of land and building is altogether excluded as per Schedule III under Section 7 of the CGST/SGST Act and therefore, PLC is also outside the ambit of the GST and even where the case falls in Para 5 (b) of the Schedule II i.e., supply of construction services before issuance of completion certificate, then also preferential location charges can only be charged to GST as a part of the construction service and not otherwise.
- Allowing choice of location of apartment is integral part of supply of construction services and therefore, location charge is nothing but part of consideration charged for supply of construction services before issuance of completion certificate. Being charged along with supply of construction services for the apartment, the same attract GST at same rate as of construction services before issuance of completion certificate.



## Agenda 4 (Annexure-IV)

- For the purpose of determining the threshold of Rs.45 lakhs in case of “affordable residential apartment” charges such as preferential location charges, development charges, parking charges, common facility charges etc are included in the gross amount. For the reference, clause xvi, sub-clause (a)(ii)(C) of paragraph 4 of Notification No. 11/2017-CT(R) dated 28.06.2017, may be referred which reads as below:

*“C. Any other amount charged by the promoter from the buyer of the apartment including **preferential location charges, development charges, parking charges, common facility charges etc.**”*

- With respect to supply of PLC along with the grant of long term lease, based on the recommendations of 47<sup>th</sup> GST Council, it was clarified vide Circular No. 177/09/2022-TRU dated 03.08.2022 that the location charges or preferential location charges (PLC) paid upfront in addition to the lease premium for long term lease of land constitute part of the lease premium or of upfront amount charged for long term lease of land and are eligible for the same tax treatment.

### Recommendations of Fitment Committee:

- **To clarify that Location charges or Preferential Location Charges (PLC) paid along with the consideration for the construction services of residential complex before issuance of completion certificate forms part of composite supply where supply of construction services is the main service and PLC is naturally bundled with it and are eligible for same tax treatment as the main supply ie construction service.**



## Agenda 4 (Annexure-IV)

### **12. To ascertain value of land for deciding value of construction services in case of sale of commercial / residential apartments. (pages 279-282)**

- Issue was deferred by the 52<sup>nd</sup> GST Council held on 07.10.2023.
- Hon'ble High Court of Gujarat in the case of Munjaal Manishbhai Bhatt Vs. UOI vide order dated 06.05.2022 has not only directed to deduct value of land on actual basis where it is ascertainable, but has also ordered to refund the excess amount of tax paid on this count in the past. The said order of the Hon'ble High Court has been contested before the Hon'ble Supreme Court.
- The Court in the said case has also held that valuation has been done through a notification entry while the same should have been done under rules prescribed under Section 15 of the Act.
- Section 15 (5) of CGST Act 2017 empowers the Government to notify the value of such supplies, based on the recommendations of the Council, which will be determined in the manner as prescribed.

### Recommendations of Fitment Committee:

- **Valuation may be done on the basis of notified circle rates or registered sales deed/ or on actual basis wherever available. Where the circle rate or value of land is not available, then value of land may be deemed.**
- **Draft may be shared with Law Committee for making necessary amendment in Rule 32 of CGST Rules, 2017.**



## Agenda 4 (Annexure-IV)

### **13. To levy GST on renting of commercial property by unregistered person to registered person on Reverse Charge Mechanism (RCM) basis. (pages 282-286)**

- Issue was deferred by the 52<sup>nd</sup> Council meeting held on 07.10.2023.
- Currently, renting of residential dwelling for use as residence is exempt from GST except when it is rented to a registered person, in which case it is taxed under RCM. (entry no. 12 of the Notification No. 12/2017-CTR dated 28.06.2017)
- Services by way of renting of immovable property (other than renting of residential dwelling to a registered person for use as residence) is taxable on forward charge basis (except renting of immovable property by Government and Local Authority to a registered person).
- Request has been received that non-imposition of tax on reverse charge basis on rental services in relation to commercial property from unregistered to registered person appears to be creating differential tax regime for residential property vis-à-vis commercial property.
- It also appears to be leading to evasion by way of artificial splitting of value of the transaction.

Recommendations of Fitment Committee:

- **To bring renting of commercial property by unregistered person to registered person under RCM.**



## Agenda 4 (Annexure-IV)

### **14. To clarify applicability of GST on sale of partnership interest in case of farm-in farm out contracts in oil and gas exploration sector. (pages 286-290)**

- A **farm-in** is an agreement between two operators, one of which owns the interest in a piece of land where oil or gas has been discovered. The owner of the interest makes the agreement in order to offset the costs associated with drilling, developing, or otherwise removing the resources from the land. The company that **acquires the rights** to do the actual drilling benefits from access to a proven source of oil or natural gas without having to discover it themselves.
- A **farm out** is a type of agreement where a party that has a working interest to a gas and oil lease will **assign that interest** to another party. The other party will then be contractually obligated to meet specific conditions, such as setting up a drill in a specific location, drilling to an agreed upon depth, etc. The owner of the interest in this lease can either assign all their interest to the other party, or only a portion of it.
- The bids for licenses and leases of oil fields can be made by a single company or by a consortium of companies. The entity which gets the oil exploration lease and enters into Production Sharing Contract with the Government in the Production Sharing Contract. The Model Production Sharing Contract provides in Article 28.1 that any party comprising the contractor may assign or transfer a part or all of its participating interest with the written consent of the Government.
- Sl. No. 17 of the Notification No. 11/2017-CT (Rate) dated 28-06-2017 notifies the rate of CGST on supply of services covered under SAC 9973 (99733: **Licensing services for the right to use intellectual property and similar products**) .Since **supply of participating interest is transfer or permitting the use or enjoyment of non-intellectual property rights**, it appears to be covered under the residuary entry at Sl. No. 17 (viii) of the Notification No. 11/2017-CT (Rate) dated 28-06-2017 which presently attracts GST rate of 18%.

Recommendations of Fitment Committee:

- **To clarify that sale of partnership interest in farm-in and farm-out contracts is taxable.**



## Agenda 4 (Annexure-IV)

**15. To clarify whether exemption under entry 34 of notification No. 12/2017-CTR dated 28.06.2017 is available to payment aggregators for transactions transacted through credit card, debit card, charge card or other payment cards over digital networks up to Rs. 2000/- (pages 290-292)**

- Entry 34 of notification No. 12/2017-CTR exempts “Services by an **acquiring bank**, to any person in relation to settlement of an amount upto two thousand rupees in a single transaction transacted through credit card, debit card, charge card or other payment card service where “**acquiring bank**” means any banking company, financial institution including non-banking financial company or any other person, who makes the payment to any person who accepts such card”.
- Payment Aggregators (PAs) are intermediaries between customers, businesses, and financial institutions to facilitate online payments via various payment methods.
- PAs are entities that facilitate e-commerce sites and merchants to accept various payment instruments from the customers for completion of their payment obligations without the need for merchants to create a separate payment integration system of their own.
- Definition of acquiring banks has to be read in line with the other categories mentioned in the definition such as banking company, financial institution including NBFC etc. and Payment Aggregators, being intermediaries, are not covered by the exemption entry.

### Recommendations of Fitment Committee:

- To clarify that the services provided by payment aggregators in relation to the transaction transacted through credit card, debit card, charge card or other payment cards over digital networks upto Rs. 2000/- are not eligible for exemption under entry at Sl. No. 34 of the notification No.12/2017-CTR dated 28.06.2017 and are taxable.



## Agenda 4 (Annexure-IV)

**16. To clarify whether concession amount paid to NHAI by concessionaire for grant of rights under Toll Operate and Transfer model (TOT) is liable to GST or not, as toll is exempt under Notification- 12/2017 - Central Tax (Rate) dated 28.06.2017. (pages 292-295)**

- Under TOT model, the National Highway Authority of India (NHAI) engages a concessionaire for operation, maintenance and management of already developed/ constructed highway projects. The concessionaire is entitled to impose and collect toll from vehicles and users of the highway.
- The upfront amount paid by the concessionaire is the consideration paid by him for receiving exclusive right of way, access and license to the site including right to impose, collect and appropriate fee from vehicles and users along with the maintenance of the highways etc by NHAI and regulation of third parties from the appointed day till expiry of agreement.
- While entry at Sl. No.23 of the Notification No. 12/2017-CTR dated 28.06.2017 exempts the service by way of access to a road or a bridge on payment of toll charges from GST, thereby, it exempts the toll collected from the individual users for access of the roads and bridges by the concessionaire.
- Along with right to access, the concessionaire also maintains and manages the already developed/ constructed highway projects and such services are taxable unless exempted. The upfront amount paid by concessionaire to NHAI is also inclusive of this cost.

### Recommendations of Fitment Committee:

- To clarify that the concession amount paid to NHAI by concessionaire is taxable and not covered under entry at Sl. No. 23 of Notification No. 12/2017-CT(R).





## Agenda 4 (Annexure-IV)

### **17. Applicability of GST on Research grants or donations received from Government or private agencies (pages 295-298)**

- Investigating agency has issued a series of Show Cause Notices in respect of non-payment of GST by institutions / universities on grants received by them from government / non-government bodies for conduct of research.
- DGGI has taken a view that research conducted by an institute / university is a supply of service by the institute / university.
- In the 22<sup>nd</sup> meeting of the GST Council, it was recommended that grants given by Central Government, State Government or a local authority to a **Government entity** may be exempted under GST. The context in which this recommendation was made was a proposal from the State of Gujarat to exempt the provision of budgetary grants to entities set up by the Government to implement various schemes and to carry out functions on its behalf. Accordingly, vide Notification No. No.32/2017- Central Tax (Rate) dated 13.10.2017, entry 9C was inserted in the exemption Notification 12/2017-CT(Rate) with effect from 13.10.2017.
- However, the above exemption is restricted to supplies of research made by **Government entities to the Government or a person specified by it**, against grants received from the Government or Government entities.
- Therefore, research services provided against grants received from Government bodies like CSIR, SERB, DRDO etc. do not appear to be eligible for the exemption.
- Government Entity has been defined under Notification No. 12/2017- CTR dated 28.06.2017 is defined as as an authority or a board or any other body including a society, trust, corporation-,
  - (i) set up by an Act of Parliament or State Legislature; or
  - (ii) established by any Government,with 90 percent or more participation by way of equity or control, to carry out a function entrusted by the Central Government, State Government, Union Territory or a Local Authority.

## Agenda 4 (Annexure-IV)

### **17. Applicability of GST on Research grants or donations received from Government or private agencies (pages 295-298) (contd.)**

#### Recommendations of Fitment Committee:

- To grant exemption to the following service under heading 9981:  
*Supply of research and development services by-*
  - (a) a Government Entity; or
  - (b) a research association, university, college or other institution, notified under clauses (ii) or (iii) of sub-section (1) of section 35 of the Income Tax Act, 1961to Central Government, State Government, Union territory, local authority or Government Entity against consideration received from them in the form of grants.
- A condition may also be inserted stating that a research association, university, college or other institution shall be eligible for the exemption only if it is duly notified under section 35 of the Income Tax Act, 1961 at the time of supply of the research service.
- Past period may be regularized on 'as is where is' basis.



## Agenda 4 (Annexure-IV)

**18. To clarify that GST is not applicable on import of services by an establishment of a foreign airlines company from a related person or any of its establishment outside India or any other relief mechanism or amendment effective from 01.07.2017 that meets the request.** (pages 298-303)

- Running an airline includes inter alia the expenditures such as lease rent of aircraft, maintenance charges for aircraft which includes maintenance contract, procurement of space etc., cost of crew and pilots and other expenditures (including fuel). In case of Foreign Airlines operating flights from India, majority of the aforesaid expenses is incurred by the head office (HO) of foreign airlines located outside India.
- The HO of the foreign airlines do not charge any consideration against these expenses from the branch offices located in India. The branch offices of the foreign airlines are paying taxes at applicable rates on transport of goods and passengers by air.
- However, in terms of Schedule I Entry 4 of the CGST Act, 2017, any import of services, even if undertaken without consideration, by an establishment of one person located in India from an establishment of the same person located outside India, would be considered as a supply without consideration. Thus, in terms of existing legal provisions, the services by branch office from head office is taxable.
- Therefore, branch offices of the foreign airlines were liable to pay tax on the aforesaid expenditure under reverse charge mechanism @18% even if no consideration was charged by the HO.
- Ministry of Civil Aviation (MoCA) was consulted and they have conveyed that exemption may be considered on basis of reciprocity and bilateral air service agreements and shared the draft. Further, granting of reciprocal exemption/tax treatment to Indian airlines under bilateral air services agreements by the foreign country, would be certified by MoCA (as the signatory of BASAs).

### Recommendations of Fitment Committee:

- To exempt import of services by an establishment of a foreign airlines company from a related person or any of its establishment outside India, **when made without consideration**, provided that the GST at applicable rates has been paid by the establishment of the foreign airline company in India on their outward supply of transport of goods and passengers and subject to reciprocal exemption/tax treatment to Indian airlines under bilateral air service agreements.
- To regularize the past period on as is where is basis.



## Agenda Item 4(c) (Part-II), Annexure-IV

**19. To reduce or exempt the GST paid by individuals on health insurance premiums** (pages 49-51)

- Department of Financial Services (DFS), Ministry of Finance, Government of India has requested for reducing the GST on individual health insurance premiums from 18% to 5% to make health insurance more affordable and accessible.
- The request to exempt GST on health insurance has also been received from several Hon'ble Members of Parliament.
- The report by Standing Committee on Finance (Performance Review and Regulation of Insurance Sector, February 2024) has recommended to rationalize the GST rate on insurance products, especially health and term insurance. The report has observed that the high rate of GST results in a high premium burden which acts as a deterrent to getting insurance policies.

### Recommendations of Fitment Committee:

- The Fitment Committee deliberated upon the issue and following options were discussed (revenue implication indicated against each):
  - a) Exempting all individual health insurance premiums (Rs. 3,495 crores);
  - b) Exempting individual health insurance premiums which are paid by senior citizens and individual health insurance premiums (irrespective of age) where the coverage is up to Rs. 5 lakhs (Rs. 2,110 crores);
  - c) Exempting only those individual health insurance premiums which are paid by senior citizens (Rs. 645 crores); or
  - d) Reducing the rate of GST on all individual health insurance services to 5% without ITC (Rs. 1,730 crores).
- The Fitment Committee recommended that the GST Council may decide from the above options and a similar benefit may be extended to reinsurance services also. The Committee further recommended that the GST Council may also record its desire that the benefit given in GST rates, if any, must be passed on to the policy holders.





## Agenda Item 4(c )(Part-II), Annexure-IV

### **20. To reduce or exempt the GST paid by individuals on term life insurance plans (pages 51-52)**

- Department of Financial Services (DFS), Ministry of Finance, Government of India has requested for reducing the applicable rate of GST on premiums paid by individuals on term/pure protection insurance plans from 18% to 5%. The request to exempt GST on life insurance has also been received from several Hon'ble Members of Parliament.
- The report by Standing Committee on Finance (Performance Review and Regulation of Insurance Sector, February 2024) has recommended to rationalize the GST rate on insurance products, especially health and term insurance. The report has observed that the high rate of GST results in a high premium burden which acts as a deterrent to getting insurance policies.
- Presently, life insurance policies attract GST rate of 18% vide residual entry at Sl. No. 15(vii) of the Notification No. 12/2017-Central Tax (Rate).
- Rule 32(4) of the GST Rules, 2017 prescribes valuation in case of life insurance schemes. The premium paid in life insurance policies represents two portions – risk coverage and savings. GST is only on the risk portion of the premium and not on savings portion. Consequently, pure term life policies, i.e. where the entire premium paid by the policy holder is only towards the risk cover, get taxed at the full value of the premium paid at the rate of 18%.
- The revenue implication of exempting individual pure term life insurance, along with insurance thereof, is likely to be Rs. 213 crores.

#### Recommendations of Fitment Committee:

- **To exempt pure term individual life insurance policies along with reinsurance thereof.**
- **The GST Council may also record its desire that the benefit given in GST rates, if any, must be passed on to the policy holders.**



## Agenda 4 (Annexure-V)

### **1. Horticulture services supporting the environmental cause should be fully exempted from GST instead of 25% due to their potential role in improving air quality (pages 304-305)**

- Sl. No. 3 and 3A of notification No. 12/2017-CT(R) dated 28.06.2017 exempts pure services and composite supply of goods and services in which value of goods does not constitute more than 25%, respectively that are provided to the Government or Union Territory or local authority by way of any activity in relation to any function entrusted to a Panchayat under article 243G of the Constitution or in relation to any function entrusted to a Municipality under article 243W of the Constitution.
- Request to clarify the applicability of GST on the horticulture contracts of public works department was placed before the 52<sup>nd</sup> GST Council meeting held in October, 2023.
- Based on the recommendations of the 52<sup>nd</sup> GST Council, it was clarified by Circular No. 206/18/2023-GST dated 31.10.2023 that supply of pure services and composite supplies by way of horticulture/horticulture works (where the value of goods constitutes not more than 25 per cent of the total value of supply) made to CPWD are eligible for exemption from GST under Sl. No. 3 and 3A of notification No. 12/2017-CTR dated 28.06.2017.
- The current request is to fully exempt composite supplies to CPWD by way of horticulture/horticulture works even where the value of goods constitutes more than 25 per cent of the total value of supply.
- The instant request would entail deepening of the existing exemption.

#### Recommendations of Fitment Committee

- **The request may not be accepted.**



## Agenda 4 (Annexure-V)

### **2. To reconsider 5% GST applicable on all bus bookings through e-commerce platforms. (pages 305-306)**

- Passenger transportation services supplied by non-AC contract/ stage carriage are exempt from GST.
- Based on the recommendations of the 45<sup>th</sup> GST Council meeting held on 17.09.2021, w.e.f. 01.01.2022, e-commerce operators were made liable to pay GST on passenger transportation services supplied through them using any motor vehicle including buses and further the exemption on passenger transportation services by non AC contract/stage carriages (which includes buses) supplied through ECOs was also withdrawn w.e.f 01.01.2022.
- Supply of any service through electronic commerce platforms is a distinct category of supply as compared to the service being supplied by individual service providers.
- There appears to be no justification to reconsider the 5% GST applicable on all bus bookings through e-commerce platforms.

#### Recommendations of Fitment Committee

- **The request may not be accepted.**



## Agenda 4 (Annexure-V)

### **3. To include “any body corporate” or “corporation” established under any State Act or Central Act or a “Government company” for purpose of exclusion under Section 9(5) of CGST Act, 2017. (pages 306-307)**

- Based on the recommendations of the 52<sup>nd</sup> GST Council, Notification No.17/2017-CTR dated 28.06.2017 has been amended to exclude bus operators organized as companies from the purview of section 9(5) of CGST Act, 2017 in order to enable them to utilize ITC for discharging outward liability on passenger transport services provided by them through ECOs.
- Term ‘company’ has not been defined under CGST Act. It is not very clear whether bus transport services provided by State Transport Corporation through ECOs will be covered by this exclusion.
- The request will lead to expansion of scope of exclusion under section 9(5) to any body corporate.

#### Recommendations of Fitment Committee

- **The request may not be accepted.**



## Agenda 4 (Annexure-V)

**4. To clarify that the delivery services provided by the delivery partners through Electronic Commerce Operator (ECO) are not taxable due to providers being below the threshold of Rs. 20 lakhs OR to bring delivery services made in respect of those supplies made through ECOs under section 9(5) of CGST Act, 2017 with prospective effect and these delivery services may be taxed at 5%. (pages 308-311)**

- While the onus for pick-up and delivery is placed on the Platform Delivery Partner (PDP) from merchant to the end customer, the payment is not done on a one-to-one basis to the PDPs by ECOs.
- The payout to PDP is based on a pay-out scheme which is designed by the ECO and it takes into consideration the number of deliveries undertaken and distance covered by PDP.
- Further the PDP has option to deny/cancel the order but for such acts, PDP becomes liable for penalty and all the penal provisions are drafted and controlled exclusively by the ECO.
- ECOs offer certain membership services which gives their customers certain benefits for instance waiver of the delivery fees. These free delivery services are offered by the ECOs and not PDPs. Also, the end customers do not have the choice of selecting the delivery partners.
- ECOs are themselves delivery service providers and liable to pay GST at the rate of 18 per cent on the same. PDPs, under no circumstance, could have been held to be the suppliers of the delivery service.

Recommendations of Fitment Committee:

- Both the above requests do not merit consideration and hence may not be accepted.



## Agenda 4 (Annexure-V)

**5. To clarify that prior to 01.10.2021, GST @5% paid on job work activities qua alcoholic beverages be treated as fully GST paid and no recovery of differential tax, over and above 5%, should arise. (pages 311-313)**

- Based on the recommendations of the 45th GST Council meeting dated 17th September 2021, a new entry at Sl. No. 26 (ica) was inserted in the Notification No.11/2017-CT(R) dated 28.06.2017 vide which services by way of job work in relation to manufacture of alcoholic liquor for human consumption were taxed at 18% GST.
- Further, vide Circular No. 164/20/2021-GST dated 06.10.2021, it was clarified that the expression “food and food products” in the Sl. No. 26(i)(f) of Notification No. 11/2017-CT(R) dated 28.06.2017 prescribing GST of 5% on job work services in relation to all food and food products excludes alcoholic beverages for human consumption.
- As such, in common parlance also alcoholic liquor is not considered as food. Accordingly, services by way of job work in relation to manufacture of alcoholic liquor for human consumption are not eligible for the GST rate of 5% prescribed under the said entry.
- Even for the past period, there appeared to be no confusion over the scope of the entries.

Recommendations of Fitment Committee:

- The request may not be accepted.





## Agenda 4 (Annexure-V)

### **6. To exempt GST on Health Insurance premium for Persons with Mental Illness (PMI) which is a scheduled Disability under the Rights of Persons with Disabilities Act 2016 (RPWD Act). (pages 313-315)**

- At present, GST on health insurance services is levied at standard rate, i.e., 18 per cent.
- However, certain insurance schemes catering to poor sections of the society and differently abled, such as Rashtriya Swasthya Bima Yojana (RSBY), Universal Health Insurance Scheme, Jan Arogya Bima Policy and Niramaya Health Insurance Scheme are exempt from GST (Sl. No. 35 of notification No. 12/2017-CTR dated 28.06.2017).
- The objective of 'Niramaya' Health Insurance Scheme' is to provide affordable Health Insurance to persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities and is fully exempt from GST.

#### **Recommendations of Fitment Committee:**

- The request may not be accepted.



## Agenda 4 (Annexure-V)

### **7. Law Committee has referred the following four matters to Fitment Committee:**

- (a) To prescribe End-use certification system / form for notification No. 12/2017-CT (Rate) [entry no. 3], which exempts pure services provided to Government, Local Authority in relation to Municipality functions.
- (b) Request to clarify that the service of hiring manpower for providing services of Health, Public Garden, Promotion of education etc. are the functions entrusted to Municipality under Article 243W of the Constitution
- (c) To clarify that the service of "Enumeration & Supervision" provided by the implementing agency, i.e. CSC-SPV, to MoSPI is exempt from GST under exemption entry 3 of notification No. 12/2017-CT(R) dated 28.06.2017
- (d) To clarify that the services of spatial planning study, provided by the institutes to Ministry of Panchayati Raj is exempt from GST under exemption entry at Sl. No. 3 of notification No. 12/2017-CT(R) dated 28.06.2017.

### **8. To clarify about liability of GST on Man Power Supply Services received by Panchayats, Municipalities and local bodies. (pages 315-322)**

- Currently, pure services and composite supply of services provided to Government or Local Authority by way of any activity in relation to any function entrusted to a Panchayat under Article 243G of the Constitution or to a Municipality under Article 243W of the Constitution are exempt from levy of GST vide entry at Sl. No.3 and 3A of the Notification No.12/2017-CT (Rate).
- The above referred issues were originally placed before the 43<sup>rd</sup> GST Council meeting and deferred. In the 45<sup>th</sup> Meeting, these issues were tagged with another proposal regarding clarification of the scope of the words "in relation to".
- The issue was thereafter discussed in 47<sup>th</sup> and 50<sup>th</sup> meeting wherein a proposal to prune the list of exemptions under S.No 3 and 3 A were discussed. In the 52<sup>nd</sup> GST Council meeting held on 07.10.2023, the Council has recommended to retain the entries at Sl. No 3 & 3A of 12/2017-CT(R) dated 28.06.2017 as it exists with no change.

#### **Recommendations of Fitment Committee:**

- No further clarifications are required on this issue and hence the requests may not be accepted.



## Agenda 4 (Annexure-V)

**9. Writ Petition (C) No. 2036/2019 before Hon'ble Delhi High Court has been filed by an Association of Private Security Industry wherein, they have inter-alia contested the exclusion of body corporates from making payment under Reverse Charge Mechanism (RCM) in respect of security services. (Entry at Sl. No. 14 of the Notification No. 13/2017-CT (R), (pages 322-325))**

- The issue of levying GST on security services under reverse charge mechanism was placed before the 31<sup>st</sup> GST Council meeting held on 22.12.2018.
- Based on the recommendations of 31<sup>st</sup> GST council, entry at Sl. No. 14 was inserted in the Notification No. 13/2017-CT(R) wherein security services (provided by way of supply of security personnel) provided by any person other than a body corporate were brought under RCM when provided to a registered person except government departments registered for TDS and entities registered under composition scheme services.
- The Association of Private Security Industry had represented after the decision taken in the 31<sup>st</sup> GST Council meeting to bring the entire security services sector including body corporate under RCM and the matter was taken to the 32<sup>nd</sup> Meeting of the GST Council on 10<sup>th</sup> January 2019.
- The request of the association to include security services provided by the body corporates under RCM in the said entry was not accepted by the 32<sup>nd</sup> GST Council.

### Recommendations of Fitment Committee:

- **The request may not be accepted.**



## Agenda 4 (Annexure-V)

**10. To exempt GST on the services provided by Goethe Institutes/Max Mueller Bhavans, funded by the German Federal Foreign Office, in India for the period from 01.07.2017 to 31.03.2023. (pages 325-326)**

- Entry at Sl. No. 66 of Notification No. 12/2017-CTR exempts services provided by an educational institution to its students, faculty and staff.
- Educational institution has been defined as an institution providing services by way of, -
  - ✓ Pre-school education and education up to higher secondary school or equivalent;
  - ✓ Education as a part of a curriculum for obtaining a qualification recognized by any law for the time being in force;
  - ✓ Education as a part of an approved vocational educational course.
- The services provided by Goethe Institutes are thus not eligible for exemption under entry at Sl. No. 66 of notification No. 12/2017-CTR dated 28.06.2017.
- Goethe Institutes have already started paying GST on their services after 1<sup>st</sup> April, 2023.

### Recommendations of Fitment Committee:

- **The request may not be accepted.**



## Agenda 4 (Annexure-V)

### **11. Request to exclude the Legislative Area Development Fund from the ambit of GST. (pages 326-328)**

- Members of Legislative Assembly Local Area Development (MLA-LAD) Scheme is the states version of a Central Government scheme - Members of Parliament Local Area Development Scheme (MPLAD).
- The objective of this scheme is to create local need based infrastructure, to create assets of public utility and to remove regional imbalances in development.
- MLAs do not receive any money under this scheme. The government transfers it directly to the respective local authorities.
- The legislators can only recommend works in their constituencies based on a set of guidelines. The guidelines for use of MLA-LAD funds differ across states.
- The works are executed by the district authorities as per the government's financial, technical and administrative rules.
- MLALAD funds have its own set of guidelines but the projects funded by them are usually restricted to "durable infrastructure work", from repairing roads to building community centres.
- A similar request regarding GST exemption for works carried out under MPLAD funds was placed before the 47<sup>th</sup> GST Council in its meeting held on 28<sup>th</sup>-29<sup>th</sup> June, 2022. However, the council did not accede to the request.
- Exemptions provided under entries at Sl. No.3/3A of notification 12/2017-CT(R) dated 28.06.2017 cover wide range of supplies which may be received by local authorities.
- Further, end use-based exemptions are not advisable. They are difficult to monitor and prone to misuse. Exemption will block ITC of suppliers and increase cost.

#### Recommendations of Fitment Committee:

- The request may not be accepted.



## Agenda 4(Annexure-V)

### **12. On helicopters uniform rate of 5% GST should be charged on purchases charter, sale of seat tickets and all services rendered by helicopters including rental paid for hangarage. (pages 328-329)**

- The request was examined in the 47th GST Council meeting held in June, 2022. The Council did not accede to the request.
- Services by way of transport of passengers on seat share basis and that by way of chartering the entire helicopter to a person cannot be equated. The latter is usually consumed by the affluent and not by the common man. In Service Tax regime too, chartering of helicopter attracted service tax at the standard rate of 15%.
- Currently, GST rate on rental paid for hangarage is 18%.
- Service of renting of hangarage may be used either by helicopter operators or MROs. In case the service is used by helicopter operators providing goods or passenger transport services or charter services, the ITC of GST paid on hangarage rentals is available to the helicopter operators for discharge of output tax liability and does not become a cost for them.
- In case the hangarage rental services are being used by MROs, which attracts GST at the rate of 5%, the MROs are entitled to take ITC of services used by them for supplying the MRO services. GST paid on input goods and services by MRO is available to them as ITC and does not become a cost for them.

#### Recommendations of Fitment Committee

- The request may not be accepted.



## Agenda 4 (Annexure-V)

### **13. Rationalize GST on cargo services from 18% to 5% to bring it in line with other services. (pages 329-330)**

- Request to reduce GST rate on air cargo services from 18% to 12% was examined in the 47th GST Council meeting held in June, 2022 and the Council did not accede to the request.
- Transport of Goods by Air attracts GST at the rate of 18% with full ITC. Prescribing a lower rate with restricted ITC will lead to distortion in tax structure and blocking the ITC chain resulting in increased cost of operations for airlines.
- The business recipients of goods transportation services are entitled to ITC and therefore it is a pass-through tax.

#### Recommendations of Fitment Committee

- **The request may not be accepted.**



## Agenda 4 (Annexure-V)

### **14. To clarify whether ITC of other business verticals can be used to discharge GST on outward liability in respect of restaurant service given the restriction of input tax credit as specified in Notification No. 11/2017-CT (Rate) dated 28.06.2017, as amended, against entry at Sl. No. 7 & in 8, 9, 10, 23, 25, 31A. (pages 330-332)**

- The agenda item has been withdrawn by the sponsoring state.

#### Recommendations of Fitment Committee:

- **Fitment Committee recommended that no action is due**





## Agenda 4 (Annexure-V)

### **15. To exempt GST on services related to water harvest scheme. (pages 332-333))**

- The issue was deferred in the 37th GST Council held on 20.09.2019.
- The sponsoring state has informed that no such agenda has been forwarded by them.

#### Recommendations of Fitment Committee:

- **Fitment Committee recommended that no action is due**



## Agenda 4(Annexure-VI)

1. **To issue clarification regarding tax liabilities being demanded from casinos and online gaming industry for the past period (i.e., for the period from 2017-2023) and to regularise the GST paid on as is where is basis for the period 01.07.2017 to 30.09.2023. (pages 334-336)**
  - 50th GST Council meeting held in July,2023 had recommended to clarify that actionable claims supplied in Casinos, Race Courses and Online Gaming are also under the purview of GST and are to be taxed at the rate of 28% on full face value irrespective of whether the activities are games of skill or chance.
  - It was also recommended that the law may be amended to provide clarity on the matter.
  - 51st GST Council meeting held in August, 2023 recommended certain amendments in the CGST Act 2017 and IGST Act 2017, including amendment in Schedule III of CGST Act, 2017, to provide clarity on the taxation of supplies in casinos, horse racing and online gaming.
  - Further, regarding tax liability of the past cases, the issue was discussed in the 52nd GST Council meeting held on 07.10.2023. It was conveyed during the meeting that the amendments proposed are prospective and to come into force with effect from 01.10.2023. The notices issued by DGGI were for the past period under the law as it existed prior to the amendments and that it is not a retrospective application of the Council's decisions in the 50th and 51st meetings held on 11.07.2023 and 02.08.2023 respectively.
  - The matter was discussed in the Fitment Committee and it was recommended to obtain data for examination of the issue.

#### Recommendations of Fitment Committee:

- **The matter may be deferred.**



## Agenda 4 (Annexure-VI)

### **2. To clarify the nature and taxability of various supplies in relation to crypto eco-system (page 336)**

- GST Council in its 47th meeting held on 28-29 June 2022, 48th meeting held on 17 December 2022 and 52nd meeting held on 7 October 2024 has deferred the issues regarding the nature and taxability of various supplies in relation to the crypto eco-system.
- It was felt that the issues involved in crypto ecosystem need deeper study. TRU is to undertake study and submit a paper after obtaining expert opinion from IIT. Accordingly, IIT is being consulted.

#### Recommendations of Fitment Committee:

- **The matter may be deferred.**



## Agenda 4 (Annexure-VI)

### **3. To clarify whether GST is applicable on charges/ fees like FSI paid by builders to local authorities under Reverse Charge Mechanism (RCM) (pages 336-338)**

- Issue was deferred by the 52nd GST Council held on 07.10.2023.
- Municipalities collect various charges such as FSI premium, road permission charges, scrutiny fees, liaisoning fees, staircase premium, lift NOC charges, fire NOC charges, sewerage charges, charges for change of land use etc for different services supplied to builders/developers.
- To understand the issue, data is being collected and the same is awaited.

#### Recommendations of Fitment Committee:

- **The matter may be deferred.**



#### Agenda 4 (Annexure-VI)

**4. To clarify that as long as transport of goods is undertaken entirely by road and the person transporting the goods issues consignment note, the service would be treated as Goods Transport Agency (GTA) service instead of courier services. (pages 338-339)**

- Goods Transport Service by GTA attracts GST at the rate of 5% without ITC or 12% with ITC under forward charge. Courier service attracts GST at the rate of 18% with ITC.

#### Recommendations of Fitment Committee

- **To defer the issue for more comprehensive examination.**



#### Agenda 4 (Annexure-VI)

**5. To examine the inclusion of services under the Notification No. 17/2017-CTR dated 28.06.2017 under which four services have been notified on which GST is paid by Electronic Commerce Operator under section 9(5) of CGST Act, 2017. (pages 339)**

- Both Law Committee and Fitment Committee to jointly examine the issue.

#### Recommendations of Fitment Committee

- **To defer the issue.**



## Agenda 4 (Annexure-VI)

### **6. To clarify whether all the services provided by an educational institution to its students, faculty and staff, irrespective of the SAC, are exempt from levy of GST. (pages 339-341)**

- Notification No.12/2017-CI(R) dated 28.06.2017, in its opening para does not make any reference to the column no. 2 which relates to the Service Accounting Code but only to the description of services in column no.3. Further, the explanation clause in the said notification clearly says that the SAC is only indicative.
- Hence, the trade has been representing that all services provided by educational institutions to its students are exempt from tax irrespective of SAC to which the services belong.
- Fitment Committee examined the issue and felt that the issue requires further detailed examination.

#### Recommendations of Fitment Committee:

- **The matter may be deferred.**



## Agenda 4 (Annexure-VI)

### **7. Harmonisation of GST Rate Schedule on Services and the Classification of Services adopted for GST (pages 341-344)**

- Currently the GST rate schedule for services does not mention the classification of services at the 6-digit level. The sub-categorization of services beyond the 4-digit level has been carried out only for those services, on which a rate lower or higher than the standard rate of 18% was to be prescribed.
- The taxpayers are required to declare in the invoice/GST returns not the Sl. No. of GST Rate Schedule under which they have paid GST but the 6-digit classification of services in the Scheme of Classification annexed to the Rate Schedule. As a result, data of services for which a concessional rate of 5% or 12% or a higher rate of 28% has been notified is not captured.
- This data – the value of services, GST collected, GST paid in cash and through credit – is very important for policy formulation.
- The revised rate schedule has been placed in the public domain and the feedback received has been suitable incorporated.
- However, it is felt that more detailed feedback is required and the schedule may be notified after incorporating the changes recommended therein and after drop-down mechanism for selecting 6-digit classification of services is made available in GSTN portal.

#### Recommendations of Fitment Committee

- **The matter may be deferred.**





## Agenda 4 (Annexure-VI)

### **8. To notify Delhi Development Authority (DDA) as a Local Authority and to remove the reference of DDA from the answer to question #5 of the “FAQs on GST in Government Services Sector”(pages 344-345)**

- Issue was deferred in the 52nd GST Council meeting held on 07.10.2023.
- As per entry at Sl. No. 5 of notification No. 13/2017-CTR, services provided by local authority to a business entity are taxable under Reverse Charge Mechanism (RCM).
- Entry at Sl. No. 6 of notification No. 12/2017-CTR exempts services provided by local authority to individuals.
- DDA was inquired to inform whether DDA is legally entitled to or entrusted by the Government with the control or management of Municipal or Local Fund.
- For any authority to be treated as “Local Authority” they must fulfill the requirement of the definition of Local Authority as per Section 2 (69) of the CGST/SGST/UTGST Act. Local authority under CGST Act, 2017 has been defined as
  - “2(69) —local authority means— (a) a Panchayat as defined in clause (d) of article 243 of the Constitution; (b) a Municipality as defined in clause (e) of article 243P of the Constitution; (c) a Municipal Committee, a Zilla Parishad, a District Board, and any other authority legally entitled to, or entrusted by the Central Government or any State Government with the control or management of a municipal or local fund; (d) a Cantonment Board as defined in section 3 of the Cantonments Act, 2006; (e) a Regional Council or a District Council constituted under the Sixth Schedule to the Constitution; (f) a Development Board constituted under article 371 and article 371J8 of the Constitution; or (g) a Regional Council constituted under article 371A of the Constitution;”
- Fitment Committee recommended that Local fund may be defined.
- Maharashtra and West Bengal were requested to send draft formulation on the same. However, reply is still awaited from Maharashtra.

#### Recommendations of Fitment Committee:

- The matter may be deferred.



## Agenda 4(e) (Part II) (Annexure-VI)

### **9. (a) To amend Schedule I of the CGST Act to declare that there is no supply by Head Office of foreign shipping lines to its Indian GST registration or their agents with retrospective effect from 01.07.2017.**

#### **(b) Since amendment to the schedule I would require completion of various legislative processes, following may be considered:**

- Notification may be issued retrospectively w.e.f 01.07.2017 to grant exemption for all alleged deemed supplies from Head office of Foreign shipping lines to its Indian GST registrations or agents in India.
- For ease of reporting in GST returns the value of alleged deemed supplies could also be clarified as nil.
- The exemption notification could also be supported by decision from GST Council to conclude all investigations in the matter.
- Once the amendments in the Schedule I of the CGST Act are completed, exemption notification may be rescinded. The process may be completed within next three months.

#### **(c) Request for parity in treatment in respect of GST for Indian shipping industry similar to exemptions being granted to foreign shipping lines for coastal and EXIM water transport services (pages 53-55)**

- As per DGGI investigations, the shipping lines are liable to pay GST under RCM as recipient of services from their head offices located outside India.
- The same is on account of various costs incurred by head office such as lease of vessel, repairs and maintenance undertaken outside India etc.
- As per entry 4 of Schedule I of CGST Act, “import of service by a person from a related person or from any of his other establishments outside India, in the course or furtherance of business” is to be treated as a supply even if made without consideration.
- Further, as per explanation to sub-section 2 of section 8 of IGST Act, where a person has an establishment in India and any other establishment outside India then such establishments shall be treated as establishments of distinct persons.
- Section 7(1)(c) of CGST Act, 2017 states that “the expression supply includes the activities specified in Schedule I, made or agreed to be made without a consideration”.

## Agenda 4 (Annexure-VI)

9 (contd...)

- Section 2 (11) of IGST Act, 2017 defines 'import of services' as the "*supply of any service, where— (i) the supplier of service is located outside India; (ii) the recipient of service is located in India; and (iii) the place of supply of service is in India.*"
- Based on the above provisions, DGGI is of the view that branch offices of foreign shipping lines are liable to pay tax under RCM as recipient of services from their Head office located outside India.
- Indian National Shipowners' Association (INSA) has requested for parity in the treatment in respect of GST for Indian shipping industry similar to exemptions proposed to be granted to foreign shipping lines.
- Currently, transport of goods in vessel is taxed at 5% GST provided that ITC on the goods (other than on ships, vessels) used in supplying the service has not been taken.

### Recommendations of Fitment Committee:

- **The issue may be deferred for more comprehensive examination and collection of data.**



THANK YOU

## ITGRC: 21<sup>st</sup> Meeting

1

### ITGRC : 21<sup>st</sup> Meeting

#### **Agenda**

1. Technical issues requiring data fixes through back-end utilities.
2. Additional agenda items permitted by the chair.

32 issues presented by GSTN which required data fixes.

- **Issues with No Financial Implication:**

- 27 issues with no financial implications
  - ✓ impacting 635 cases
  - ✓ ITGRC took note of the data fixes in these cases

- **Issues with Financial Implication:**

- 3 issues with financial implications
  - ✓ 765 Cases involving Rs. 1,289.60
  - ✓ Took note of the data fixes in these cases

2



## ITGRC : 21<sup>st</sup> Meeting

### Court Directions:

- Data fixes carried out by GSTN in case of 2 Court Directions impacting 3 cases.

### Additional Data Fixes:

- 23 data fixes done between April – June 2024
  - ✓ **13 Technical issues with no financial implication** where data was known, involving 62195 cases. ITGRC took notice of the data fix done in 9 issues. 4 issues were deferred
  - ✓ **10 Technical issues with financial implications** were deferred
- 1 issue involving 15960 cases which was an update on a previous ITGRC issue was also tabled before the Committee.

3

## ITGRC : 21<sup>st</sup> Meeting

### ITGRC Recommendation

- **Login Errors:** Examine allowing special characters in the system as taxpayers getting error during login due to double quotes in name.

4



Thank You

54<sup>th</sup>

# GSTC Meeting

Presented By: GSTN

09 September 2024

1

## Agenda

- 1 B2C e-Invoicing Pilot Project
- 2 Integration of UPI/ Debit/Credit Cards
- 3 Enhancement in the Existing GST Return Architecture:
  - RCM & ITC Reclaim Ledger
  - IMS
  - GSTR – 1A



2

## B2C e-Invoicing Pilot Project

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### B2C e-Invoicing: Background & Proposal

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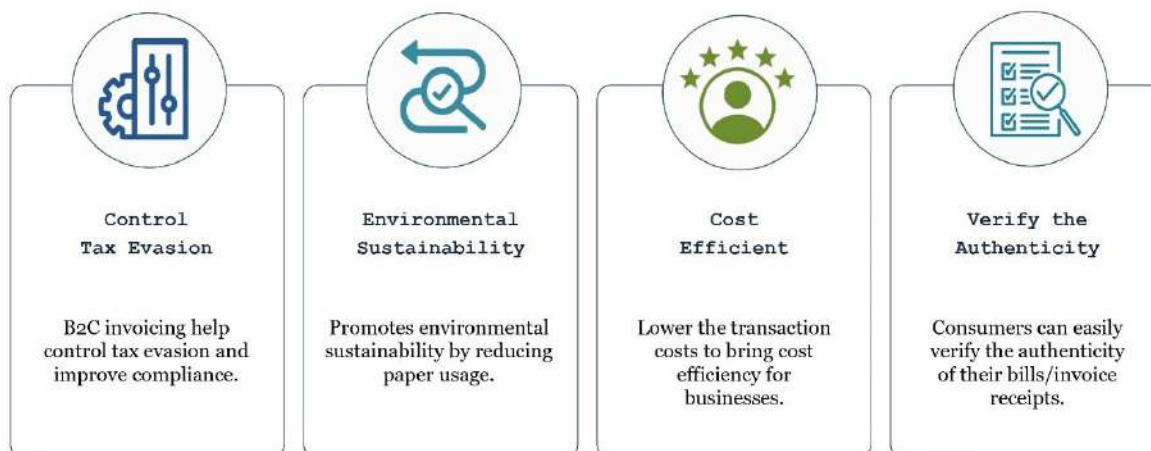
#### Background:

- ✓ The GST framework has successfully implemented e-Invoicing for B2B transactions and have reached a considerable level of maturity.
- ✓ It has proven to be robust tool for improving tax compliance, reducing errors and facilitating auto population of GSTR-1 for faster filing of returns.

#### Proposal for B2C e-Invoicing Pilot Project

- ✓ Building upon the learnings of B2B e-Invoicing system, the pilot project of B2C e-Invoicing is proposed to start.
- ✓ It would be implemented on a **voluntary basis** in **selected sectors**, in collaboration with **willing States/UTs**.

## Benefits of B2C e-Invoicing



## Proposal before the GST Council

**In view of the above, the GST Council is requested to kindly:**

1. Accord in principle approval for initiating the B2C e-Invoicing pilot project on a voluntary basis.
2. Direct Law Committee to propose necessary amendments in the law to enable the same.
3. Authorise the GSTN Board to prepare and finalise the commercial model for this.

## Proposal before the GST Council

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**In view of the above, the GST Council is requested to kindly:**

1. Accord in principle approval for initiating the B2C e-Invoicing pilot project on a voluntary basis.
2. Direct Law Committee to propose necessary amendments in the law to enable the same.
3. Authorise the GSTN Board to prepare and finalise the commercial model for this.



7

## Integration of UPI/ Debit/Credit Cards

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8

## Integration of UPI, CC & DC Payment Options for GST Payments



The remaining States/UTs and their respective accounting authorities are requested to expedite the integration of the above three additional payment options.

9

## Enhancement in the Existing GST Return Architecture: RCM & ITC Reclaim Ledger, IMS, GSTR-1A

10



## ITC Reclaim Ledger & RCM Ledger



### ITC Reclaim Ledger

- Introduced in August 2023
- For accurate reporting of reversal and reclaim of ITC
- Taxpayers were given 3 opportunities to amend the same till 29<sup>th</sup> Feb 2024.

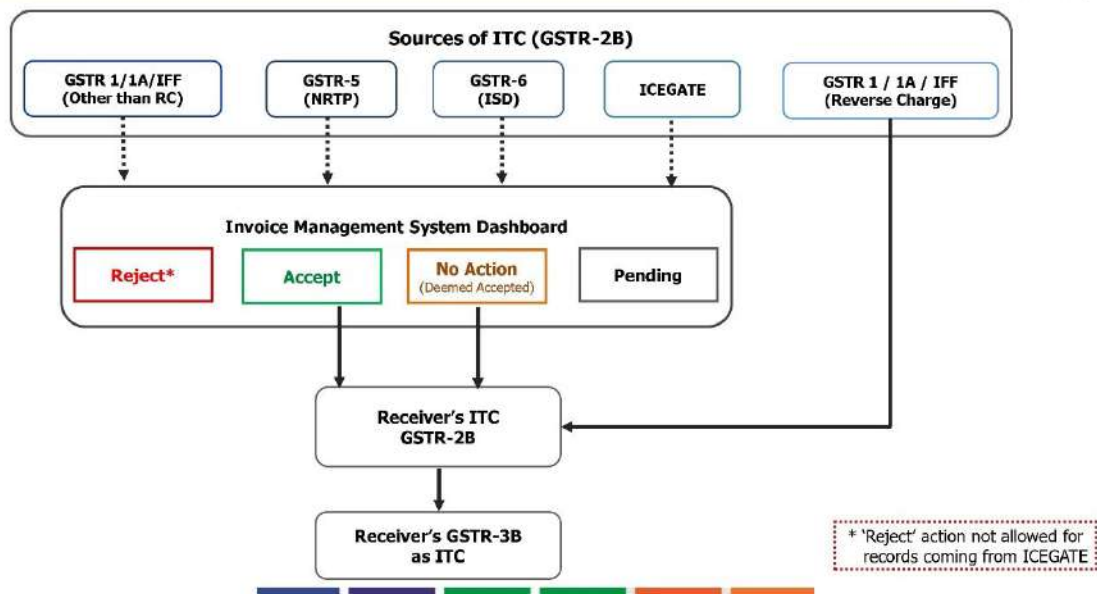
### RCM Ledger



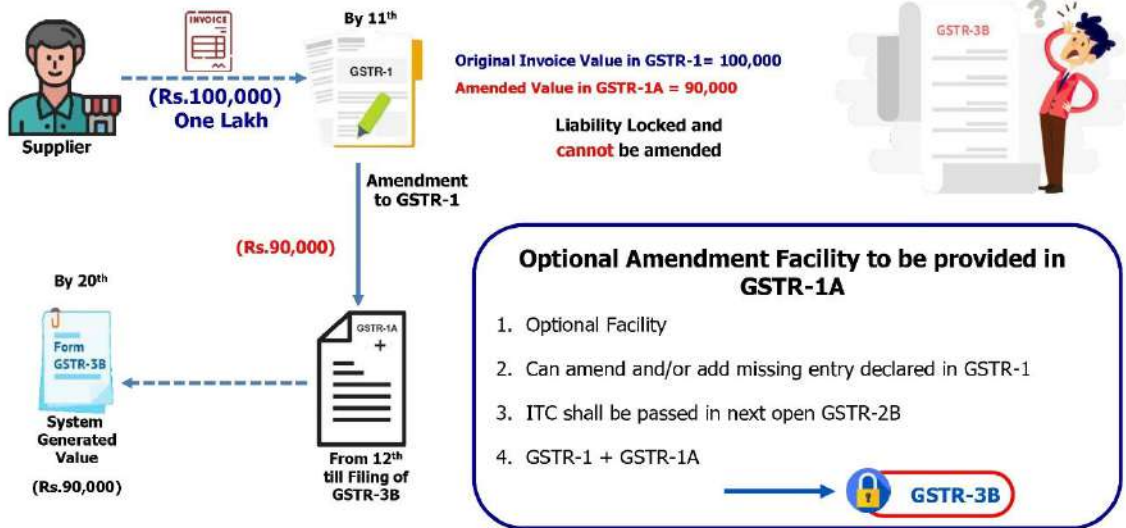
- As per LC's decision, a running RCM Ledger has been introduced wherein the RCM liability and its corresponding ITC is monitored in the system.
- Taxpayer is given a warning message in case of availing excess ITC than paid in GSTR-3B.

**Note:** Taxpayer will be given **one more opportunity** to declare opening balance till **31st Oct 2024** and to amend it till **30th Nov 2024**.

## Invoice Management System – for Accept/Reject functionality



## Form GSTR-1A



## Proposal before the GST Council

**The Council is requested to kindly:**

1. Take note of the above developments related to ITC re-claim ledger, RCM ledger and IMS.
2. Approve the above timelines of opportunity given for declaration of opening balance and amendment thereof in ITC re-claim ledger and RCM ledger.
3. Further authorise the Law Committee to revise the timelines if necessary. This would present an opportunity in due course of time to prevent erroneous claim of ITC and will reduce erroneous return filing.



**THANK YOU!!**



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# Agenda Note for 54<sup>th</sup> GST Council Meeting

Department of Revenue  
9<sup>th</sup> September 2024

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## **AGENDA ITEMS**

1. Revenue Position
2. IGST Settlement
3. Status update - Compensation Cess
4. GST Appellate Tribunal
5. GST Data sharing

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# 1. Revenue Position (1/4)

Monthly Gross & Net GST collection (Rs. In Crore)

Source: GSTN & ICEGATE

GST Collection (Amount in Crores)	Jan'24	Feb'24	Mar'24	Apr'24	May'24	Jun'24	Jul'24	Aug'24
CGST	32,685	31,785	34,532	43,846	32,409	32,627	32,386	30,862
SGST	40,895	39,615	43,746	53,538	40,265	40,715	40,289	38,411
IGST	88,550	84,098	87,947	99,623	87,781	87,310	96,447	93,621
Domestic	48,952	45,505	47,625	61,797	47,902	47,270	49,437	44,593
Imports	39,598	38,593	40,322	37,826	39,879	40,040	47,009	49,028
Comp Cess	11,976	12,839	12,259	13,260	12,284	13,160	12,953	12,068
Domestic	11,173	11,854	11,263	12,252	11,207	12,188	11,923	11,120
Imports	803	984	996	1,008	1,076	972	1,029	948
<b>Gross Total</b>	<b>1,74,106</b>	<b>1,68,337</b>	<b>1,78,484</b>	<b>2,10,267</b>	<b>1,72,739</b>	<b>1,73,812</b>	<b>1,82,075</b>	<b>1,74,962</b>
<b>YoY Growth%</b>	<b>11%</b>	<b>13%</b>	<b>11%</b>	<b>12%</b>	<b>10%</b>	<b>8%</b>	<b>10%</b>	<b>10%</b>
Less – Refunds (Domestic + Imports)	19,255	17,810	13,891	18,507	28,410	19,946	16,283	24,460
<b>Net GST Collection</b>	<b>1,54,851</b>	<b>1,50,527</b>	<b>1,64,593</b>	<b>1,91,760</b>	<b>1,44,329</b>	<b>1,53,866</b>	<b>1,65,792</b>	<b>1,50,502</b>

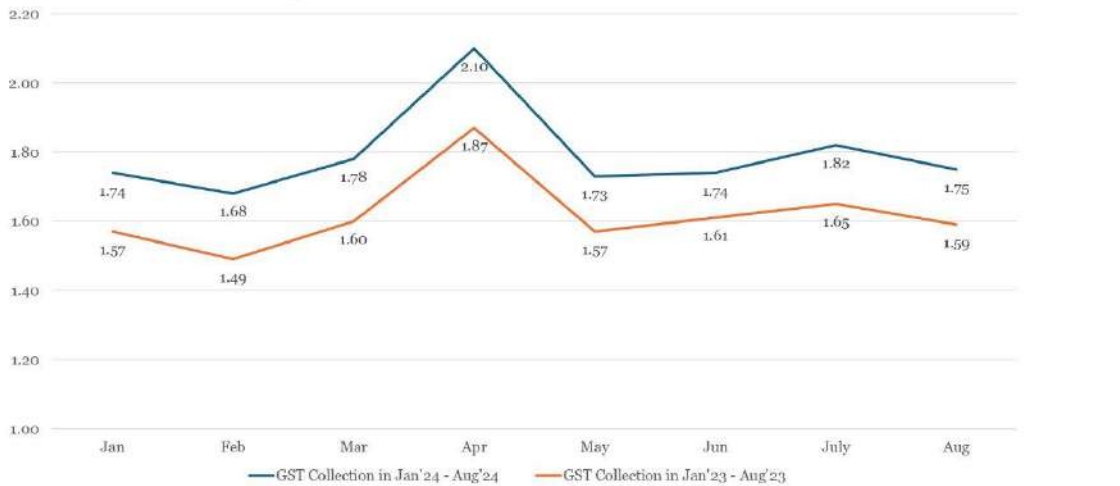
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# 1. Revenue Position (2/4)

Monthly Gross Collection Trend and YoY Growth



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x axis – Amount in INR Rs Lakh Crore

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# 1. Revenue Position – State wise (3/4)

In Rs Crore

Pre-  
Settlement  
Revenue  
**Overall  
growth -  
9%**

State/UT	Apr'23- Aug'23	Apr'24- Aug'24	YoY %	State/UT	Apr'23- Aug'23	Apr'24- Aug'24	YoY %
Manipur	148	181	23%	Madhya Pradesh	5,334	5,783	8%
Dadra and Nagar Haveli and Daman and Diu	268	317	18%	Telangana	7,909	8,437	7%
Haryana	8,304	9,664	16%	Rajasthan	7,167	7,569	6%
Delhi	6,430	7,342	14%	Chhattisgarh	3,505	3,674	5%
Odisha	6,870	7,816	14%	Mizoram	132	138	5%
Uttarakhand	2,202	2,507	14%	Andhra Pradesh	5,905	6,147	4%
Goa	945	1,068	13%	Himachal Pradesh	1,130	1,172	4%
Ladakh	79	90	13%	Kerala	5,819	6,034	4%
Karnataka	16,628	18,631	12%	Tripura	223	227	2%
Uttar Pradesh	13,552	15,146	12%	West Bengal	10,062	10,313	2%
Chandigarh	284	316	11%	Jammu and Kashmir	1,284	1,289	0%
Maharashtra	42,053	46,588	11%	Meghalaya	269	268	0%
Tamil Nadu	16,638	18,535	11%	Jharkhand	3,824	3,719	-3%
Assam	2,458	2,709	10%	Andaman and Nicobar Islands	99	95	-4%
Puducherry	204	225	10%	Nagaland	131	125	-5%
Bihar	3,444	3,768	9%	Arunachal Pradesh	306	263	-14%
Gujarat	17,439	18,925	9%	Other Territory	95	80	-15%
Punjab	3,555	3,890	9%	Sikkim	237	165	-31%
				Lakshadweep	14	3	-82%

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# 1. Revenue Position – State wise (4/4)

In Rs Crore

Post-  
Settlement  
Revenue  
**Overall  
growth 11%**

State/UT	(Apr'23- Aug'23)	(Apr'24- Aug'24)	YoY %	State/UT	(Apr'23- Aug'23)	(Apr'24- Aug'24)	YoY %
Odisha	9,218	11,156	21%	Rajasthan	16,060	17,479	9%
Tamil Nadu	26,767	31,338	17%	Jammu and Kashmir	3,457	3,717	8%
Uttar Pradesh	30,822	35,512	15%	Himachal Pradesh	2,415	2,604	8%
Uttarakhand	3,444	3,880	13%	Assam	6,085	6,494	7%
Haryana	14,403	16,251	13%	West Bengal	17,637	18,825	7%
Jharkhand	5,152	5,845	13%	Telangana	16,466	17,664	7%
Madhya Pradesh	13,139	14,906	13%	Andhra Pradesh	12,914	13,797	7%
Ladakh	239	270	13%	Goa	1,670	1,770	6%
Chhattisgarh	5,484	6,162	12%	Punjab	9,052	9,464	5%
Maharashtra	61,783	69,274	12%	Meghalaya	737	772	5%
Andaman and Nicobar Islands	229	257	12%	Chandigarh	929	950	2%
Delhi	13,300	14,804	11%	Mizoram	425	428	1%
Manipur	486	537	11%	Kerala	13,080	13,252	1%
Tripura	667	739	11%	Nagaland	455	451	-1%
Bihar	10,723	11,768	10%	Puducherry	625	599	-4%
Gujarat	26,870	29,423	10%	Arunachal Pradesh	882	811	-8%
Dadra and Nagar Haveli and Daman and Diu	471	517	10%	Sikkim	486	410	-16%
Karnataka	30,369	33,330	10%	Lakshadweep	56	39	-31%
				Other Territory	545	372	-32%

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## 2. IGST Settlement (1/6)

### Current Position

1. Negative Balance in IGST FY 2023-24: Rs. 5,516 crore [even after accounting for the recovery of ₹ 18,000 crore carried out in November, 2023].
2. Cumulative negative balance as of August 2024 in this current FY – Rs.8,702 crore.
3. Total negative balance for FY 2023-24 and FY 2024-25 (till Aug 24) – Rs.14,218 crore.

In Rs Crore	
Month	Balance for the month
Upto March 2024	-5,516
April 2024	-2,645
May 2024	-8,238
June 2024	707
July 2024	-483
August 2024	1,957
Cumulative Balance	-14,218

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## 2. IGST Settlement (2/6)

Apportionment of IGST Balance made from time to time so far are tabulated below:

In Rs Crore						
FY	STATES			CENTRE		
	Positive Balance	Negative Balance	Net	Positive Balance	Negative Balance	Net
2017-18	17,500	0	17,500	17,500	0	17,500
2018-19	65,000	-3,500	61,500	65,000	-3,500	61,500
2019-20	16,500	-14,500	2,000	16,500	-14,500	2,000
2020-21	38,000	0	38,000	38,000	0	38,000
2021-22	39,500	-5,500	34,000	39,500	-5,500	34,000
2022-23	24,500	-1,500	23,000	24,500	-1,500	23,000
2023-24	0	-9,000	-9,000	0	-9,000	-9,000
<b>TOTAL</b>	<b>2,01,000</b>	<b>-34,000</b>	<b>1,67,000</b>	<b>2,01,000</b>	<b>-34,000</b>	<b>1,67,000</b>

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## 2. IGST Settlement (3/6)

### Apportionment of Positive or Negative Balance

Guided by section 17(2A) of the IGST Act, 2017 read with GST Settlement of Funds Rules, 2017

- Apportionment of position or negative balance is carried out periodically.
- The objective is to maintain the balance in the IGST account as close to zero as possible.
- Both apportionment and recovery are carried in the **50:50 ratio between Centre and States / Union Territories**
- Ratio of recovery amongst the States is not specified. Surplus balance was apportioned done in the ratio of base year (FY 15-16) revenue and negative balance was apportioned in the ratio the respective month's IGST settlement.

## 2. IGST Settlement (4/6)

- ☐ It is proposed to revise the method of apportionment of surplus and negative balance of IGST among States / Union Territories:
  - ☐ Share of revenue of each state has changed significantly post implementation of GST – so base year ratios may not reflect the current picture.
  - ☐ Ideally, recovery should be in the ratio of the IGST Utilized , and not on the share of revenue of each State/UT. IGST utilisation of a state is a good indicator of the IGST accumulation in the state.
  - ☐ The adopted method needs to be dynamic enough to reflect current realities and at the same time stable for administrative ease and better predictability.

## 2. IGST Settlement (5/6)

### BASIS FOR APPORTIONMENT OF IGST BALANCE

#### Proposals for Approval of GST Council:

- ☐ It is proposed that the decided methodology may be implemented and followed for advance apportionment and recovery adjustments to be made **from 01.04.2024 onwards.**
- ☐ Accordingly, it is proposed that the apportionment of surplus and negative balance of IGST may be done to each state in the ratio of the amount of **IGST utilised by the state to that of the total IGST utilised by all the states together in the recent past.**
- ☐ In the interest of stability, a **rolling period of the immediate three previous financial years** may be used.
  - ☐ The advance apportionment for **FY 2024-25** would be based on the total amount of **IGST utilisation of the states in FYs 2021-22 to 2023-24.**

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## 2. IGST Settlement (6/6)

#### Proposals for Approval of GST Council:

- ☐ The negative balance of Rs.14,218 would be recovered from the Centre (50%) and States (50%) over 4 instalments starting September 2024.
- ☐ Henceforth, any surplus or negative in IGST account in any month shall be apportioned on monthly basis in the IGST settlement of the succeeding month as follows:

Month	Backlog recovery (Rs. Cr)	Monthly Apportionment of Surplus/Negative Balance
September 2024	1,777	-
October 2024	1,777	Surplus/Negative of Sep 24
November 2024	1,777	Surplus/Negative of Oct 24
December 2024	1,778	Surplus/Negative of Nov 24
January 2025	-	Surplus/Negative of Dec 24
February 2025	-	Surplus/Negative of Jan 25
March 2025	-	Surplus/Negative of Feb 25 and Mar 25

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### 3. Status update - Compensation Cess (1/3)

Project Collection up to March 2025

		<i>In Rs Crore</i>
<b>Year</b>	<b>Total</b>	
2017-18 (from July 2017)	62,612	
2018-19	95,081	
2019-20	95,551	
2020-21	85,191	
2021-22	1,04,609	
2022-23	1,25,863	
2023-24	1,41,809	
2024-25 (upto August, 2024)	63,725	
<b>Collection from July '17 to August '24</b>	<b>7,74,441</b>	
Projected (September, 2024 -March 2025)	92,265	
<b>Projected Total (till Mar 2025)</b>	<b>8,66,706</b>	

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### 3. Status update - Compensation Cess (2/3)

Compensation account summary projected as of March 31, 2026

		<i>In Rs Crore</i>
<b>Particulars</b>	<b>Amount</b>	
Total Cess Collections (actual + projected) up to March 2025	8,66,706	
Compensation Paid till 05 <sup>th</sup> September 2024	-6,64,203	
Back-to-Back Loan Repayable	-2,69,208	
Estimated Compensation payable	-13,000	
Interest on B2B Loan (projected)	-51,561	
Excess compensation to be recovered	213	
<b>Shortfall in Compensation Account as of March 31, 2025</b>	<b>-1,31,053</b>	
<b>Projected Collection in FY 2025-26 (10% growth)</b>	<b>1,71,589</b>	
<b>Projected surplus as of March 2026</b>	<b>40,536</b>	

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### 3. Status update - Compensation Cess (3/3)

#### PROPOSAL

- ❑ As can be seen from the table shown in previous slide, it is estimated that there will still be a **shortfall of ₹ 1,31,053 crore** in the compensation account as of March 31, 2025.
- ❑ Therefore, the Compensation Cess levy would have to be continued beyond FY 2024-25 and well into FY 2025-26.
- ❑ Updated Status to be presented before the council on regular basis.
- ❑ The Council may entrust the Fitment Committee with the responsibility to decide on the form and manner in which the amount being collected as cess may continue to be collected in future. *[As discussed in the Officer's Meeting]*

### 4. GST Appellate Tribunal (1/3)

#### **Proposal to notify the amendments in section 109 & 171 of the CGST Act with effect from 15.09.2024**

- In Finance Act 2024, amendments were carried out for empowering the Principal Bench of GSTAT to undertake examination of the Anti-Profiteering measures under GST.
- Further, there is an enabling provision for introducing a sunset clause for Anti-Profiteering measures.
- Approval of the GST Council to sought to notify the amendments in sections 109 and 171 of the CGST Act w.e.f 15.09.2024.
- Post the notification, Principal Bench of GSTAT would be notified as an Authority under section 171 to adjudicate anti-profiteering cases.

## 4. GST Appellate Tribunal (2/3)

### Changes in the notified locations of some GSTAT State Benches

- ❑ **Kerala** - The request of Kerala (*for interchanging the Location of the Bench to the location of the Additional Sitting between Ernakulum and Thiruvananthapuram*) has already been incorporated in notification **No. S.O. 3048(E) dated 31.07.2024. Post facto approval of GST Council sought.**
- ❑ **Uttar Pradesh** – The proposal of Government of Uttar Pradesh is for notifying Prayagraj as location of the Bench and Varanasi as the additional sitting of Prayagraj
- ❑ **Punjab** - The State of Punjab has requested that the location of Bench be changed from Jalandhar to Chandigarh and notify Jalandhar as the additional sitting of Chandigarh.
- ❑ **Above requests of Kerala, Uttar Pradesh and Punjab placed for approval of GST Council and these are updated in the draft notification circulated.**

## 4. GST Appellate Tribunal (3/3)

### Proposal to notify jurisdictions of the State benches of the GSTAT

- ❑ As per the provisions of sub-section 4 of section 109 of CGST Act, 2017, jurisdiction of the State Benches (and the additional Sitzings associated with the State Benches) is required to be notified.
- ❑ **Approval of the GST Council is sought to notify the jurisdictions of the State Benches as per draft notification in the Agenda Note.**
  - ❑ **State of Gujarat, Tamil Nadu and Haryana have sent their updated jurisdiction post circulation of Agenda. Same will be updated in the notification.**
  - ❑ **States may revert within 5 days if any corrections in the name of the districts is required.**
  - ❑ **Council may empower the GIC to decide on issues related to jurisdiction, upon request of the States. [As discussed in the Officer's Meeting]**



## 5. GST Data Sharing (1/4)

### **Sharing of Personally Identifiable Information of Taxpayers with other Ministries / Departments**

- ☐ As approved in the 48<sup>th</sup> GST Council Meeting, requests for data sharing of the residual category (D) would be approved only on specific approval of the GST Council/GST Implementation Committee on a case-to-case basis.
- ☐ The merits of each case should fall within the requirements of section 158 (3).
- ☐ Few requests regarding personally identifiable data have been received. Some were placed before GIC but were rejected / returned by the GIC.
- ☐ Accordingly, Five of the requests which have been examined for feasibility are placed before the GST Council for decision on the matter.
- ☐ **There are other requests from various states/agencies including the State of Tamil Nadu. GIC may be authorised to approve the said requests on a case-to-case basis with the safeguards circulated in the Agenda.**

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## 5. GST Data Sharing (2/4)

### **Details of Requests received :**

#### **1. Request from M/o Labour and Employment –**

- ☐ Data for E-commerce sector for FY 2022-23 and 2023-24 including supplier's name, GSTIN, annual turnover, HSN Code.
- ☐ Purpose: For identification of digital platforms / aggregators (such as Ola, Uber, Zomato etc.), to assess the implementation of schemes for social security coverage of platform workers.
- ☐ Status: *Sent to GIC – Sent back*

#### **2. Request from Gujarat Infrastructure Development Board (GIDB)**

- ☐ Data of GST and e-way bill including “From Address” and “To Address”.
- ☐ Purpose: Preparation of Integrated Logistics Master Plan for the State of Gujarat.
- ☐ Status: *Sent to GIC - Haryana had reservation on sharing of data on recurring basis*

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## 5. GST Data Sharing (3/4)

### 3. National Industrial Corridor Development Corporation Limited (NICDC)

- ❑ Requested data is to provide bulk data of E-way Bill numbers along with vehicle number of carriage.
- ❑ Purpose: For analyzing commodity-wise origin and consumption points mapping and preferred mode of transportation, to identify bottlenecks in the logistics sector.
- ❑ Status: *Sent to GIC – Yet to be approved*

### 4. Directorate General of Commercial Intelligence & Statistics, M/o Commerce & Industry

- ❑ Data includes Mobile number and Email address of suppliers.
- ❑ Purpose: To develop a comprehensive Business Directory of Service Exporting Units.
- ❑ Status: *Not yet sent to GIC*

## 5. GST Data Sharing (3/4)

### 5. IMF project on GST Rate sensitivity project:

- ❑ GSTN in collaboration with other concerned entities is developing a model to understand the impact of GST rate changes on revenue in a scientific and deterministic manner.
- ❑ IMF has been engaged to assist in this project. IMF has requested certain data to be made available.
- ❑ Requested data is anonymized taxpayer data pertaining to sector of business, turnover data, tax payments, imports, type of transactions, date of registration etc. Only about 10-20% of anonymized data is proposed to be shared for initiating the model. The model will be extrapolated on the entire data, internally by GSTN.
- ❑ This does not involve any personally identifiable information. Result of this exercise may prove beneficial for taking policy decisions regarding tax rate changes.





### 3. Compensation Cess - Status

**Status of  
AG's  
certificate  
received  
and  
processed**

S.No	Name of State/UT	2017-18	2018-19	2019-20	2020-21	2021-22	2022-23(Q1)
1	Andhra Pradesh						
2	Arunachal Pradesh						
3	Assam						
4	Bihar						
5	Chhattisgarh						
6	Delhi						
7	Goa						
8	Gujarat						
9	Haryana						
10	Himachal Pradesh						
11	J & K						
12	Jharkhand						
13	Karnataka						
14	Kerala						
15	Madhya Pradesh						
16	Maharashtra						
17	Manipur						
18	Meghalaya						
19	Mizoram						
20	Nagaland						
21	Odisha						
22	Puducherry						
23	Punjab						
24	Rajasthan						
25	Sikkim						
26	Tamil Nadu						
27	Telangana						
28	Tripura						
29	Uttar Pradesh						
30	Uttarakhand						
31	West Bengal						

## 5. GST Data Sharing

*Extract of Section 158(3)*

*“(h) any particulars when such disclosure is occasioned by the lawful exercise by a public servant or any other statutory authority, of his or its powers under any law for the time being in force; or*

*...*

*(k) any particulars to an officer of the Government as may be necessary for the purposes of any other law for the time being in force; or*

*(l) any information relating to any class of taxable persons or class of transactions for publication, if, in the opinion of the Commissioner, it is desirable in the public interest, to publish such information.”*

## **Agenda Item 2: Ratification of Notifications, Circulars and GIC Decisions by the GST Council**

In the 22<sup>nd</sup> meeting of the GST Council held at New Delhi on 6<sup>th</sup> 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 ratification by the GST Council. Accordingly, in the 54<sup>th</sup> meeting held on 9<sup>th</sup> September, 2024, the GST Council had ratified all the notifications, circulars and orders issued up to 17.08.2024.

2. In this respect, the following notifications issued under the GST laws by the Central Government, as available on <https://egazette.gov.in/> and circulars issued under the GST laws by the Central Government, as available on [www.cbic.gov.in](http://www.cbic.gov.in), after 17.08.2024 till 10.12.2024, are placed before the Council for information and ratification: -

<b>Act/Rules</b>	<b>Type</b>	<b>Notification / Circular / Order Nos.</b>	<b>Description/Subject</b>
Notifications under CGST Act / CGST Rules	Central Tax	1. Notification No. 17/2024-Central Tax dated 27.09.2024	Seeks to notify the provisions of Finance (No. 2) Act, 2024
		2. Notification No. 18/2024-Central Tax dated 30.09.2024	Seeks to notify Principal Bench of GST Appellate Tribunal to hear cases of anti-profiteering
		3. Notification No. 19/2024-Central Tax dated 30.09.2024	Notification under Section 171 of CGST Act to provide for the sunset date.
		4. Notification No. 20/2024-Central Tax dated 08.10.2024	Seeks to make amendments (Second Amendment 2024) to the CGST Rules, 2017
		5. Notification No. 21/2024-Central Tax dated 08.10.2024	Seeks to notify date under sub-section (1) of Section 128A of CGST Act.

		6. Notification No. 22/2024-Central Tax dated 08.10.2024	Seeks to notify the special procedure under section 148 of the CGST Act for rectification of demand orders issued for contravention of section 16(4) of the said Act.
		7. Notification No. 23/2024-Central Tax dated 08.10.2024	Seeks to provide waiver of late fee for late filing of NIL FORM GSTR-7
		8. Notification No. 24/2024-Central Tax dated 09.10.2024	Seeks to amend Notification No. 5/2017-Central Tax dated 19.06.2017
		9. Notification No. 25/2024-Central Tax dated 09.10.2024	Seeks to amend Notification No. 50/2018-Central Tax dated 13.09.2018
		10. Notification No. 26/2024-Central Tax dated 18.11.2024	Extension of due date for filing of return in FORM GSTR-3B for the month of October, 2024 for the persons registered in the state of Maharashtra and Jharkhand
		11. Notification No. 29/2024-Central Tax dated 27.11.2024	Seeks to extend the due date for furnishing FORM GSTR-3B for the month of October, 2024 for registered persons whose principal place of business is in the State of Manipur.
		12. Notification No. 30/2024-Central Tax dated 10.12.2024	Seeks to extend the due date for furnishing FORM GSTR-3B for the month of October, 2024 for registered persons whose principal place of business is in the district of Murshidabad in the State of West Bengal.
		13. Notification No. S.O. 5063(E) dated 26.11.2024 and Corrigendum dated	Seeks to change the location of certain State Benches of the GSTAT and to notify the jurisdiction of each of the State Benches and their Additional Sitzings

		29.11.2024	
	Central Tax (Rate)	1. Notification No. 05/2024-Central Tax (Rate) dated 08.10.2024	Seeks to amend Notification No. 1/2017- Central Tax (Rate) dated 28.06.2017.
		2. Notification No. 06/2024-Central Tax (Rate) dated 08.10.2024	Seeks to amend Notification No. 4/2017- Central Tax (Rate) dated 28.06.2017.
		3. Notification No. 07/2024-Central Tax (Rate) dated 08.10.2024	Seeks to amend Notification No 11/2017- Central Tax (Rate) dated 28.06.2017
		4. Notification No. 08/2024-Central Tax (Rate) dated 08.10.2024	Seeks to amend Notification No 12/2017- Central Tax (Rate) dated 28.06.2017
		5. Notification No. 09/2024-Central Tax (Rate) dated 08.10.2024	Seeks to amend Notification No 13/2017- Central Tax (Rate) dated 28.06.2017
		Corrigendum dated 22.10.2024 to Notification No. 09/2024-Central Tax (Rate) dated 08.10.2024	To read “any immovable property” for “any property”, as mentioned in Notification No. 09/2024-CT(R)
Notifications under IGST Act / IGST Rules	Integrated Tax (Rate)	1. Notification No. 05/2024-Integrated Tax (Rate) dated 08.10.2024	Seeks to amend Notification No. 1/2017- Integrated Tax (Rate) dated 28.06.2017.

		2. Notification No. 06/2024- Integrated Tax (Rate) dated 08.10.2024	Seeks to amend Notification No. 4/2017- Integrated Tax (Rate) dated 28.06.2017.
		3. Notification No. 07/2024- Integrated Tax (Rate) dated 08.10.2024	Seeks to amend Notification No 8/2017- Integrated Tax (Rate) dated 28.06.2017
		4. Notification No. 08/2024- Integrated Tax (Rate) dated 08.10.2024	Seeks to amend Notification No 9/2017- Integrated Tax (Rate) dated 28.06.2017
		5. Notification No. 09/2024- Integrated Tax (Rate) dated 08.10.2024	Seeks to amend Notification No 10/2017- Integrated Tax (Rate) dated 28.06.2017
		Corrigendum dated 22.10.2024 to Notification No. 09/2024-Integrated Tax (Rate) dated 08.10.2024	To read "any immovable property" for "any property", as mentioned in Notification No. 09/2024-IT(R)
Notifications under UTGST Act / UTGST Rules	Union Territory Tax (Rate)	1. Notification No. 05/2024-Union Territory Tax (Rate) dated 08.10.2024	Seeks to amend Notification No. 1/2017- Union Territory Tax (Rate) dated 28.06.2017.
		2. Notification No. 06/2024- Union Territory Tax (Rate) dated 08.10.2024	Seeks to amend Notification No. 4/2017- Union Territory Tax (Rate) dated 28.06.2017.
		3. Notification No. 07/2024- Union Territory Tax (Rate) dated 08.10.2024	Seeks to amend Notification No 11/2017- Union Territory Tax (Rate) dated 28.06.2017

		4. Notification No. 08/2024- Union Territory Tax (Rate) dated 08.10.2024	Seeks to amend Notification No 12/2017- Union Territory Tax (Rate) dated 28.06.2017
		5. Notification No. 09/2024- Union Territory Tax (Rate) dated 08.10.2024	Seeks to amend Notification No 13/2017- Union Territory Tax (Rate) dated 28.06.2017
		Corrigendum dated 22.10.2024 to Notification No. 09/2024- Union Territory Tax (Rate) dated 08.10.2024	To read "any immovable property" for "any property", as mentioned in Notification No. 09/2024-UT(R)
Circulars under CGST Act		1. Circular No. 230/24/2024-GST dated 11.09.2024	Clarification in respect of advertising services provided to foreign clients.
		2. Circular No. 231/25/2024-GST dated 11.09.2024	Clarification on availability of input tax credit in respect of demo vehicles.
		3. Circular No. 232/26/2024-GST dated 11.09.2024	Clarification on place of supply of data hosting services provided by service providers located in India to cloud computing service providers located outside India.
		4. Circular No. 233/27/2024-GST dated 11.09.2024	Clarification regarding regularization of refund of IGST availed in contravention of rule 96(10) of CGST Rules, 2017, in cases where the exporters had imported certain inputs without payment of integrated taxes and compensation cess.
		5. Circular No. 234/28/2024-GST dated 11.10.2024	Clarifications regarding applicability of GST on certain services.



	6. Circular No. 235/29/2024-GST dated 11.10.2024	Clarification regarding GST rates & classification (goods) based on the recommendations of the GST Council in its 54th meeting held on 9th September 2024 at New Delhi.
	7. Circular No. 236/30/2024-GST dated 11.10.2024	Clarification regarding the scope of “as is / as is, where is basis” mentioned in the GST Circulars issued on the basis of recommendation of the GST Council in its meetings.
	8. Circular No. 237/31/2024-GST dated 15.10.2024 & Corrigendum dated 25.10.2024	Clarifying the issues regarding implementation of provisions of sub-section (5) and sub-section (6) in section 16 of CGST Act, 2017.
	9. Circular No. 238/32/2024-GST dated 15.10.2024	Clarification of various doubts related to Section 128A of the CGST Act, 2017.

3. It is mentioned that some of the above notifications were issued based on the recommendations made by the GST Implementation Committee (GIC). The details of the recommendations of GIC are enclosed as Annexure “A” to this Agenda Note.

4. The GST Council may grant ratification to the notifications and circulars as detailed in para 2 above.

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## Annexure A

### **Decisions of GST Implementation Committee (GIC) for information of the GST Council**

The GST implementation Committee (GIC) took the following decisions after the 54<sup>th</sup> GST Council meeting which are placed before the Council for information. The details of the decisions taken are given below:

#### **1. Decision by circulation on 13.09.2024 regarding request received from Department of Posts for validation of GSTINs through API**

- a. The agenda note stated that the Department of Posts has established over 1000 Dak Ghar Niyat Kendras (DNKs) nationwide to promote commercial exports and on the DNK customer portal, customer details including IEC, GSTIN, AD Code and LUT etc. are being captured with facilities for document upload and online generation of Postal Bill of Export. The agenda further states that the Department of Posts and the Central Board of Indirect Taxes and Customs (CBIC) are collaborating to integrate the Dak Ghar Niryat Kendra portal with the Customs system to facilitate IGST refunds and other export- related benefits. It was further noted that processing failures have been observed due to the use of invalid GSTINs, highlighting the critical need for GSTIN validation to ensure accurate IGST refunds. Therefore, the Department of Posts has requested access to the GST API for the purpose of GSTIN validation.
- b. Accordingly, approval of the GIC was sought for allowing the Department of Posts to use API for the purpose of GSTN validation.
- c. **Decision:** The GIC approved the agenda relating to request received from Department of Posts for validation of GSTINs through API.

#### **2. Decision by circulation on 29.10.2024 regarding GST data sharing request received from DPIIT- Logistics Division, Ministry of Commerce and Industry**

- a. The agenda note stated that a request had been received from the DPIIT- Logistics Division, Ministry of Commerce and Industry, for the sharing of aggregated GST and e-Way bill data. It was further noted that the aggregated data is required to estimate logistics costs in the country under the National Logistics Policy. Additionally, the e-Way bill data would be used to identify routes for surveys and to develop a sampling plan. The data items that need to be aggregated include monthly data based on HSN codes and PIN codes for dispatch and delivery locations. The specific data fields required for aggregation were: Month, HSN Code (4 digits), Taxable Value, Dispatch PIN Code & State, Ship to PIN Code & State, and Transaction sub-type.
- b. Accordingly, approval of the GIC was sought for sharing of the data with the Ministry of Commerce and Industry.

- c. **Decision:** The GIC approved the agenda relating to GST data sharing request received from the DPIIT- Logistics Division, Ministry of Commerce and Industry.

**3. Decision by circulation on 29.10.2024 regarding e-Way bill data sharing request received from the Ministry of Railways.**

- a. The agenda note stated that a request had been received from the Ministry of Railways for the sharing of e-Way bill data related to major commodities. It was further noted that the aggregated data is required to assist in the logistic management of the Railways. The data fields that are required to be aggregated are Origin and Destination PIN code, Month-Year, Travel Distance slab, HSN code and HSN description, Value of Goods, Origin & Destination District, Origin & Destination State and Mode of Transport. The data items on which aggregation needs to be done are commodities such as Cement & Clinker, Coal, Fertilizer, Pig Iron/steel, Iron Ore, Petroleum Oil Lubricant, Food Grains, Fly ash, automobile, Bauxite, Manganese Ore, Stone, Gypsum, Salt, Sugar and Others (Sand, White Goods etc.). The data is to be aggregated for the financial years 2022-23 and 2023-24. The agenda note also stated that the data request is recurring, with a periodicity of aggregation aligned to the financial year.
- b. Accordingly, approval of the GIC was sought for sharing the aggregated e-Way bill data with the Ministry of Railways.
- c. **Decision:** The GIC approved the agenda relating to sharing aggregated e-Way bill data with the Ministry of Railways.

**4. Decision by circulation on 21.11.2024 regarding request received from the state of Jharkhand for relaxation in the eligibility criteria for selection to the post of Technical Member (State) in GSTAT.**

- a. The Agenda Note stated that representation had been received from the State of Jharkhand for relaxation in the eligibility criteria for selection to the post of Technical Member (State) in GSTAT.
- b. The agenda stated that the representation received from State of Jharkhand has informed that they have observed that there are insufficient number of officers eligible for the post of Technical Member (State) in GSTAT and therefore, The State has requested to relax the criteria in accordance with the provisions of section 110 (1)(d) and proviso thereof of the CGST Act, 2017. It further stated that the State of Jharkhand has requested for relaxations in the qualification of Technical Member (State) in GSTAT and has proposed that the required years of service in Government be considered in place of years served in Group A, and that the rank of Joint Commissioner be recognized as the eligible rank for the role of Technical Member (State) in Jharkhand. The Agenda Note further mentions that the State has confirmed that no current officer meets the existing eligibility criteria. It has also been verbally confirmed that the current Appellate Authority in the State holds the rank of Joint Commissioner.

- c. The eligibility for the Technical Member (State) is governed by Section 110(1)(d) of the CGST Act which states as follows: -

A person shall not be qualified for appointment as -

a Technical Member (State), unless he is or has been an officer of the State Government or an officer of All India Service, not below the rank of Additional Commissioner of Value Added Tax or the State goods and services tax or such rank, not lower than that of the First Appellate Authority, as may be notified by the concerned State Government, on the recommendations of the Council and has completed twenty- five years of service in Group A, or equivalent, with at least three years of experience in the administration of an existing law or the goods and services tax or in the field of finance and taxation in the State Government:

Provided that the State Government may, on the recommendations of the Council, by notification, relax the requirement of completion of twenty-five years of service in Group A, or equivalent, in respect of officers of such State where no person has completed twenty-five years of service in Group A, or equivalent, but has completed twenty-five years of service in the Government, subject to such conditions, and till such period, as maybe specified in the notification.

- d. In light of the above, the following proposals to relax the eligibility criteria for a period of 10 years was made in the Agenda Note:
- i. To notify an officer of the Commercial Tax department of Jharkhand, who has completed at least twenty-five years of service in the Government, as Gazetted officer, to be eligible for appointment as Technical Member (State); and
  - ii. To notify the rank of an officer of the State of Jharkhand, not below the rank of "Joint Commissioner of State Tax" as a minimum qualifying rank of the officer who shall be eligible for Technical Member (State) subject to other conditions of Section 110 (1) (d) of the CGST Act, 2017.
- e. The agenda note was circulated among Members of the GIC for decision.
- f. **Decision:** The GIC approved the agenda relating to request of the state of Jharkhand for relaxation in the eligibility criteria for selection to the post of Technical Member (State) in GSTAT.

**5. Decision by circulation on 19.11.2024 regarding extension of the due date for furnishing FORM GSTR-3B for the month of October 2024 for taxpayers having principal place of business in States of Maharashtra and Jharkhand due to legislative assembly elections in these States on 20.11.2024**

- a. The Agenda Note stated that representations had been received from trade and industry regarding difficulty being faced in timely filing of return in FORM GSTR-3B for the month of October, 2024 due to legislative assembly elections to be held in the states of Maharashtra and Jharkhand on 20.11.2024, which is also the due date of filing return in FORM GSTR-3B for the month of October 2024. Additionally, due to elections on 20.11.2024 in these states, the employers are reluctant to grant leave to their employees dealing with GST related work, which will cause impediment in proper exercise of right to vote to the voters of these states.
- b. Accordingly, the Agenda note to extend the due date for furnishing FORM GSTR-3B for the month of October 2024 from 20<sup>th</sup> November, 2024 to 21<sup>st</sup> November, 2024 for taxpayers having principal place of business in States of Maharashtra and Jharkhand was circulated among Members of the GIC for decision.
- c. **Decision:** The GIC approved the agenda relating to extension of due date for furnishing FORM GSTR-3B for the month of October 2024 from 20<sup>th</sup> November, 2024 to 21<sup>st</sup> November, 2024 for taxpayers having principal place of business in States of Maharashtra and Jharkhand
- d. **Implementation Status:** Notification No. 26/2024- Central Tax New Delhi, dated 18<sup>th</sup> November, 2024 was issued for extending the due date for furnishing FORM GSTR-3B for the month of October 2024 from 20<sup>th</sup> November, 2024 to 21<sup>st</sup> November, 2024 for taxpayers having principal place of business in States of Maharashtra and Jharkhand .

**6. Decision by circulation on 26.11.2024 regarding extension of the due date for furnishing FORM GSTR-3B for the month of October 2024 for taxpayers in the State of Manipur**

- a. The Agenda Note stated that a reference has been received from the Commissioner of Taxes, Manipur, highlighting the prevailing law and order situation in the State of Manipur, which has necessitated suspension of the mobile data services and internet/ data services, including broadband services, in the territorial jurisdiction of the State of Manipur. It has been mentioned that due to this, timely filing of FORM GSTR-3B for the month of October, 2024 may not be possible for the registered persons in Manipur. It has been further mentioned that prohibitory order under Section 163 of the Bharatiya Nagarik Suraksha Sanhita, 2023 for restriction of the movement of any person outside their respective residences has been issued by the District Magistrates and total curfew is imposed from 4:30 PM of 16<sup>th</sup> November, 2024.
- b. The Agenda Note further stated that in view of the above, Commissioner of Commercial Tax, Manipur has requested that to provide relief to the registered persons in Manipur, the due date of filing of FORM GSTR- 3B for the month of October, 2024, may be extended for the

persons registered in Manipur, till 30<sup>th</sup> November, 2024 until the internet services are restored in the state and total curfew is fully lifted after the situation is totally normalized in Manipur.

- c. Accordingly, the Agenda note to extend the due date for furnishing FORM GSTR-3B for the month of October 2024 from 20<sup>th</sup> November, 2024 to 30<sup>th</sup> November, 2024 until the internet services are restored in the state and total curfew is fully lifted after the situation is totally normalized in Manipur was circulated among Members of the GIC for decision.
- d. **Decision:** The GIC approved the agenda relating to extension of due date for furnishing FORM GSTR-3B for the month of October 2024 from 20<sup>th</sup> November, 2024 to 30<sup>th</sup> November, 2024 for registered persons in the State of Manipur
- e. **Implementation Status:** Notification No. 29/2024- Central Tax New Delhi, dated 27<sup>th</sup> November, 2024 was issued for extending the due date for furnishing FORM GSTR-3B for the month of October 2024 to 30<sup>th</sup> November, 2024 for taxpayers having principal place of business in State of Manipur. The notification was deemed to have come into force with effect from the 20<sup>th</sup> day of November, 2024.

**7. Decision by circulation on 10.12.2024 regarding extension of the due date for furnishing FORM GSTR-3B for the month of October 2024 for the registered persons having their principal place of business in the district of Murshidabad in the State of West Bengal**

- a. The Agenda Note stated that a reference has been received from the Commissioner of Commercial Tax, West Bengal, stating that as per reports internet services were suspended in many areas in the Murshidabad district following a tension which prevailed on account of an untoward incident during the period from 17.11.2024 to 22.11.2024 and thus representations have been received stating that such suspension in internet services has severely impacted the taxpayers along with the tax professionals in furnishing the returns for the tax period October, 2024 within the due date i.e., by 20.11.2024 and accordingly requests have been made to consider the difficulties faced by the taxpayers and the tax professionals in furnishing the returns within the due date and to consider the burden of payment of late fee as a consequence of such late furnishing of returns for reasons beyond their control. In view of the above, Commissioner of Commercial Tax, West Bengal has requested that the due date for furnishing the return in FORM GSTR-3B for the month of October, 2024 may be extended till 30.11.2024 for the registered persons whose principal place of business is in the district of Murshidabad in the State of West Bengal. He has further proposed that as the due date of furnishing return for the month of October, 2024 is already over now, such extension may be made with retrospective effect from the due date of furnishing the return for the month of October, 2024 i.e., from 20.11.2024.
- b. Accordingly, the Agenda Note to extend the due date of filing return in FORM GSTR-3B for the month of October, 2024, for the registered persons having their principal place of business in the district of Murshidabad in the State of West Bengal, till 30<sup>th</sup> November, 2024, with retrospective effect i.e., from 20.11.2024 was circulated among Members of the GIC for decision.
- c. **Decision:** The Chairperson, GST Council approved the agenda relating to extension of due date for furnishing FORM GSTR-3B for the month of October 2024 for the

registered persons having their principal place of business in the district of Murshidabad in the State of West Bengal, till 11<sup>th</sup> December,2024, with retrospective effect i.e., from 20.11.2024.

- d. Implementation Status:** Notification No. 30/2024 - Central Tax New Delhi, dated 10<sup>th</sup> December, 2024 was issued for extending the due date for furnishing FORM GSTR-3B for the month of October 2024 till the 11<sup>th</sup> day of December, 2024, for the registered persons whose principal place of business is in the district of Murshidabad in the State of West Bengal. The notification was deemed to have come into force with effect from the 20<sup>th</sup> day of November, 2024.

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**Agenda item 3: Issues recommended by the Law Committee for the consideration of the GST Council.**

**Agenda item 3(i): Amendment in Section 17(5)(d) of CGST Act, 2017 consequent to judgement of Hon'ble Supreme Court dated 03.10.2024 in the case of M/s Safari Retreats Pvt. Ltd.**

The Hon'ble Supreme Court of India vide its order dated 03.10.2024 in the case of M/s Safari Retreats Pvt. Ltd. has ruled that the expression “plant or machinery” used in clause (d) of section 17(5) of the CGST Act, 2017 is distinct from the expression “plant and machinery” used elsewhere in the Act and defined by the Explanation to Section 17 of the CGST Act. Hon'ble Supreme Court has also ruled that for the purpose of clause (d) of section 17(5) of CGST Act, functionality test would have to be applied on a case-to-case basis, so as to decide as to whether an immovable property could qualify to be a “plant” or not, to determine the eligibility for availment of input tax credit on goods or services or both used in the construction of the said immovable property. The relevant extracts of the judgement are reproduced below for reference.

“

***ANALYSIS OF CLAUSES (c) AND (d)***

....

***Para 32.*** Clause (d) of Section 17(5) is different from clause (c) in various aspects. Clause (d) seeks to exclude from the purview of sub-section (1) of Sections 16 and 18, goods or services or both received by a taxable person to construct an immovable property on his own account. There are two exceptions in clause (d) to the exclusion from ITC provided in the first part of Clause (d). The first exception is where goods or services or both are received by a taxable person to construct an immovable property consisting of a “plant or machinery”. The second exception is where goods and services or both are received by a taxable person for the construction of an immovable property made not on his own account. **Construction is said to be on a taxable person's “own account” when (i) it is made for his personal use and not for service or (ii) it is to be used by the person constructing as a setting in which business is carried out. However, construction cannot said to be on a taxable person's “own account” if it is intended to be sold or given on lease or license.**

...

***MEANING OF THE EXPRESSION “PLANT OR MACHINERY” IN CLAUSE (d) OF SECTION 17(5)***

***Para 42.*** The question is whether the explanation that lays down the meaning of the expression “plant and machinery” in Section 17 will apply to the expression “plant or machinery” used in Section 17 (5)(d).

***Para 43.*** Learned ASG himself accepted that the expression “plant and machinery” appears at ten different places in Chapters V (Input Tax Credit) and VI (Tax Invoice, Credit and Debit Notes) of the CGST Act. According to him, the expression “plant or machinery” appears only in clause (d) of Section 17(5). His submission is that the use of the word “or” in clause (d) is a mistake of the legislature. To counter this, it was submitted that in the Model GST Law, which

*the GST Council Secretariat circulated in November 2016 to invite suggestions and comments from the public, the expression ‘plant and machinery’ was used in clauses (c) and (d). However, while enacting the CGST Act, the legislature has consciously chosen to use the expression “plant or machinery” only in clause (d). The impugned judgment in the main Civil Appeal is more than five years old. The writ petition in which the impugned decision was rendered is a six-year-old writ petition. If it was a drafting mistake, as suggested by learned ASG, the legislature could have stepped in to correct it. However, that was not done. **In such circumstances, it must be inferred that the legislature has intentionally used the expression “plant or machinery” in clause (d) as distinguished from the expression “plant and machinery”, which has been used in several places. As the expression “plant or machinery” appears to be intentionally incorporated, it is not possible to accept the contention of the learned ASG that the word “or” in clause (d) should be read as “and”. If the said contention is accepted, there will not be any difference between the expressions “plant and machinery” and “plant or machinery”. This will defeat the legislative intent.***

***Para 44.** The explanation to Section 17 defines “plant and machinery”. The explanation seeks to define the expression “plant and machinery” used in Chapter V and Chapter VI. In Chapter VI, the expression “plant and machinery” appears in several places, but the expression “plant or machinery” is found only in Section 17(5)(d). **If the legislature intended to give the expression “plant or machinery” the same meaning as “plant and machinery” as defined in the explanation, the legislature would not have specifically used the expression plant or machinery in Section 17(5)(d). The legislature has made this distinction consciously. Therefore, the expression “plant and machinery” and “plant or machinery” cannot be given the same meaning.** It may also be noted here that the expression ‘plant or machinery’ is used in dealing with a peculiar case of goods or services being received by a taxable person for the construction of an immovable property on his own account, even when such goods or services or both are used in the course of furtherance of business. **Therefore, if the expression “plant or machinery” is given the same meaning as the expression “plant and machinery” as per the definition contained in the explanation to Section 17, we will be doing violence to the words used in the statute. While interpreting taxing statutes, it is not a function of the Court to supply the deficiencies.***

***Para 45.** Now, the question which arises is what meaning should be given to the expression “plant or machinery”. When the legislature uses the expression “plant and machinery,” only a plant will not be covered by the definition unless there is an element of machinery or vice versa. **This expression cannot be read as “plant or machinery”.** That is so clear from the explanation in Section 17, which says that plant and machinery means apparatus, equipment and machinery fixed to the earth by foundation or structural support that are used for making outward supply of goods or services or both. The expression includes such foundation and structural support fixed to the earth. However, the definition excludes land, buildings or any other civil structure.*

***Para 46.** The expression “plant or machinery” has a different connotation. It can be either a plant or machinery. Section 17(5)(d) deals with the construction of an immovable property. The very fact that the expression “immovable property other than “plants or machinery” is*

*used shows that there could be a plant that is an immovable property. As the word ‘plant’ has not been defined under the CGST Act or the rules framed thereunder, its ordinary meaning in commercial terms will have to be attached to it.*

....

***Para 52. This Court has laid down the functionality test. This Court held that whether a building is a plant is a question of fact. This Court held that if it is found on facts that a building has been so planned and constructed as to serve an assessee’s special technical requirements, it will qualify to be treated as a plant for the purposes of investment allowance. The word ‘plant’ used in a bracketed portion of Section 17(5)(d) cannot be given the restricted meaning provided in the definition of “plant and machinery”, which excludes land, buildings or any other civil structures. Therefore, in a given case, a building can also be treated as a plant, which is excluded from the purview of the exception carved out by Section 17(5)(d) as it will be covered by the expression “plant or machinery”. We have discussed the provisions of the CGST Act earlier. To give a plain interpretation to clause (d) of Section 17(5), the word “plant” will have to be interpreted by taking recourse to the functionality test.***

...

***Para 65. Some of our conclusions can be summarised as under***

*a. The challenge to the constitutional validity of clauses (c) and (d) of Section 17(5) and Section 16(4) of the CGST Act is not established*

***b. The expression “plant or machinery” used in Section 17(5)(d) cannot be given the same meaning as the expression “plant and machinery” defined by the explanation to Section 17;***

***c. The question whether a mall, warehouse or any building other than a hotel or a cinema theatre can be classified as a plant within the meaning of the expression “plant or machinery” used in Section 17(5)(d) is a factual question which has to be determined keeping in mind the business of the registered person and the role that building plays in the said business. If the construction of a building was essential for carrying out the activity of supplying services, such as renting or giving on lease or other transactions in respect of the building or a part thereof, which are covered by clauses (2) and (5) of Schedule II of the CGST Act, the building could be held to be a plant. Then, it is taken out of the exception carved out by clause (d) of Section 17(5) to sub-section (1) of Section 16. Functionality test will have to be applied to decide whether a building is a plant. Therefore, by using the functionality test, in each case, on facts, in the light of what we have held earlier, it will have to be decided whether the construction of an immovable property is a “plant” for the purposes of clause (d) of Section 17(5).”***

2. In this regard, it is to be mentioned that section 17 of the CGST Act deals with apportionment of credit and blocked credits. Clauses (c ) and (d) of section 17(5) of CGST Act and the relevant explanations to the said section read as under:-

“17. ....

*(5) Notwithstanding anything contained in sub-section (1) of Section 16 and subsection (1) of Section 18, input tax credit shall not be available in respect of the following, namely :—*

.....  
*(c) works contract services when supplied for construction of an immovable property (other than plant and machinery) except where it is an input service for further supply of works contract service;*

*(d) goods or services or both received by a taxable person for construction of an immovable property (other than plant or machinery) on his own account including when such goods or services or both are used in the course or furtherance of business.*

.....  
*Explanation.—For the purposes of clauses (c) and (d), the expression “construction” includes reconstruction, renovation, additions or alterations or repairs, to the extent of capitalisation, to the said immovable property;*

.....  
*Explanation.—For the purposes of this Chapter and Chapter VI, the expression “plant and machinery” means apparatus, equipment, and machinery fixed to earth by foundation or structural support that are used for making outward supply of goods or services or both and includes such foundation and structural supports but excludes—*

- (i) land, building or any other civil structures;*
- (ii) telecommunication towers; and*
- (iii) pipelines laid outside the factory premises.”*

**2.1** Sub-section (5) of Section 17 of CGST Act is a non-obstante sub-section. Clause (d) of section 17(5) of CGST Act restricts availment of input tax credit in respect of goods or services or both, received by a taxable person for construction of an immovable property (*other than plant or machinery*) on his own account including when such goods or services or both are used in the course or furtherance of business. Further, clause (c) of section 17(5) of CGST Act denies ITC in respect of works contract services when supplied for construction of an immovable property (other than plant and machinery) except where it is an input service for further supply of works contract service.

**2.2** The Law Committee deliberated on the issue in its meeting held on 13.11.2024. It observed that in essence, both clause (c) and (d) of section 17(5) of CGST Act intend to disallow input tax credit on the goods or services or both when used for construction of an immovable property (other than plant and/or machinery). The rationale behind this is that GST is not leviable on sale of immovable property, which leads to a clear case of break in tax chain. Sale of land and building are clearly outside the purview of **GST in terms of S. No. 5 of Schedule III to Section 7 of CGST Act, 2017** which provides that the “sale of land and, subject to clause (b) of paragraph 5 of Schedule II, sale of building” shall neither be treated as supply of goods nor as supply of services.

**2.3** The Law committee took a note that there is a minor difference in the usage of words in clause (c) and clause (d) of sub-section (5) of section 17, i.e. the expression ‘plant and machinery’

has been used in clause (c) of the said section and the same has been defined in the Explanation to section 17 of CGST Act (reproduced below) and has been used multiple times in the Act, whereas the expression 'plant or machinery' has been used in the clause (d) of the said section which is only used once in the Act i.e. in the said clause.

“..

*Explanation.—For the purposes of this Chapter and Chapter VI, the expression “plant and machinery” means apparatus, equipment, and machinery fixed to earth by foundation or structural support that are used for making outward supply of goods or services or both and includes such foundation and structural supports but excludes—*

*(i) land, building or any other civil structures;*

*(ii) telecommunication towers; and*

*(iii) pipelines laid outside the factory premises”*

**2.4** The Law Committee noted that the legislature/ GST Council, on their own, to clear ambiguity regarding interpretation of the said expression, have clearly defined the expression 'plant and machinery', for the purposes of Chapter V & VI of CGST Act. However, the expression 'plant or machinery' have not been separately defined either in any of the above chapters or elsewhere in CGST Act. Whereas, as discussed above, the intention of the legislature/ GST Council was to deny the benefit of ITC in respect of construction of immovable property, other than when the immovable property was in nature of plant and/ or machinery.

**2.5** The Law Committee also felt that while defining 'plant and machinery' in the Explanation at the end of section 17(5) of CGST Act, and not separately defining 'plant or machinery' in the Act, the legislature/ Council apparently intended both 'plant and machinery' as well as 'plant or machinery' to be read from the said definition given in Explanation at the end of section 17(5) of CGST Act, as it would never have intended to define one expression viz 'plant and machinery' in the Act to remove ambiguities, while leaving other expression viz 'plant or machinery' open to varied interpretations, which may have caused confusion and legal disputes. The same implies that legislature/ Council never wanted to treat the expression 'plant or machinery' any different from the expression 'plant and machinery'. Further, had the legislature/ Council intended to treat them differently, it would have defined either the expression “plant or machinery” or the words “plant” and “machinery” separately in the of Chapter V and VI or elsewhere in CGST Act.

**2.6** It was also noted that in the draft Model GST Law circulated on November, 2016, the expression 'plant and machinery' were used in both clause (c) and (d) of section 17(5). However, the vetted draft of CGST Law presented before the 11<sup>th</sup> GST Council meeting held on 4<sup>th</sup> March, 2023 carried the expression 'plant or machinery' only in clause(d) of section 17 (5) of the CGST Act.

**2.7** The Law Committee also discussed that there are catena of judgements where the Hon'ble Supreme Court of India has held that 'and' or 'or' must be read as 'and'. However, in the case of M/s Safari Retreats Pvt. Ltd., the Hon'ble Supreme Court of India has assigned distinct meaning to the expression “plant and machinery” and “plant or machinery” used in clause (c) and clause(d) respectively of section 17(5) of the CGST Act and has left the meaning of the word “plant” in the expression “plant or machinery” in clause(d) of section 17(5) of the CGST Act, to be interpreted on a case-to-case basis, applying the functionality test to the facts of the case. The Law Committee

observed that the word “plant” is not defined under the CGST Act or even in the General Clauses Act, 1897. **The Law Committee felt that the said distinction between “plant and machinery” and “plant or machinery” may also result in unequal treatment on the availability of input tax credit on works contract services for the construction of immovable properties under clause (c) and on goods or services or both, for the construction of immovable properties under clause (d).** While one set of taxpayers, who would procure goods or services separately for construction of an immovable property, may become eligible for input tax credit, by qualifying the said property as a “plant”, the other set of taxpayers who procure same goods or service through a works contract service provider for the construction of a similar type of immovable property would continue to be restricted to avail input tax credit, which would get added to their cost, thus creating a non-level playing field.

**2.8** The Law Committee felt that both the clauses (c) and (d) of Section 17(5) deal with the same subject matter, i.e., immovable property and therefore, they must not be treated unequally and the said Explanation to Section 17(5) which applies to Chapters V and VI ought to apply to clause (d) of the said section as well. The Law Committee felt that **the interpretation laid by the Hon’ble Supreme Court regarding the expression “plant or machinery” appears to defeat the intention of GST Council as well as the legislature to deny benefit of availment of input tax credit on goods and services used for construction of immovable property, other than when used in specific situations mentioned in the said clauses read with the Explanation provided below the said section.**

**2.9** Law Committee also observed that determining as to whether an immovable property falls under the expression “plant” under clause (d) of section 17(5) of CGST Act or not based on the functionality test as per facts of each of the case, as per principles decided by Hon’ble Supreme Court in the above mentioned judgement , may create a lot of confusion and chaos and may result in multitude of litigations, which may not be desirable from the perspective of smooth tax administration and ease of doing business. It may also re-open all the past cases related to availment of ITC in respect of goods or services used for construction of immovable property, further adding to confusion and litigation.

**3.** In view of the above, to clear ambiguity and also to prevent litigation which may happen post the judgement of Hon’ble Supreme Court in the case of M/s Safari Retreats Pvt. Ltd., Law committee recommended that necessary amendments may be carried out in Section 17(5) (d) of CGST Act, 2017, retrospectively w.e.f. 01.07.2017, as below:

*“17. . . . .*

*(5) Notwithstanding anything contained in sub-section (1) of Section 16 and subsection (1) of Section 18, input tax credit shall not be available in respect of the following, namely :—*

*.....*

*(d) goods or services or both received by a taxable person for construction of an immovable property (other than plant ~~or~~ and machinery) on his own account including when such goods or services or both are used in the course or furtherance of business.*

*.....*

**3.1 Law Committee also recommended that while making the above amendment through Finance Bill, it may specifically be mentioned that the said amendment is being done notwithstanding anything to the contrary contained in any judgment, decree or order of any court or any other authority.**

**4. The agenda is placed before the GST Council for deliberation and approval.**

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**Agenda Item 3(ii): Amendment in Schedule III of the Central Goods and Services Tax, 2017 (CGST Act, 2017) regarding supply of goods warehoused in a Free Trade and Warehousing Zone (FTWZ)/Special Economic Zone (SEZ) before clearance to Domestic Tariff Area/for Exports.**

References have been received from trade requesting for clarification as to whether supply of goods within Free Trade and Warehousing Zone (hereinafter referred to as “FTWZ”), is included under Entry 8(a) of Schedule III of the CGST Act, 2017 as activities or transactions which shall be treated neither as supply of goods nor as supply of services. It has also been mentioned that various Authorities for Advance Ruling are taking divergent views on the same and therefore, there is a need to either issue a suitable clarification or to suitably amend Schedule III of the CGST Act, 2017.

2. Clause (a) of paragraph 8 of Schedule III of CGST Act, 2017 provides that supply of warehoused goods to any person before clearance for home consumption, shall be treated neither as a supply of goods nor a supply of services. Further, Explanation 2 of the said Schedule states that for the purposes of paragraph 8, the expression "warehoused goods" shall have the same meaning as assigned to it in the Customs Act, 1962.

2.1 Doubts have been raised on leviability of GST on the transfer of title or ownership of goods to buyers or transfer of title or ownership involving multiple transactions between buyers, in respect of goods which are imported and stored in FTWZ, without its removal to the Domestic Tariff Area (DTA). There appears to be an ambiguity as to whether or not such transfer of title or ownership of goods warehoused in FTWZ before clearance to DTA, would be treated as supply of warehoused goods to any person before clearance for home consumption under Entry 8(a) of Schedule III of CGST Act, 2017 and therefore, would be considered as ‘neither supply of goods nor as supply of services’ for purposes of GST.

3. It is mentioned that due to doubts as to whether FTWZ are covered as warehouse under Customs Act, 1962, different Authorities for Advance Rulings have given divergent rulings on this subject. Notably, the Tamil Nadu Authority for Advance Ruling (TNAAR) in its judgement in the case of Haworth India Private Limited has held that:

*“7.4.4 Whereas, Free Trade Warehousing Zone is a Special Economic Zone wherein mainly trading and warehousing and other activities related thereto are carried on. It is a deemed foreign territory within the geography of India for the purpose of tariff and trade. The Special Economic Zones Act, 2005 and the Special Economic Zones Rules, 2006 are the legal framework for FTWZ. Instructions are also issued by the Ministry of Commerce & Industries from time to time to clarify various operational aspects of FTWZ. Even though the day to day activities like warehousing and clearing of goods for home consumption on payment of applicable custom duties are supervised/monitored by Customs officials posted in the FTWZ in accordance with SEZ Act, 2005 read with Customs Act, 1962, the approval/license/administrative control for FTWZ are fully governed under the provisions of SEZ Act, 2005. Therefore, FTWZ is not a warehouse licensed under Customs Act, 1962. Therefore, paragraph 8(a) in the Schedule III is specific to the warehoused goods lying in the warehouses licensed under Customs Act, 1962.*

*7.4.5 Whereas the transactions narrated in the application are in FTWZ, which are warehouses governed under the provisions of SEZ Act, 2005 and not licensed under Customs Act, 1962. Therefore, the transactions in the FTWZ narrated in question no. 1 of*

***the ARA, will not be covered under Schedule III of CGST Act, 2017 read with CGST Amendment Act, 2018.”***

3.1. On the contrary, the Telangana Authority for Advance Ruling (TSAAR) in its judgement in the case of M/s. AIE Fiber Resource and Trading (India) Private Limited has held that:

***“Free Trade Warehousing Zone (FTWZ) is part of SEZ scheme and it is a customs bonded warehouse. An FTWZ operates similar to an SEZ. They will be trading and warehousing of Goods that are imported without payment of customs duty in these zones.***

***Rule 18(5) of SEZ Rules-MC&I (DC) SEZ Instruction No. 60 dated 6-7-2010 prescribe the conditions under which the FTWZ can hold goods on behalf of foreign suppliers, foreign buyer, DTA supplier and DTA buyer.***

***The applicant imports goods and stores them in a FTWZ till he finds a local customer who will purchase the goods and such purchaser clears the goods under the Customs Act.***

***The transactions proposed to be made by the applicant are covered by Entry 8 of Schedule III of CGST/SGST Acts inserted vide CGST (Amendment) Act, 2018 w.e.f. 1-2-2019, i.e., supply of goods by the consignee to any other person, by endorsement of document of title of the goods, after the goods have been dispatched from the port of origin located outside India but before the clearance for home consumption; or supply of warehoused goods to any person before clearance for home consumption. And such transactions by virtue of Entry 8 of Schedule III do not attract tax under CGST or SGST or IGST Acts.”***

4. As per section 2(44) of Customs Act, 1962, "warehoused goods" means goods deposited in a warehouse. Further, as per section 2(43) of Customs Act, 1962, "warehouse" means a public warehouse licensed under section 57 or a private warehouse licensed under section 58 or a special warehouse licensed under section 58A. Section 57 of Customs Act provides for licensing of a public warehouse wherein dutiable goods may be deposited, whereas section 58 of Customs Act provides for licensing of a private warehouse wherein dutiable goods imported by or on behalf of licensee may be deposited. Further, section 58A of Customs Act provides for licensing of a special warehouse wherein dutiable goods may be deposited and such warehouse would be caused to be locked by proper officer and no person shall enter the warehouse or remove any goods therefrom without permission of proper officer.

4.1 Sub-section (n) of section 2 of the Special Economic Zones Act, 2005, defines "Free Trade and Warehousing Zone" as below:

***“Free Trade and Warehousing Zone” means a Special Economic Zone wherein mainly trading and warehousing and other activities related thereto are carried on.”***

4.1.1 Besides, clause (za) of section 2 of the Special Economic Zones Act, 2005 defines Special Economic Zone as below:

***“Special Economic Zone” means each Special Economic Zone notified under the proviso to sub-section (4) of section 3 and sub-section (1) of section 4 (including Free Trade and Warehousing Zone) and includes an existing Special Economic Zone.”***

4.1.2 Further, section 53 of the Special Economic Zones Act, 2005 provides that Special Economic Zones shall be deemed to be a territory outside the customs territory of India. The same is reproduced below:

*—“A Special Economic Zone shall, on and from the appointed day, be deemed to be a territory outside the customs territory of India for the purposes of undertaking the authorised operations.*

*.....”*

4.2 From the above, it emerges that FTWZ are neither Public warehouses as per section 57 of Customs Act, 1962 nor are private warehouses and special warehouses as per section 58 and section 58A of Customs Act, 1962. Therefore, it emerges that FTWZ are not “warehouse” as per Section 2(43) of Customs Act, 1962 and therefore, goods stored in FTWZ cannot be considered as warehoused goods as per Section 2(44) of Customs Act, 1962. Therefore, it is clear that supply of goods within FTWZ/ SEZ area, without removal to DTA, cannot be considered to be covered under Entry 8(a) of Schedule III of CGST Act, 2017.

5. On perusal of above, it further appears that supply of goods undertaken for authorized operations in FTWZ before their removal to DTA shall be deemed to be undertaken in a territory outside the customs territory of India and thus, a similar treatment, akin to the one provided for Customs bonded warehoused goods before their clearance for home consumption, needs to be provided for supply of goods for authorized operations undertaken in a FTWZ before their removal to DTA.

6. Consultations were also held with SEZ Division, Department of Commerce (DoC), Government of India for clarity regarding warehousing operations within FTWZ area and SEZ area, who informed *inter alia* that:

- i. SEZ units, including FTWZs, can operate as warehousing units for the purposes of authorized operations, where goods can be physically stored, but the title or ownership of these goods can be transferred without actual movement of the goods. Warehousing services by such SEZ units can be provided to clients located in the Domestic Tariff Area (DTA).
- ii. There is no prohibition on the trading of warehoused goods stored in such SEZ units between different persons located in the DTA without the goods leaving the SEZ unit, as the SEZ unit functions purely as a warehousing unit.
- iii. Goods stored in a SEZ units (including FTWZs) can be cleared in one of the following ways:
  - To another warehousing unit in the same or different SEZ/FTWZ; or
  - To another SEZ unit or developer in the same or different SEZ; or
  - For export out of India to an overseas customer;
  - For clearance of goods into DTA; or
  - To a DTA buyer, who may either continue holding the goods in the SEZ warehousing unit or clear the goods in one of the modes listed above.

7. It is observed that since SEZ is technically treated as a territory outside India, any supply made before clearance for home consumption may not be made liable to tax. Also, in terms of sub-section (7) of section 3 of Customs Tariff Act, 2017, the liability to pay customs duty shall arise only at the time of final clearance of such goods from FTWZ to DTA, who would file a Bill of Entry for removal of such goods to DTA and pay the applicable customs duty along with IGST. In other words,

the supply of goods before their removal from the FTWZ to DTA should not be subject to the levy of Integrated tax and the same should be levied and collected only when such goods are removed from FTWZ to the DTA. It is also observed that SEZ Units (other than FTWZs) can also be set up as a warehousing unit for authorized operations in a SEZ.

8. Therefore, there may be a need to provide a level playing field for the supplies involving transfer of title or ownership of goods stored in a SEZ unit or in a FTWZ before their clearance to DTA or for exports, with the supply of the warehoused goods before their clearance for home consumption. For this purpose, there may be a need to insert an entry in Schedule III of CGST Act, 2017 to clearly provide that the supply of goods stored in a Special Economic Zone or in a Free Trade Warehousing Zone, to any person, before removal for exports or supply to the Domestic Tariff Area shall be treated neither as supply of goods nor as supply of services.

9. The Law Committee deliberated on the matter in its meetings held on 25.04.2024 and 13.11.2024. The Law Committee recommended the following:

9.1 Clause (aa) may be inserted in paragraph 8 of Schedule III of CGST Act, 2017, as below (in red):

**Schedule III of CGST Act, 2017:**

**“8. (a).....**

**(aa) Supply of goods warehoused in a Special Economic Zone or in a Free Trade Warehousing Zone to any person, before clearance for exports or to the Domestic Tariff Area.**

9.2 Besides, Explanation 2 in Schedule III of CGST Act, 2017 may be amended, as below (in red):

Explanation 2.—For the purposes of **clause (a) of** paragraph 8, the expression, “warehoused goods” shall have the same meaning as assigned to it in the Customs Act, 1962.

9.3 Further, Explanation 3 may be inserted in Schedule III of CGST Act, as below (in red):

**Explanation 3.—For the purpose of clause (aa) of paragraph 8, the expressions "Special Economic Zone", “Free Trade Warehousing Zone” and “Domestic Tariff Area” shall have the same meaning as assigned to them in section 2 of the Special Economic Zones Act, 2005 (28 of 2005).**

9.4 Law Committee further recommended that since the supply of goods in a SEZ, including a FTWZ, before removal to exports or DTA, is similar to the supply as provided in clause (a) of paragraph 8 of Schedule III of CGST Act, and as the said provisions of clause (a) of paragraph 8 of Schedule III have been deemed to be inserted in Schedule III retrospectively w.e.f. 01.07.2017 vide Section 159 of Finance Act, 2023, the above proposed amendments in Schedule III of CGST Act may be made effective retrospectively with effect from 01.07.2017 as well.

9.5 Law Committee also recommended that no refund may be admissible in cases where any tax has already been paid in respect of transactions/supplies covered under Entry 8(aa) of Schedule III of CGST Act before the said amendment is notified. To make it clear, an explicit provision may be

provided in the Finance Act (on similar lines as was done in Finance Act, 2023 in respect of clause (a) of paragraph 8 of Schedule III) that no refund would be admissible in cases where any tax has already been paid in respect of transactions/supplies covered under Entry 8(aa) of Schedule III of CGST Act before the said amendment is notified.

10. The agenda note is placed before the GST Council for deliberation and approval.

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**Agenda Item 3(iii): Amendment in Central Goods and Services Tax Act, 2017 for incorporation of provisions relating to Track and Trace Mechanism for specified commodities.**

GST Council in its 42<sup>nd</sup> meeting held on 5<sup>th</sup> October, 2020, decided to constitute a Group of Ministers (GoM) to examine the possibility to levy GST based on the capacity of manufacturing unit and introduce special composition schemes in such evasion-prone sectors like pan masala, gutkha, brick kilns, sand mining etc., and to explore any other suitable administrative or systemic mechanism(s) to plug the existing leakages in these sectors in order to augment the revenue realised from such sectors.

2. The said GoM in its Final Report mentioned that globally other countries are also facing challenges of tax evasion in tobacco products, but nowhere capacity-based levy is resorted to for curbing such evasion. Instead, countries have opted for technological solution to track and trace such products in the entire supply chain. GoM, while giving recommendations for plugging revenue leakages in these evasion prone sectors, has recommended inter-alia as follows:

*“The GoM deliberated the whole issue at length and examined all possible options for enhancing the compliance in the sector. The GOM identified certain additional compliance measures with respect to different aspects of production and supply, namely: -*

*“a. ....*

*b.....*

*c.....*

*.*

*.*

*h.....*

*i. Gradually, the requirement of unique identification marking such as QR code or stamps, on each packet/pouch will be prescribed. The unique identifier shall enable determination of the following:*

*(a) the date, place and factory of manufacture;*

*(b) the machine used to manufacture;*

*(c) the production shift or time of manufacture;*

*(d) the product description, quantity and maximum retail sale price;*

*(e) any other relevant information, as may be prescribed.” (Emphasis Supplied)*

3. Further, GoM has suggested that efforts shall be made to implement Track and Trace Mechanism for all the tobacco products, while carrying out the associated infrastructural, systemic & legal feasibility studies to implement the same.

3.1 The said final report of GoM was discussed in 49<sup>th</sup> GST Council meeting held on 18<sup>th</sup> February 2023 wherein the Council has accepted the recommendations of the GoM.

## BRIEF INTRODUCTION OF THE TRACK AND TRACE SYSTEM

4. The Track and Trace System has been formalized under the **Protocol to Eliminate Illicit Trade in Tobacco Products** under World Health Organisation Framework Convention on Tobacco Control (WHO FCTC). The Protocol builds upon and complements Article 15 of the WHO FCTC, which addresses means of countering illicit trade in tobacco products, a key aspect of a comprehensive tobacco control policy. The objective of the Protocol is the elimination of all forms of illicit trade in tobacco products, in accordance with the terms of Article 15 of the WHO FCTC.

4.1 It requires the establishment of a global tracking and tracing regime within five years of entry into force of the Protocol, comprising national and/or regional tracking and tracing systems and a global information sharing point located in the Convention Secretariat. Other provisions to ensure control of the supply chain cover licensing, due diligence, record keeping, security and preventive measures, as well as measures in relation to Internet and telecommunication-based sales, duty free sales, duty free zones and international transit. The Protocol also covers important matters concerning offences, with provisions for liability, prosecutions and sanctions, seizure payments and special investigative techniques, as well as disposal and destruction of confiscated products.

4.2 Another key group of substantive articles addresses the issue of international cooperation, such as measures on information sharing, technical and law enforcement cooperation, protection of sovereignty, jurisdiction, mutual legal & administrative assistance and extradition.

4.3 The Track and Trace System is envisaged to provide effective monitoring and control of the Supply Chain of specified products. Under this system, a Unique Identifier with security features is to be affixed on the product at the time of manufacture and relevant data as prescribed will be updated on a centralized server. During the transit, the data will be routinely updated on the server as prescribed. During the receipt of the consignment in further supply chain, the data will be authenticated. This data can also be accessed for validation of Unique Identifiers by enforcement agencies. The whole process can be described as under:



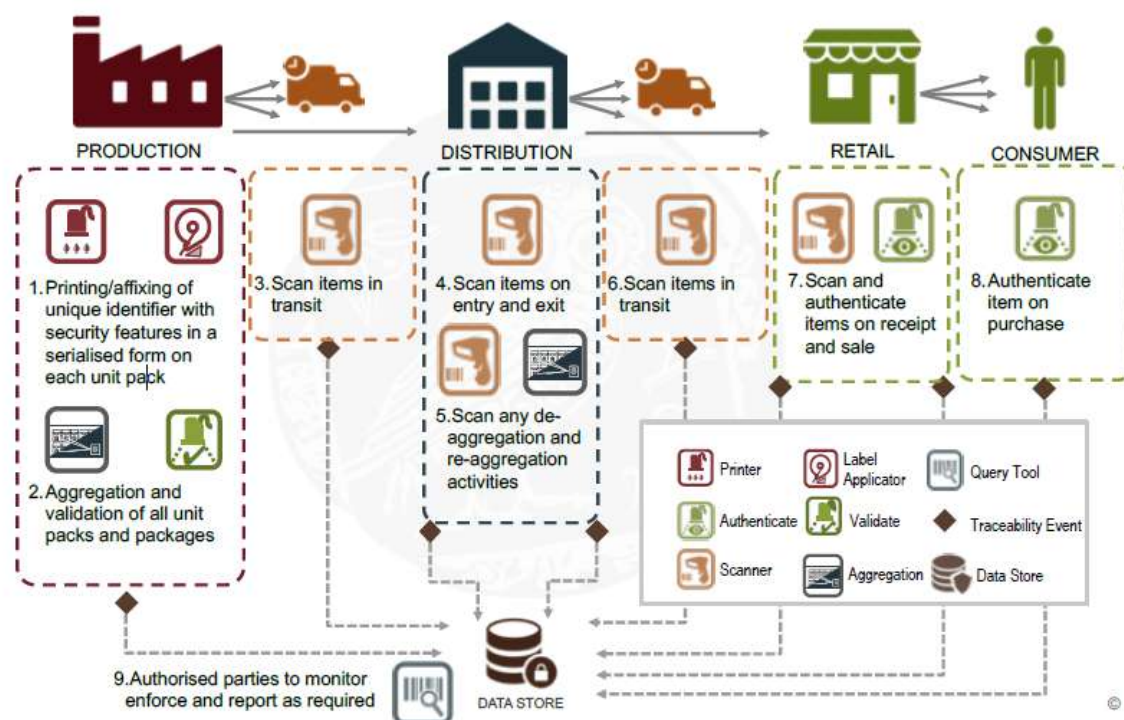


Figure 14: Tobacco Traceability Solution

Source: Guidebook on Implementing Article 8: Tracking & Tracing, WHO FCTC

Further, the Track and Trace system implemented by UK HMRC is explained below:

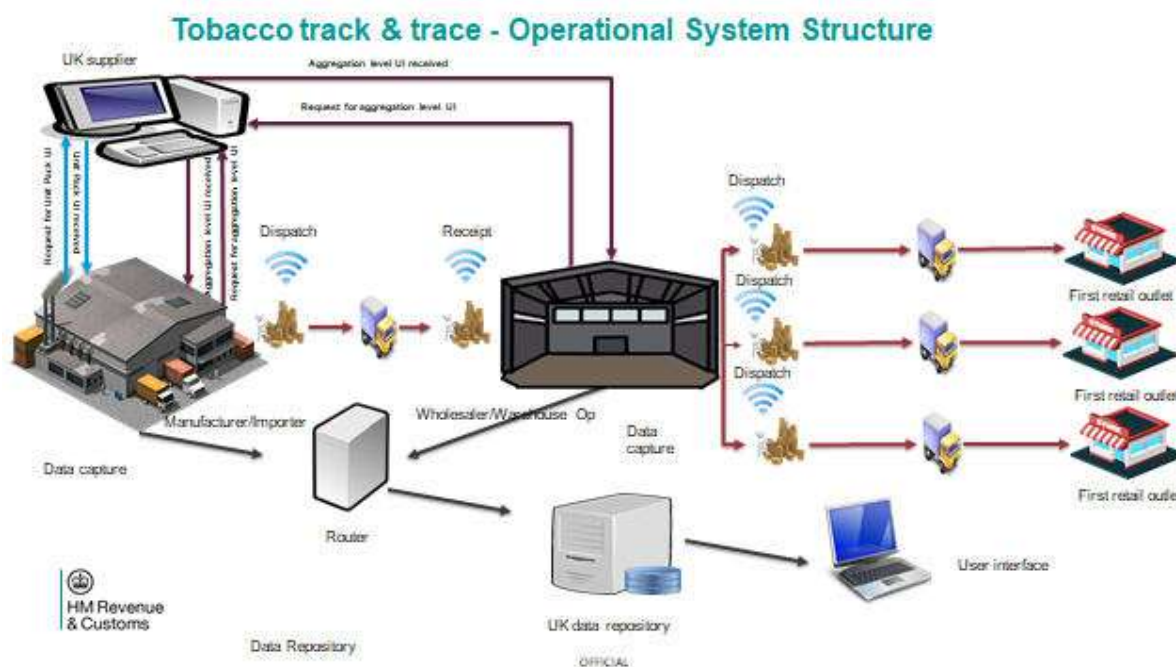


Figure: UK HMRC Track and Trace system

4.4 As per sub-article (4) under Article 8 of the said Protocol, the following information needs to be captured under the track and trace mechanism: -

4. *Each Party shall, for purposes of paragraph 3, as part of the global tracking and tracing regime, require that the following information be available, either directly or accessible by means of a link, to assist Parties in determining the origin of tobacco products, the point of diversion where applicable, and to monitor and control the movement of tobacco products and their legal status:*

- (a) date and location of manufacture;*
- (b) manufacturing facility;*
- (c) machine used to manufacture tobacco products;*
- (d) production shift or time of manufacture;*
- (e) the name, invoice, order number and payment records of the first customer who is not affiliated with the manufacturer;*
- (f) the intended market of retail sale;*
- (g) product description;*
- (h) any warehousing and shipping;*
- (i) the identity of any known subsequent purchaser; and*
- (j) the intended shipment route, the shipment date, shipment destination, point of departure and consignee.*

4.2 *The information in subparagraphs (a), (b), (g) and where available (f), shall form part of the unique identification markings.*

5. *Each Party shall require, within the time limits specified in this Article, that the information set out in paragraph 4 is recorded, at the time of production, or at the time of first shipment by any manufacturer or at the time of import onto its territory.*"

5. As recommended by the GoM on capacity-based taxation and special composition scheme for evasion prone sectors in its final report and as approved by the GST Council in its 49<sup>th</sup> meeting held on 18<sup>th</sup> February, 2023, track and trace mechanism in respect of specified goods needs to be implemented in India.

5.1 On the basis of such track and trace mechanism suggested in WHO Protocol to Eliminate Illicit Trade in Tobacco Products, as discussed in Para 4 above, the track and trace system proposed to be introduced in India may have the following parameters:

- i. All unit packets of specified products may be required to be marked with a unique identifier. The unique identifier may be non-sequential, non-predictable and non-repeatable and may be required to be irremovably printed or affixed, indelible and should be clearly visible. Further, the unique identifier in form of a tamper-proof security feature composing both visible and invisible elements, should enable the authorities and consumers to verify its authenticity. This requirement may be for both locally manufactured goods as well as the imported goods.
- ii. The unique identifier may contain the following information:

- a. the date, place and factory of manufacture;
  - b. the machine used to manufacture;
  - c. the production shift or time of manufacture;
  - d. the product description, quantity and maximum retail sale price;
  - e. the intended market of retail sale;
  - f. any other relevant information.
- iii. Relevant persons involved in trade of specified products such as manufacturers, dealers, wholesalers (B2B supplier) may be required to record the movements of these packets throughout the supply chain and transmit the related information to an independent provider appointed by the Government or on Government servers. However, the last mile retailer may not be required to have such a system at his place.
- iv. The data should then be made accessible to the officers for enforcement purposes.
- v. Such person may be required to install tamper proof devices on their machines and may be required to mark and record unique identifiers on the aggregated packaging such as cartons, master cases, or pallets. However, the original unique identifier on the unit packets should not be tampered with so that the tracking and tracing of all unit packets remains possible at all stages.
- vi. All the manufacturers and importers may be required to enter into Data Storage Contracts for enabling verification of collected information including that contained in the Unique Identification Marking with an independent third party approved by the Central Government on the recommendations of the Council. The third party's activities may be monitored by an external auditor.
- vii. The cost for the implementation of the track and trace system may be recovered from the persons engaged in the trade of specified goods through a fees or charge for the generation of unique identifiers.

6. The Law Committee deliberated on the matter in its meeting held on 13.11.2024. Law Committee observed that while the technology for implementation of track and trace mechanism may be finalized in the due course, an enabling provision needs to be provided in the Central Goods and Services Tax Act, 2017 (hereinafter referred to as 'the CGST Act') to empower the Government, on the recommendations of the Council to implement the said mechanism for the specified commodities. The commodities to be specified for this purpose may be separately identified in due course and notified by the Government on the recommendations of the Council.

6.1 The Law Committee recommended that a new section, Section 148A, may be inserted in the CGST Act as below:

***148A. TRACK AND TRACE MECHANISM FOR CERTAIN GOODS***

*(1) The Government, may, on the recommendations of the Council, specify through a notification, goods in regard of which the provisions of this section shall be applicable.*

*(2) Every person or class of persons, as may be notified by the Government on the recommendations of the Council, who deals with such goods, as specified under sub-section (1), shall affix, a unique identification marking, containing such information and in such manner, on the said goods or such packages thereof, as may be prescribed.*

*(3) The person or class of persons referred to in sub-section (2), shall, maintain such information, records or documents, in such form and manner, as may be prescribed.*

*(4) The Government may, either by itself or through such persons as may be notified on the recommendations of the Council, provide the system for enabling affixation of Unique Identification Marking and for electronic storage and access of information contained in the Unique Identification Marking.*

*(5) The Government may, by a notification issued on the recommendations of the Council, require the person or class of persons as referred to in sub-section (2), to pay such an amount, as may be notified, in relation to the system referred to in sub-section (4).*

*(6) The Government, may, on the recommendations of the Council, require the person or class of persons referred to in sub-section (2), to furnish the details of machinery installed in the principal place of business of manufacture of such goods, including the identification, capacity, duration of operation and such other details or information, within such time and in such form and manner, as may be prescribed.*

6.2 Law Committee also felt that there may be a need to provide for penal provisions for contraventions of the provision relating to tracking and tracing mechanism. Law Committee, therefore, recommended that a new section 122B may be inserted in the CGST Act as follows:

***122B. Penalty for failure to comply with the track and trace mechanism.***

*"122B. (1) Notwithstanding anything contained in this Act, where any person, referred to in sub-section (2) of section 148A, acts in contravention of the provisions of the said section or the rules made thereunder, he shall, in addition to any penalty that is paid or is payable by him under Chapter XV or any other provisions of this Chapter, be liable to pay a penalty equal to an amount of one lakh rupees or ten percent of the tax payable on such goods, whichever is higher.*

6.3 Besides, Law Committee recommended that the following definitions may be inserted in Section 2 of the CGST Act:

*(112B) "Unique Identification Marking" includes a digital stamp, digital mark or any other similar marking, which is unique, secure and non-removable, as may be notified by the Government under sub-section (2) of section 148A;*

7. Law Committee also recommended that the detailed procedure to be followed for track and trace mechanism may be subsequently prescribed through the rules after finalization of the technology for implementation of the said mechanism.

8. The Agenda is placed before GST Council for deliberation and approval.

**Agenda Item 3(iv): Amendment in sub-section (5) of section 9 of Central Goods and Services Act, 2017 for providing clarity regarding determination of tax liability of the electronic commerce operator in respect of specified services.**

Representations have been received from trade and industry to clarify the scope of coverage of sub-section (5) of section 9 of Central Goods and Services Act, 2017 (hereinafter referred to as “CGST Act”) for determination of tax liability of the electronic commerce operator in respect of services, notified under the said sub-section, supplied by the suppliers using the platform provided by the said electronic commerce operator (hereinafter referred to as “ECO”). Concerns have been raised that divergent practices are being followed in the electronic commerce industry due to contradictory views taken by various Authorities for Advance Ruling regarding the interpretation of the phrase “*if such services are supplied through it*” in the said sub-section to determine whether a particular service, notified under the said sub-section, which is supplied by a supplier using digital or electronic facility or platform, provided by the electronic commerce operator, can be said to be the services supplied through the said electronic commerce operator for the purpose of the said sub-section. This has created ambiguity among the trade and field formations leading to legal disputes.

**2. Issue in Brief**

2.1 Section 9(5) of the CGST Act creates a deeming fiction that when a supply of specified category of services is made by the service provider **through an ECO**, the ECO shall be considered as deemed supplier of the said service for the purpose of liability to pay tax in relation to supply of the said service. For the purpose of section 9(5) of the CGST Act, the following categories of services have been specified by Notification No. 17/2017-Central Tax (Rate), dated 28.06.2017 as amended from time to time:

- i) services by way of transportation of passengers by a radio-taxi, motorcab, maxicab, motor cycle, or any other motor vehicle except omnibus;
- (ia) services by way of transportation of passengers by an omnibus except where the person supplying such service through electronic commerce operator is a company;
- (ii) services by way of providing accommodation in hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes, except where the person supplying such service through electronic commerce operator is liable for registration under sub-section (1) of section 22 of the said Central Goods and Services Tax Act;
- (iii) services by way of house-keeping, such as plumbing, carpentering etc., except where the person supplying such service through electronic commerce operator is liable for registration under sub-section (1) of section 22 of the said Central Goods and Services Tax Act;
- (iv) supply of restaurant service other than the services supplied by restaurant, eating joints etc. located at specified premises.

2.2 In the case of services by way of transportation of passengers by a radio-taxi, motorcab, maxicab, motor cycle etc., broadly, two kinds of business models are used by the electronic commerce operators:

**i. Commission-based Model**

In the commission-based model, drivers use the platform of an electronic commerce operator (ECO) to offer passenger transportation services. The ECO connects drivers with customers and earns revenue by taking a commission from each ride. The fare structure is dynamically determined on the ECO's platform based on factors such as distance, ride duration, and demand. Payment for the ride can be made by the passenger either on the ECO's platform or directly to the driver. Fare settlements to the drivers can be immediate, with the ECO deducting his commission in real-time, or subsequently, with drivers receiving their payments on weekly/bi-weekly/periodical basis after cumulative fare calculations. The ECO may also adjust commission rates periodically based on driver's performance and market conditions. The ECO may maintain a rating system where customer's feedback influences driver rankings. ECO may also amend terms and conditions, including commission rates, with advance notice to drivers.

**ii. Subscription-Based Model**

In the subscription-based model, drivers pay a recurring subscription fee, either monthly or yearly, to access the ECO's platform, which facilitates in connecting the drivers with the passengers. The fee may be tiered based on usage levels, features offered to the drivers such as premium support or advanced analytics, etc. Estimated fares based on various parameters, such as distance, fuel costs, vehicle type, timing, etc. are suggested on the platform. In some models, the charges are collected by the ECO from the driver on per-ride basis. There is a certain margin of autonomy for further fare negotiation between the passenger and the driver on the platform before the ride is confirmed. The final negotiated amount is generally recorded on ECO's platform. Fare settlements occur through direct payments from customers to drivers, with the ECO merely providing the interface for booking and payment processing. While the ECO does not charge commissions, it often provides additional support services, including marketing tools, analytics, and customer relationship management systems, emergency response system, etc. The platform mainly acts as an aggregator once drivers and customers establish a direct connection. Subscription terms detail the services included, payment methods, renewal processes and cancellation policies.

2.3 ECOs using a commission-based business model are complying with their tax liabilities under Section 9(5) of the CGST Act. However, disputes have arisen regarding ECOs operating under a subscription-based model as some of these ECOs are not paying tax on the specified services under the said section, claiming that their services do not fall under the phrase "if such services are supplied through it" mentioned in Section 9(5) of the CGST Act. They are contending that they merely provide a platform for drivers and passengers to connect and are not involved in the actual commercial transaction between the driver and the passenger.

2.4 Further, the subscription-based model has been analysed by various Authorities for Advance Ruling who have given contradictory rulings based on their interpretation of the phrase "if such services are supplied through it" in section 9 (5) of the CGST Act.

2.5 The Karnataka Authority for Advance Ruling, in the case of M/s Opta Cabs Pvt. Ltd. (Order No. KAR/ADRG 14/2018 dated 27/07/2018), ruled that ECOs using a subscription-based model are "deemed suppliers" under Section 9(5) of the CGST Act and are liable for GST on services provided by way of transportation of passenger. This ruling was reconfirmed by the Appellate Authority for Advance Ruling (Order No. KAR/AAAR/04/2018-19 dated 04/12/2018). Similar rulings were given in the cases of Roppen Transportation Services Pvt. Ltd by Karnataka Authority for Advance Ruling (Order No. KAR ADRG 36/2024 dated 24/07/2024) and by Tamil Nadu Authority for Advance Ruling in case of M/s Balat Enterprises Private Limited (Order No. 02/ARA/2024 dated 27/03/2024, Tamil Nadu).

2.6 The Karnataka Authority for Advance Ruling in the cases of M/s Multi-Verse Technologies Private Limited (Order No. KAR ADRG 36/2022 dated 27/10/2022), M/s Juspay Technologies Pvt Ltd (Order No. KAR ADRG 31/2023 dated 15/09/2023), and the West Bengal Authority for Advance Ruling in case of Natural Language Technology Research (Order No. 11/WBAAR/2024-25 dated 10/09/2024) ruled that ECOs in such subscription-based business models are merely facilitating the connection between driver and passenger and are not "deemed suppliers" under Section 9(5) of the CGST Act, and hence are not liable for GST on services provided by way of transportation of passenger.

2.7 Further, in this regard, Writ Petition no. 25497/2024 was filed by M/s Uber India Systems Pvt. Ltd. before the Hon'ble High Court of Karnataka, which vide its interim order dated 25.09.2024 directed Chairman, Central Board of Indirect Taxes and Customs (CBIC) to address concerns of ECOs regarding their GST liability under Section 9(5) of the CGST Act and issue necessary clarification, if required.

2.8 In compliance to the said order, a meeting was held on 14.10.2024 by Chairman, CBIC, where various stakeholders raised concerns and requested to issue clarification on the phrase "through it" provided in Section 9(5) of CGST Act so as to resolve distortions among ECOs involved in supply of services by way of transportation of passengers. They also submitted written representations. The gist of the representations received from Electronic Commerce Operators (ECO) and taxi driver-unions is enclosed as **Annexure A** to this agenda note.

### **3. Legal Provisions under GST regime:**

3.1 As per sub-section (45) of section 2 of the CGST Act:

*"Electronic commerce operator" means any person who owns, operates or manages digital or electronic facility or platform for electronic commerce;*

3.2 Sub-section (44) of section 2 of the CGST Act defines 'electronic commerce' as follows:

*"electronic commerce" means the supply of goods or services or both, including digital products over digital or electronic network*

3.3 Sub-section (5) of section 9 of the CGST Act, which deals with ECOs who are liable to pay tax for specified category of services, reads as under:

#### ***"9. Levy and collection:***

*(5) The Government may, on the recommendations of the Council, by notification, specify categories of services the tax on intra-State supplies of which shall be paid by*



*the electronic commerce operator if such services are supplied through it, and all the provisions of this Act shall apply to such electronic commerce operator as if he is the supplier liable for paying the tax in relation to the supply of such services:*

*Provided that where an electronic commerce operator does not have a physical presence in the taxable territory, any person representing such electronic commerce operator for any purpose in the taxable territory shall be liable to pay tax:*

*Provided further that where an electronic commerce operator does not have a physical presence in the taxable territory and also he does not have a representative in the said territory, such electronic commerce operator shall appoint a person in the taxable territory for the purpose of paying tax and such person shall be liable to pay tax.”*

#### **4. Examination**

4.1 The matter has been examined on the basis of above legal provisions and the submissions made by various stakeholders.

4.2 In this regard, it is observed that Section 9(5) of the CGST Act aims to shift the responsibility of tax collection to electronic commerce operators (ECOs), thereby expanding the tax base and easing the burden of compliance. Both business models of ECOs, commission-based and subscription-based, serve as electronic platforms that connect service recipients with service providers. In both cases, customer experience is enhanced, market reach of the supplier is expanded by virtue of the electronic interface, and other features such as easy payments, customer support, transparent pricing, service quality etc. are also provided. Given these similarities, distinguishing electronic platforms based on their business models for taxation purposes may not align with the intent of Section 9(5) of the CGST Act. A benefit accruing to a particular model should be based on inherent features on commercial basis and not on the basis of taxability of the same. The tax policy of the government should not influence the economic behaviour of taxpayers. The principle of tax neutrality is one of the overarching principles of tax policy. Neutrality also entails that the tax system raises revenue while minimising discrimination in favour of, or against, any particular economic choice. This implies that the same principles of taxation should apply to all similar forms of business.

4.3 It is claimed by ECOs using a subscription-based model that they differ from commission-based platforms because they do not control fares and negotiations, and also do not monitor the rides and therefore, should be treated differently from commission based ECOs. However, it is observed that drivers using ECO's platform, either in commission based model or in subscription based model, get distinct advantage viz -a-vis the drivers who are supplying passenger transportation services offline without using any electronic commerce platform, as the supply using ECO's platform do offer significant advantages to such drivers in terms of growth potential, economies of scale, market reach and lower barriers to entry, which are otherwise not available to offline small service providers. Thus, granting tax advantages to ECOs following a particular business model could disadvantage independent service providers without access to such platforms. The argument given by subscription-based model ECOs that including supplies of specified services in subscription-based model may increase tax obligations leading to increased burden on the drivers seems to be misplaced, as the tax burden will ultimately be borne by end-customers. Differentiating between taxing the ECOs based on business models could distort the ecosystem and undermine the law's intent to cover transactions involving use of electronic commerce platforms. Besides giving tax advantage in case of a particular

business model may lead to adoption of similar business models by the other ECOs in future, thereby taking them all out of the purview of the tax liability under section 9(5) of CGST Act, which will defeat the intended purpose of the said section.

5. The Law Committee deliberated on the issue in its meeting held on 06.12.2024. The Law Committee was of the view to ensure that the tax is payable by the ECOs in respect of supplies of specified services made by the suppliers using ECO's platform, irrespective of the model used by the ECOs, the provisions of section 9(5) of CGST Act need to provide clarity for coverage of all such services under the said section for the purpose of tax liability of the ECO for payment of tax in respect of such specified services provided using ECO's platform. Issuing any clarification through a circular in respect of scope of section 9(5) of CGST Act may not serve its intended purpose as the same maybe challenged in the courts by the ECOs who are adversely affected by such clarification, which may not resolve the legal disputes in the matter. Law Committee, therefore, felt that to address the issue, the law needs to be made sufficiently broad so as to cover current as well as the potential future business models and therefore, a prospective amendment in section 9(5) of CGST Act may be made. Without such an amendment, ECOs facilitating supply of specified services may amend their business models to avoid taxation under section 9(5) of CGST Act, resulting in significant revenue loss to the Government, an outcome never intended by the law. A law amendment would also provide these ECOs who are not paying tax at present, sufficient time to make suitable modifications in their internal systems and implement suitable mechanisms to collect taxes from customers and pay to the Government while continuing to facilitate passenger transportation services.

6. Law Committee also observed that the same principle may apply in respect of all other specified services under section 9(5) of CGST Act also. Accordingly, Law Committee recommended that in order to provide a level playing field to all the electronic commerce operators involved in supply of all the specified categories of services under section 9(5) of the CGST Act, and to avoid any revenue loss to the Government on account of adoption of a particular business model by ECO, **section 9(5) of CGST Act may be amended prospectively, as below**, so as to broaden its scope to cover all such business models.

*(5) The Government may, on the recommendations of the Council, by notification, specify categories of services the tax on intra-State supplies of which shall be paid by the electronic commerce operator, if such services are supplied through it or are agreed to be supplied by the supplier of such services on the digital or electronic facility or platform owned, operated or managed by the said electronic commerce operator, and all the provisions of this Act shall apply to such electronic commerce operator as if he is the supplier liable for paying the tax in relation to the supply of such services:”*

7. **Similar amendments will also be required in section 5(5) of IGST Act, 2017 and section 7(5) of the UTGST Act, 2017.** Besides, similar amendments will also be required in various State GST Acts.

8. The agenda note is placed before the GST Council for deliberation and approval.

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**Annexure A: Gist of the representations**

<b>S. No.</b>	<b>From</b>	<b>Date (2024)</b>	<b>Brief of representation</b>	<b>Suggestions</b>
1	<b>ONDC</b>	21/10	The AAR rulings and the Delhi HC judgment give a useful rubric to determine when an ECO should be considered liable to pay tax under Sec 9(5). The GST Council needs to take cognizance of these distinct operating models and formally provide clarity on the tax implications for both.	<p>To formally clarify the necessary and sufficient conditions to decide when a supply can be construed to have been "through the ECO". SaaS platforms (particularly those operating in an open network) need to be explicitly exempted from paying GST under Section 9(5), as they do not exercise control over the transaction and do not collect consideration for the ride.</p> <p>Issue a clarification that GST liability under section 9(5) of the CGST Act, 2017, does not apply to platforms operating under a SaaS model, such as Namma Yatri by MTIPL. These platforms merely facilitate connections between drivers and passengers without controlling fare, invoicing, or payment collection.</p>
2	<b>OLA CABS</b>	22/10	OLA is currently running a 3-wheeler segment subscription model where it is providing a Software as a Service [SaaS] platform for three-wheeler auto segment and charging nominal subscription fee from driver partners. In this model, the Company provides a software platform or a software application only for the purpose of connecting the passenger users (potential service receivers) with driver partners (potential service providers). Thereafter, all the activities like concluding the contract of ride, monitoring the entire ride, negotiation of fare, payment of fare are done offline jointly between the respective driver partner and the passenger user. The Company does not have any role in scheduling the ride or ride route or prescribing the ride fare	Bring clarity on the applicability of GST on all industry players thereby ensuring level playing field to all; exclude from GST ambit ecommerce operators engaged in facilitating supply of passenger transport services (whether 2, 3 or 4 wheelers) by third party drivers to customers; if it is not feasible to exclude all 2, 3 and 4 wheelers from GST

		<p>or collecting the fare or monitoring the rides or settling of the disputes, if any.</p> <p>However, OLA is currently running a commission model in 2-wheeler and 4-wheeler segment wherein it is charging a convenience fee on a per ride basis. The key distinctive features in this model, inter alia, are (a) The passenger user is shown a definitive fixed fare for the ride which is non-negotiable (b) The ride is monitored and tracked by the OLA app and both passenger user and driver partner are notified on completion of the ride (c) Ola app has visibility to final fare paid by passenger user to driver partner (d) Invoice is issued by Ola app to passenger user for passenger transport services on behalf of the driver partner.</p> <p>However, ambiguity has been created by contrary advance ruling orders issued e.g. in July 2018, the Karnataka Advance Ruling Authority had initially determined the tax liability under Section 9(5) in the case of M/s Opta Cabs Private Limited wherein it has been held that even merely connecting the service provider and consumer on an ECO platform, would mean that the services are supplied through the ECO. Through this advance ruling, it has been held that, the fact that the ECO is not collecting ride fare from riders on behalf of drivers is irrelevant for the purpose of attracting/determining Section 9(5) applicability. However, the Karnataka Advance Ruling Authority order in the case of M/s Multiverse Technologies Pvt. Ltd. in October 2022 and M/s Juspay Technologies Pvt. Ltd. in September 2023, is in direct contradiction with the prior ruling referred above. Recently in July 2024, Karnataka Advance Ruling Authority has passed another contradictory order in the case of M/s Roppen Transportation Services Private Limited wherein it has been held that the app not only generates leads, but also provides a platform for fare negotiation – and hence, the services are supplied “through” the app and the collection of consideration is irrelevant to determine the taxability under Section 9(5) of the CGST Act. Also, in a recently pronounced advance ruling by Tamil Nadu Advance Ruling Authority in the case of M/s Balat Enterprises Private Limited it has been held that M/s Balat Enterprises is liable to discharge tax liability under Section 9(5).</p> <p>In order to bring tax parity in this industry, it is requested to issue a suitable clarification on the applicability of the provisions of Section 9(5) or amend the law as may be</p>	<p>ambit, then we would request you to at least exclude 2 and 3 wheelers considering these are generally used by masses and economically weaker sections of the society</p>
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			suitable	
3	<b>UBER</b>	23/10	<p>The confusion has been created after the Karnataka Advance Ruling orders in the applications of Multiverse and Juspay – followed by advance ruling orders in other states too. Till the time of these rulings there was no uncertainty on the GST position.</p> <p>The confusion qua levy of GST by ECOs under Section 9(5), despite the well-settled law and industry practice, was created by the Karnataka Advance Ruling Authority orders in the cases of M/s Multiverse Technologies Pvt. Ltd. issued in October 2022 and M/s Juspay Technologies Pvt. Ltd. issued in September 2023; wherein similar facts were involved but these rulings are in direct contradiction with the prior ruling pronounced by them in the case of M/s Opta Cabs Private Limited. Also, in a recently pronounced advance ruling by the Tamil Nadu Advance Ruling Authority, in the case of M/s Balat Enterprises Private Limited in May 2024 (on similar facts), it has been held that GST is payable under Section 9(5) on passenger transport services facilitated through the applicant's app though the applicant submitted that its business operation involves mere linking of service providers and the customers for the provision of passenger transportation services and other services such as hiring or renting of farm equipment, skill-based services like plumbing, carpentry etc. through their mobile App "Vyavshay" although the applicant submitted that it has no responsibility in relation to such services supplied through their app.</p> <p>In the context of Section 9(5), it is pertinent to highlight that all ECOs facilitating passenger transportation services are similar in as much as in all cases such services are facilitated through their apps, ECOs earn revenue by charging a commission to users/ subscription fee to the drivers/users; Apps charge a subscription fee to the drivers instead of a per trip commission as a percentage of fare; payments are to be made by rider to driver directly. 90% of the trips by ECOs like Uber on autos and motorcycles are directly settled between driver and rider in cash and limited support services are provided to drivers and riders. It is evident that from a Section 9(5) perspective, there are no major differences between the two models – whether consideration is charged by the ECO on a per trip commission basis or on a subscription basis and hence has</p>	<p>The CBIC may ensure GST parity amongst the industry participants and provide resolution in the present context.</p> <p>In order to bring tax parity in this industry, it is requested to kindly issue a suitable detailed clarification on the applicability of the provisions of Section 9(5). Pending the said clarification, a detailed affidavit may kindly be filed before the Hon'ble Karnataka High Court documenting</p> <p>CBIC's views on the subject in line with TRU circular No. 334/5/2015-TRU dated February 28th,</p> <p>2015 issued when aggregator liability was first introduced under service tax law.</p>

			no bearing on the applicability of Section 9(5) and that collection of consideration by the ECO is not a requirement for levy of 9(5), as compared to the GST TCS provision under Section 52 of the CGST Act. The act of agreeing or an acceptance to supply services by the intended supplier to the recipient for a consideration and communicated to such recipient on the ECO platform/app, would qualify as 'services supplied through an ECO' for Section 9(5) applicability.	
4	<b>RAPID O</b>	22/10	<p>The SaaS model has been recognized by different Authorities of Advance Ruling as being a distinct and different model under which ride services are NOT provided "through" the platform. Under the GST regime, such SaaS platforms are taxed on the subscription fee. The instant SaaS model aligns with this approach, suggesting GST should only apply to the platform's service of providing app access (and not on the independent services provided by Drivers to the Passengers). From a technical standpoint as well, the SaaS model does not fall under the ambit of "supplied through the platform" as provided under Section 9(5) of the CGST Act, since the platform only acts as a lead generator for the Drivers (without involvement in the actual facilitation or delivery of ride services): by enforcing operational protocols such as requiring Passengers to settle fares before booking new rides, offering scheduled ride features with set fares (reserve/ schedule ride feature), and charging convenience fees from the Passengers for the service quality and ease of use. These elements demonstrate the platform's control and involvement in facilitating rides between Drivers and Passengers, which are absent in the SaaS model. In the SaaS model, the platform does not collect the ride fare from the Passengers. In fact, there is no mechanism for collection of ride fare by the platform, thus it cannot be expected to remit tax on transactions it does not financially control since the principles of indirect taxation require that tax is collected from the entity receiving payment for the service. Recent advance rulings issued by the Karnataka Advance Ruling Authority and the West Bengal Advance Ruling Authority, have held that platforms are not liable to pay GST in respect of the Passenger transportation services where the platforms are merely acting as technology service provider against subscription fee. However, the above position has been rendered ambiguous due to another advance ruling of Karnataka Advance Ruling</p>	<p>To clarify that platforms, merely providing lead generation services under SaaS based model are</p> <p>liable to 18% GST on the subscription fee charged and that SaaS model is not covered under Section 9(5) of the CGST Act, 2017.</p>

			<p>authority in Rapido's own case, wherein it was held that Rapido is liable to pay GST on the supply of services provided by the independent four-wheeler cab service provider (person who has subscribed to applicants 'Rapido' app) to its Passengers on Rapido's platform, being an e-commerce operator, in terms of Section 9(5) of the CGST Act 2017. Rapido has filed a writ petition before the Karnataka High Court, and an interim stay has been granted by the High Court in the said proceedings, alongside admitting Rapido's plea. Having regard to ambiguity created by some divergent rulings, the Company is representing herewith about a pressing requirement for issuance of a clarification regarding the non-applicability of the provision of Section 9(5) of the Central Goods and Services Tax (CGST) Act on the 'SaaS model' in India's mobility sector.</p>	
5	<b>Moving Tech Innovations Private Limited (Namma Yatri)</b>	21/10	<p>It is essential to distinguish between traditional aggregator models and the emerging SaaS based models. Traditional aggregators are deeply involved in every step of the service process, from booking to payment collection, and are therefore justifiably liable under section 9(5) of the CGST Act, 2017. In contrast, SaaS-based models like Namma Yatri merely provide a technology platform that connects service providers (drivers) with consumers, without exercising control over critical elements such as pricing, invoicing, or payment collection. The service is independently conducted by the service providers.</p> <p>Even in advance rulings, it has been held that when companies do not manage or control the essential aspects of the transaction, GST liability under section 9(5) should not apply. Therefore, the applicability of GST liability must be determined by the extent of control and involvement exercised by the platform in the service provision process, as well as the functional nature of the platform itself.</p>	<p>Recognize the distinction between traditional aggregators, who take complete control over the transportation process and fare management, and Open Network models, such as Namma Yatri, which operates as part of the Government-backed ONDC.</p> <p>Issue a clarification that GST liability under section 9(5) of the CGST Act, 2017, does not apply to platforms operating under a SaaS model, such as Namma Yatri by MTIPL as these platforms merely facilitate connections between drivers and passengers without controlling fare, invoicing, or payment collection.</p>
6	<b>Taxina Mobility Pvt. Ltd.</b>	21/10	<p>Taxina operates on a subscription base model that allows drivers to retain their entire earnings, providing them with greater financial stability. By eliminating the burden of trip-based commission fee, Taxina enables drivers to achieve greater earnings. A levy of tax may ultimately translate to increased costs for the end users. Taxina operates under Saas</p>	<p>Issue a comprehensive circular highlighting the criteria and indicative factors for inclusion under the subscription model and clarifying that electronic</p>



			<p>model for mere lead generation without any further involvement in the actual delivery of the passenger transportation service to customers and transportation services supplied by drivers are not supplied through it and hence Taxina is not liable to pay tax under section 9 (5) of CGST Act.</p> <p>Taxina operates on a subscription base model that allows drivers to retain their entire earnings, providing them with greater financial stability. By eliminating the burden of trip-based commission fee, Taxina enables drivers to achieve greater earnings. A levy of tax may ultimately translate to increased costs for the end users. Taxina operates under Saas model for mere lead generation without any further involvement in the actual delivery of the passenger transportation service to customers and transportation services supplied by drivers are not supplied through it and hence Taxina is not liable to pay tax under section 9 (5) of CGST Act</p>	<p>commerce operators functioning under the subscription model are not engaged in provision of passenger transportation services through the electronic commerce platform and consequently are not liable to discharge tax liability under section 9(5) of CGST Act</p>
7	<b>End Mile Connectivity Federation</b>	21/10	<p>End Mile Connectivity Federation is a not-for-profit company owned by Pune's Rickshaw Association and operates "O Rickshaw," a mobility software solution specifically designed for auto-rickshaw drivers in Pune and is zero-commission, direct-to-driver model.</p> <p>There are two primary models in the ride-hailing ecosystem: Aggregator Platforms and SaaS Models. SaaS-based models, like O Rickshaw, merely facilitate connections between drivers and passengers without controlling any part of the transaction which has been recognized in various Authority for Advance Rulings (AAR) such as in the case of Multi-Verse Technologies Private Limited, Juspay Technologies Pvt Ltd and Natural Language Technology Research. Classifying innovative, home grown SAAS models like O Rickshaw alongside foreign-owned aggregators such as Uber for taxation purposes would place an undue burden on domestic startups.</p>	<p>Considering the significant distinctions between traditional aggregator models and SaaS-based platforms like O Rickshaw, it is important to adopt a nuanced approach in evaluating the applicability of GST under Section 9(5) of the CGST Act, 2017.</p> <p>Traditional aggregators are heavily involved in the entire service process—justifying their GST liability but SaaS-based platforms like O-Rickshaw simply provide the technology for connecting drivers and passengers without exerting control over key elements. The extent of GST applicability should be determined by the platform's degree of control and its operational structure. Given</p>

				that O Rickshaw functions on a commission-free, non-intrusive model, applicability of Section 9(5) be clarified in line with the referred AAR Rulings.
8	<b>NASSCOM</b>	28/10	<p>NASSCOM represent a holistic view of the industry, given the matter is in the court and government has directly asked the companies to provide facts of their model, it would be prudent not to explain their individual models.</p> <p>Over the years, various models of ride hailing platforms have emerged and there are advance rulings obtained by some of the service providers to contest the applicability of GST provisions to their models. Perhaps, when the tax concept was introduced in 2014, the possible evolution of different models of ride and their possible incompatibility/concerns with the GST obligations was not envisaged.</p>	<p>The varying interpretations offered through different advance rulings regarding the taxability of transportation services has created uncertainty, making it challenging to plan future operations with any degree of tax certainty, particularly at a pan India level. Feasibility of implementing the provision of 9(5), for certain models needs to be evaluated as also the question as to how an ecommerce operator can discharge the liability u/s 9(5) if it does not even have the ability to collect the ride fare, as part of its operating model.</p> <p>Effect of the tax policy should be holistic and it should not distort the market. Just because an ecommerce operator is providing additional set of services to the rider and has built its operating model and invested in infrastructure to support the same – should such an ecommerce operator be made liable u/s 9(5), unintentionally, making such a model less attractive to the drivers and riders – purely on account of the GST arbitrage? It is requested to consider a position that is in</p>

				the larger interest of the industry and ultimately the consumers.
9	<b>Driver's associations or Taxi Unions</b>	14/10, 28/10, 07/11, 09/11, 11/11, 13/11	In the traditional App based model, passengers use a mobile application to request rides, view available drivers nearby, estimated fare, expected arrival time. Fares are typically calculated by platform through the App, it facilitates communication between drivers and passenger for coordination, undertakes ride monitoring, issue invoice etc. Payments are generally collected through App and settlement of driver partner happens after a time interval. Platform deducts commission on per ride basis. In recent times, subscription-based model has addressed most of the issues faced by driver partners.	It is requested to clarify that E-commerce operators shall not be liable to discharge GST on ride hailing services provided under subscription model

**Agenda Item 3(v): Clarification regarding requirement of reversal of input tax credit by electronic commerce operators in respect of supplies made under section 9(5) of CGST Act, 2017.**

Representations have been received seeking clarification regarding reversal of input tax credit by electronic commerce operators (ECOs) in cases where services, specified under section 9(5) of Central Goods and Services Tax Act, 2017 (hereinafter referred to as the “CGST Act”), are supplied through their platform. It has been represented that certain field formations are taking a view that such ECOs need to reverse ITC in respect of services notified under section 9(5) of CGST Act (other than restaurant services) on the ground that no circular has been issued in respect of other services notified under the said section on the lines of circular No. 167/23/2021-GST, dated 17.12.2021, issued in case of restaurant service.

**2. Background**

- i. Under section 9(5) of the CGST Act, the Central Government has been empowered to specify categories of services on which the tax shall be paid by the ECO if such services are supplied through it as if he is the supplier liable for paying the tax in relation to the supply of such services.
- ii. The following categories of services have been specified by Notification No. 17/2017-Central Tax (Rate), dated 28.06.2017 (as amended):
  - a. services by way of transportation of passengers by a radio-taxi, motor cab, maxi cab, motor cycle, or any other motor vehicle except omnibus
  - b. services by way of transportation of passengers by an omnibus except where the person supplying such service through electronic commerce operator is a company.
  - c. services by way of providing accommodation in hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes, except where the person supplying such service through electronic commerce operator is liable for registration under sub-section (1) of section 22 of the said CGST Act
  - d. services by way of house-keeping, such as plumbing, carpentering etc., except where the person supplying such service through electronic commerce operator is liable for registration under sub-section (1) of section 22 of the said CGST Act
  - e. supply of restaurant service other than the services supplied by restaurant, eating joints etc. located at specified premises.
- iii. Vide circular No 167/23/2021-GST, dated 17.12.2021, a clarification was issued in respect of restaurant services on various modalities of compliance to the GST laws in respect of supply of restaurant services through ECOs. The issue involved in the instant case has been clarified in the aforesaid circular. Relevant extract is reproduced as under:

<b><i>S. No.</i></b>	<b><i>Issue</i></b>	<b><i>Clarification</i></b>
6	<i>Would ECOs be liable to reverse proportional input tax credit on his input goods and services for the reason that input tax credit is</i>	<i>ECOs provide their own services as an electronic platform and an intermediary for which it would acquire inputs/input service on which ECOs avail input tax credit (ITC).</i>

	<p><i>not admissible on 'restaurant service'?</i></p>	<p><i>The ECO charges commission/fee etc. for the services it provides. The ITC is utilised by ECO for payment of GST on services provided by ECO on its own account (say, to a restaurant). The situation in this regard remains unchanged even after ECO is made liable to pay tax on restaurant service. ECO would be eligible to ITC as before. Accordingly, it is clarified that ECO shall not be required to reverse ITC on account of restaurant services on which it pays GST in terms of section 9(5) of the Act.</i></p> <p><i>It may also be noted that on restaurant service, ECO shall pay the entire GST liability in cash (No ITC could be utilised for payment of GST on restaurant service supplied through ECO)</i></p>
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### 3. Request of the taxpayer

- i. Some of the audit officers are taking a view that ECOs (other than supply of restaurant service) are required to reverse the ITC to the extent of the liability under section 9(5) of the CGST Act, 2017 on the grounds that such turnover is akin to exempt supplies.
- ii. Circular No. 167 / 23 /2021 – GST dated 17 December 2021 issued in the context of restaurant services which clarifies that ‘ECOs’ providing restaurant services are not required to reverse ITC. However, the circular is limited to the said service only.
- iii. As per the provisions of the CGST Act and the Rules made thereunder, ECOs are eligible to claim ITC only for the services provided on its own account viz. commission/ service fee earned for providing electronic platform.
- iv. Therefore, they have requested that a similar circular may be issued clarifying that there is no requirement to reverse ITC, for all ECOs required to pay tax under section 9 (5) of the CGST Act, 2017

### 4. Relevant Legal Provision

- i. Section 2(47) of the CGST Act defines exempt supply to mean supply of any goods or services or both which attracts nil rate of tax or which may be wholly exempt from tax under section 11, or under section 6 of the Integrated Goods and Services Tax Act, and includes non-taxable supply;
- ii. Section 9(5) of CGST Act deals with taxability of supply of specified category of services which are provided through electronic commerce operator. The provision reads as under:

*“(5) The Government may, on the recommendations of the Council, by notification, specify categories of services the tax on intra-State supplies of which shall be paid by the electronic commerce operator if such services are supplied through it, and all the provisions of this Act shall apply to such electronic*

*commerce operator as if he is the supplier liable for paying the tax in relation to the supply of such services:*

...”

- iii. Section 16 of CGST Act provides eligibility and conditions for taking input tax credit. Relevant provisions are as under:

*“(1) Every registered person shall, subject to such conditions and restrictions as may be prescribed and in the manner specified in [section 49](#), be entitled to take credit of input tax charged on any supply of goods or services or both to him which are used or intended to be used in the course or furtherance of his business and the said amount shall be credited to the electronic credit ledger of such person.*

*(2) .....”*

**5. Examination:**

- i. The matter has been examined in light of relevant legal provisions along with the said circular. It is observed that section 16 provides that ITC can be taken by the registered person on supply of goods or services or both to him which are used or intended to be used in the course of furtherance of his business. Further, it is observed that section 9(5) of CGST Act only shifts the liability of tax payment from actual supplier of the specified services to ECOs if such services are supplied through it, (even though ECO is not an actual supplier).
- ii. In the present matter, ECOs offer platform services to facilitate supplies by actual suppliers of services under Section 9(5) of the CGST Act, such as restaurant services, transportation of passenger services, etc. In doing so, ECOs procure and use inputs and input services (e.g., technology infrastructure and software) to operate their platform. ECOs, as registered taxpayers under section 16 of the CGST Act, subject to provisions of section 17 (5) are eligible to claim Input Tax Credit (ITC) on inputs and input services used in the course or furtherance of their business, including the provision of platform services.
- iii. The above circular issued in respect of restaurant services also specifically distinguishes between the platform services provided by ECO as an intermediary to restaurant and the restaurant services provided through the platform for which the ECO charges commission/fee etc. Thus, ITC is utilised by ECO for payment of GST on services provided by ECO on its own account itself and therefore, the ECO is not required to reverse the ITC on inputs and input services used for supplying such services on his own account.
- iv. It is observed that Section 17(2) of the CGST Act, 2017 provides that where the goods or services are used partly for effecting taxable supplies (including zero rated) and partly for exempt/ non-business use then the amount of credit as attributable to exempt supplies or non- business use shall be reversed. Further, it is observed that in accordance with section 2(47) of the CGST Act, exempt services would mean services which are either exempted from tax or which attracts Nil rate of duty. It also includes non-taxable supplies. From the above definition, it is evident that the services, specified under section 9(5) of the CGST Act, would not fall under category of exempted supplies for the ECOs and therefore, the ECOs

will not be required to reverse ITC in respect of supply of services under section 9(5) of the CGST Act.

- v. Accordingly, it is clear that ECOs providing a platform for the supply of services notified under Section 9(5) of the CGST Act are not obligated to reverse the Input Tax Credit availed by them in relation to the inputs and input services used to facilitate such supplies. The ECO, acting as an intermediary, is entitled to retain the ITC on inputs used for providing its own taxable service, and is not required to reverse the ITC on inputs used in connection with the supplies made by the actual service providers through his platform.
  - vi. ECOs will be required to pay the full tax liability on account of supplies under section 9(5) of the CGST Act, only through electronic cash ledger and the credit availed by them in relation to the inputs and input services used to facilitate such supplies cannot be used for discharge of such tax liability under section 9(5) of the CGST Act. However, such credit can be utilized by them for discharge of tax liability in respect of supply of services on their own account.
6. The matter was deliberated by the Law Committee in its meetings held on 06.12.2024 and 07.12.2024 wherein **the Law Committee recommended to issue a clarification through a circular, on the above lines. Draft circular as recommended by the Law Committee is enclosed as Annexure A to this agenda.**
7. The agenda note is placed before the GST Council for deliberation and approval.



Circular No. X/X/2024-GST

**F. No. CBIC-2000X/X/2024-GST**  
**Government of India**  
**Ministry of Finance**  
**Department of Revenue**  
**Central Board of Indirect Taxes and Customs**  
**GST Policy Wing**

New Delhi, dated....., 2024

To,

The Principal Chief Commissioners/ Chief Commissioners of Central Tax (All)  
The Principal Directors General/ Directors General (All)

Madam / Sir,

**Sub: Clarification in respect of input tax credit availed by electronic commerce operators where services specified under Section 9(5) of CGST Act are supplied through their platform -reg.**

Reference is invited to Circular No. 167/23/2021 – GST dated 17.12.2021 issued which clarified that electronic commerce operators (hereinafter referred to as “ECOs”) required to pay tax under section under section 9(5) of the Central Goods and Services Tax Act 2017 (hereinafter referred to as “CGST Act”) are not required to reverse input tax credit (ITC) where they are providing their platform for supply of restaurant service (notified service under section 9 (5)). In this regard, representations have been received seeking clarification regarding requirement of reversal of ITC, if any, in respect of supply of services other than restaurant services under section 9(5) of CGST Act.

2. The issue has been examined and to ensure uniformity in the implementation of the law across the field formations, the Board, in exercise of its powers conferred under section 168(1) of the CGST Act, hereby clarifies the issue as below:

S. No	Issue	Clarification
1.	Whether electronic commerce operator, required to pay tax under section 9(5) of CGST Act, is liable to reverse proportionate input tax credit on his inputs and input services to the extent of supplies made under section 9(5) of the CGST Act.	<ol style="list-style-type: none"> <li>1. ECO, required to pay tax under section 9(5) of CGST Act, is making supplies under two counts: <ol style="list-style-type: none"> <li>i. Supplies notified under section 9 (5) for which he is liable to pay tax as if he is the supplier of the said services.</li> <li>ii. Supply of his own services by providing his electronic platform for which he charges platform fee /commission etc. from the platform users.</li> </ol> </li> <li>2. For providing the services mentioned at 1 (ii) above, the ECO procures inputs as well as input services for which he avails Input Tax Credit.</li> <li>3. It has been clarified vide question no. 6 of Circular No. 167/23/2021 – GST dated 17.12.2021 that the ECO shall not be required to reverse input tax credit on account of restaurant services on which he pays tax under section 9(5) of the CGST Act. It has also been clarified that the input tax credit will not be allowed to be utilized for payment of tax liability under section 9(5) and, whole of the tax liability under section 9(5) will be required to be paid in cash.</li> <li>4. The principle which has been outlined in question no. 6 of Circular No. 167/23/2021 – GST dated 17.12.2021 also applies to supplies made in respect of other specified services under section 9(5) of CGST Act.</li> <li>5. In view of this, it is clarified that Electronic Commerce Operator who is liable to pay tax under section 9 (5) of the CGST Act in respect of specified services is not required to reverse the input tax credit on his inputs and input services, proportionately under section 17(1) or section 17(2) of CGST Act to the extent of supplies made under section 9(5) of the</li> </ol>

		<p>CGST Act.</p> <p>6. It is further clarified that ECO will be required to pay the full tax liability on account of supplies under section 9(5) of the CGST Act, only through electronic cash ledger and the credit availed by him in relation to the inputs and input services used to facilitate such supplies cannot be used for discharge of such tax liability under section 9(5) of the CGST Act. However, such credit can be utilized by him for discharge of tax liability in respect of supply of services on his own account.</p>
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3. It is requested that suitable trade notices may be issued to publicize the contents of this Circular.
4. Difficulty, if any, in implementation of this Circular may be brought to the notice of the Board. Hindi version would follow.

(Sanjay Mangal)  
Principal Commissioner (GST)

**Agenda Item 3(vi): Amendment in Rule 89 of CGST Rules, 2017 for providing the scope and computation of the refund on account of inverted duty structure as provided in sub-section (3) of section 54 of CGST Act, 2017.**

References were received from the Fertilizer Association of India requesting for clarification regarding scope and computation of refund on account of inverted duty structure under sub-section (3) of section 54 of CGST Act, 2017, in cases where subsidies are granted by the Central and the State Governments in respect of outward supplies, as some of the filed formations are denying refunds in such cases on various grounds.

2. The matter was deliberated by the Law Committee and based on the recommendations of the Law Committee, an Agenda Note on clarification on the scope and computation of the refund on account of inverted duty structure was placed before GST Council in its 50<sup>th</sup> meeting held on 11.07.2023 as Issue 5 in Agenda Item 3 (vi) for deliberation. After deliberations in the said meeting of the GST Council, the Council referred the matter back to the Law Committee for re-examination based on the existing provisions of the law and after taking inputs from State of Karnataka also.

3. Accordingly, inputs were sought from State of Karnataka, who have stated *inter alia* that:

3.1 Accumulation of credit in the input tax credit ledger (electronic credit ledger) can happen in the following cases:

- i. The rate of tax on the outward supplies being lesser than the rate of tax on the inputs. In these cases, the input tax credit would remain unutilised even after utilising the same to pay the entire tax on outward supplies (This is known as “inverted tax structure”).
- ii. In case of exports, where the outward supplies are zero-rated and since there is no tax payable, the input tax credit gets accumulated and remains unutilised (zero-rated supplies).
- iii. In case where the value of outward supplies itself is lesser than the value of inward supplies. Here there would be accumulation of input tax credit even after the payment of output tax.

3.2 The provisions of Section 54 (3) of GST Act provide for refund of amounts out of input credit ledger due to inverted tax structure and zero-rated supplies, i.e. cases covered by 3.1 (i) and 3.1 (ii) above. There is a positive bar on the refund of all accumulated input tax credit other than the zero-rated supplies and inverted tax structure.

3.3 It is also pertinent to note that during discussion, reference was made to the Rule 89(5) of the CGST Rules as well. The said Rule relates to Maximum Refund Amount and not to the actual refund amount. Hence this does not override the provisions of Act nor qualifies the amount of accumulated input tax credit on account of the value of outward supplies being lesser than the value of inward supplies.

3.4 Further, in the pertinent case, the accumulation of input tax credit in case of Fertilizer manufacturing companies is occurring on account of the following:

- i. The rate of tax on the outward supplies being lesser than the rate of tax on the inputs. In these cases, the input tax credit would remain unutilized even after utilizing the same to pay the entire tax on outward supplies (This is known as “inverted tax structure”).

- ii. In case where the value of outward supplies itself is lesser than the value of inward supplies. Here there would be accumulation of input tax credit even after the payment of output tax.

3.5 In these cases, only the accumulated ITC on account of inverted tax structure is refundable (3.4 (i) above) and the accumulated ITC on account of reduction in the value (3.4 (ii) above) is not refundable. The reduction in the value of outward supplies is happening on account of subsidies provided by the Government and as per Section 15(2) (e) of CGST Act, 2017, amount of subsidies which affect the price is not a part of the value of supplies.

3.6 The State of Karnataka has already issued notices and also passed adjudicating orders restricting the refunds only to the accumulated input tax credit on account of inverted tax structure and not allowed refund of accumulated input tax credit on account of reduction of value.

3.7 Various Case laws were also cited by the State of Karnataka in support of the fact that unless the words are ambiguous, the words in the notification should be literally interpreted and not otherwise. A statutory enactment must ordinarily be construed according to the plain natural meaning of its language and no words should be added, altered or modified unless it is plainly necessary to do so in order to prevent a provision from being unintelligible, absurd, unreasonable, unworkable or totally irreconcilable with the rest of the statute. **The State of Karnataka thus proposed to clarify that no refund of accumulated input tax credit on account of reduction of value is allowable as per the present provisions of the GST Law.**

4. In view of the comments received from State of Karnataka, the matter was examined afresh as discussed in the following paragraphs.

4.1 Clause (ii) of first proviso to section 54(3) of CGST Act states *inter alia* that the refund of unutilized ITC shall be allowed only when the credit has accumulated on account of the rate of tax on inputs being higher than the rate of tax on output supplies. Relevant extract of section 54 of the CGST Act, 2017 is as under:

*(3) Subject to the provisions of sub-section (10), a registered person may claim refund of any unutilised input tax credit at the end of any tax period:*

*Provided that no refund of unutilised input tax credit shall be allowed in cases other than-*

*(i) zero rated supplies made without payment of tax;*

*(ii) where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies (other than nil rated or fully exempt supplies), except supplies of goods or services or both as may be notified by the Government on the recommendations of the Council:*

4.2 Therefore, for refund of ITC on account of inverted duty structure, the primary condition that is to be met is that the rate of tax on inputs should be higher than the rate of tax on output supplies. Once this condition is met, the person becomes eligible to claim refund of accumulated ITC on account of inverted rated supplies, which shall be sanctioned in accordance with the formula prescribed in Rule 89 (5) of the CGST Rules, 2017.

4.3 However, there may be cases where in addition to the accumulation of input tax credit on account of inverted rated supplies, a person may have accumulated Input Tax Credit because of other factors also such as stock accumulation, trade discounts, predatory pricing, distress sale, subsidies granted by Central or State Government etc. Such a taxable person would have accumulation of input tax credit both on account of rate of tax on inputs higher than output supplies as well as the other factors mentioned above.

4.4 Reference may be drawn to the judgment of Hon'ble Supreme Court in **Union of India vs. M/s. VKC Footsteps {(2021) 52 G.S.TL 513 (SC)}**, in which it was interpreted by the Apex Court that Clause (ii) of the first proviso to section 54(3) of CGST Act is not merely a condition of eligibility for availing of a refund but a substantive restriction under which a refund of unutilized ITC can be availed of only when the accumulation is relatable to an inverted duty structure, namely the tax on input goods being higher than the rate of tax on output supplies. The relevant extract is reproduced as under:

“55.....

.....

*While enacting Clause (ii) of the first proviso to Section 54(3) in the CGST Act, Parliament, took legislative notice of a specific eventuality namely “where the credit has accumulated on account of the rate of tax on inputs being higher than the rate of tax on output supplies”. Parliament would be cognizant of the fact that ITC may accumulate for a variety of reasons, of which an inverted duty structure is one situation. Parliament was legislating to provide for a refund and therefore restricted it to the two situations spelt out in clauses (i) and (ii) of the first proviso. The opening words of the substantive part of Section 54(3) contemplate a claim of refund of “any unutilized input tax credit”. Undoubtedly, any unutilized ITC would include credit on account of tax charged on any supply of goods or services or both. The opening sentence of Section 54(3) provides for (i) a claim of refund by a registered person; (ii) of any unutilized input tax credit; (iii) at the end of any tax period. But the impact of the first proviso, as its opening words indicate, is that :*

- (i) “No refund” of unutilized ITC “shall be allowed” “in cases other than” (i) and (ii);*
- (ii) The expression “claim” in the substantive part must be distinguished from the phrase “shall be allowed” in the opening sentence of the first proviso. Likewise, the expression “may claim refund” in the opening part must be distinguished from “no refund” in the opening part of the first proviso;*
- (iii) The impact of the first proviso is that a refund of unutilized ITC shall be allowed only in cases falling under (i) and (ii). The expression ‘only’ in the previous sentence is not a judicial addition to statutory language but follows plainly from the expressions “no refund” of unutilized ITC shall be allowed “in cases other than”;*
- (iv) The expression “in cases other than” is a clear indicator that clauses (i) and (ii) are restrictive and not conditions of eligibility. A refund, in other words, can be allowed in the two contingencies spelt out in clauses (i) and (ii) of the first proviso;*

(v) *There is a clear distinction between clause (i) and clause (ii) of the first proviso: (a) in the case of exports, the contingency is zero-rated supplies without any distinction between input goods or input services; (b) in contrast for domestic supplies, clause (ii) relates to the accumulation of credit on account of rate of tax on inputs being higher than the rate of tax on output supplies;*

(vi) *The legislative draftsman has made a clear distinction between clause (i) and clause (ii) of the first proviso and it was in this context that the opening words of Section 54(3) have used the expression “may claim refund of any unutilized ITC”;*

(vii) *Explanation 1 to Section 54, while defining the expression “refund” for the purposes of the section adopts an inclusive definition covering (a) refund of tax paid on zero rated supplies of goods or services or both; (b) refund of tax paid on input goods or inputs services used in making such zero-rated supplies; (c) refund of tax on supply of goods regarded as deemed exports; and (d) refund of unutilized ITC as provided under sub-section (3) of Section 54; and*

(viii) *Explanation 1 indicates that with reference to exports, the Legislature has brought within its fold ITC on input goods and input services. In contrast, in the case of domestic supplies it has contemplated refund of unutilized ITC “as provided under sub-section (3)”. The Explanation is a clear indicator that in respect of domestic supplies, it is only unutilized credit which has accumulated on the rate of tax on input goods being higher than the rate of output supplies of which a refund can be allowed. **Clause (ii) of the first proviso in other words is a restriction and not a mere condition of eligibility.***

**69. .... Clause (ii) of the proviso, when it refers to “on account of” clearly intends the meaning which can ordinarily be said to imply ‘because of or due to’. When proviso (ii) refers to “rate of tax”, it indicates a clear intent that a refund would be allowed where and only if the inverted duty structure has arisen due to the rate of tax on input being higher than the rate of tax on output supplies.....”**

4.5 Thus, applying the ratio of the above judgment, it would imply that clause (ii) of the proviso to sub-section 3 of section 54 is a restriction which would mean that refund would be restricted to only that portion where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies. Any credit accumulation on account of any other factor would not be eligible for refund under clause (ii) of the proviso to sub-section 3 of section 54.

4.6 It may also be noted that to simplify the mechanism for calculation of maximum refund amount in cases involving inverted rated supplies, a formula has been prescribed under rule 89(5) of CGST Rules, based on the recommendations of the GST Council. The refund is being sanctioned in such cases involving inverted rated structure based on minimum of (i) the amount as per the said formula under rule 89(5); (ii) the amount of unutilized input tax credit at the end of the relevant tax period; and (iii) the amount of unutilized input tax credit on the date of filing the said refund application. The definitions of various terms used in the formula under rule 89(5) have also been defined in the Explanation to the said sub-rule. No other mechanism or formula has been presently prescribed to calculate the refund amount in a case involving inverted rated structure, other than the manner prescribed under rule 89(5) of CGST Rules. Accordingly, at present, neither the CGST Act



nor the CGST Rules—including the formula prescribed in sub-rule (5) of Rule 89 of the CGST Rules—provide any mechanism for the removal of ITC attributable to factors such as stock accumulation, trade discounts, predatory pricing, distress sales, or subsidies granted by the Central or State Government while calculating the amount of refund admissible under section 54, read with sub-rule (5) of Rule 89, in cases involving inverted rated structure.

4.7 Moreover, it is also worth mentioning that in such cases involving inverted rated structure, where accumulation of input tax credit is also on account of other factors such as stock accumulation, trade discounts, predatory pricing, distress sale, subsidies granted by Central or State Government etc., it may be very difficult to bifurcate or ascertain the proportion of accumulation of ITC owing to only rate of tax on inputs being higher than rate of tax on output supplies, out of the total accumulated ITC, as no one to one correlation has been prescribed in such cases. Further, no standard input output norms (SION) are provided or prescribed upon to calculate refund in such cases. Therefore, under the present provisions of the GST law, a formula based approach, as provided in rule 89(5) of CGST Rules, has been adopted to sanction refunds. In cases involving inverted rated structure, where subsidy is also being provided by the Central or the State Governments, the accumulation of input tax credit may also be on account of such subsidies, but the present formula does not distinguish between the ITC accumulated due to subsidies vis-à-vis ITC accumulated due to inversion in rate of taxes of inputs and output supplies, and hence, there is a possibility that refund of accumulated ITC owing to subsidy is also being included in the refund claim amount.

4.8 It is felt that for the past period, adopting any artificial approach to modify the formula under rule 89(5) of CGST Rules to calculate amount of permissible refund in cases involving inverted rated structure, including interpreting definitions of “Net ITC” or Turnover in the said formula in a manner different from the one provided in the Explanation to the said sub-rule, may not be legally sound and correct.

5. The matter was deliberated by the Law Committee in its meetings held on 23.10.2024 and 13.11.2024. The Law Committee was of the view that the formula under rule 89(5) of CGST Rules may be amended prospectively so as to exclude such refund on account of ITC attributable to the subsidies from the total refund amount to be sanctioned under rule 89(5) of the CGST Rules, which would ensure that no refund is granted in respect of the ITC which has accumulated due to subsidy. Law Committee also observed that since the existing formula under Rule 89(5) of the CGST Rules did not provide any mechanism for the exclusion of ITC attributable to subsidies granted by the Central or State Government from the maximum refund amount, retrospective amendment of formula under rule 89(5) of CGST Rules may not withstand judicial scrutiny and accordingly, may not be desirable.

6. The Law Committee noted that the subsidies provided by the Central Government and State Governments are not included in the value of taxable supply as per clause (e) of sub-section (2) of section 15 of CGST Act, 2017 and hence at present, the subsidy amount on the outward supplies is not included in both “turnover of inverted rated supply of goods and services” as well as “Adjusted Total Turnover” in the formula prescribed under rule 89(5) of CGST Rules. To ensure that such ITC, accumulated due to subsidies, is not monetized by claiming a refund under the inverted duty structure, Law Committee recommended that a non-obstante clause may be inserted as sub-rule 6 of rule 89 and the explanation to sub-rule (5) of rule 89 may be omitted as follows (in red):

**“Rule 89...**

**(5)...**

**~~Explanation:—~~**

**~~(1) For the purposes of this sub-rule, the expressions—~~**

**~~(a) “Net ITC” shall mean input tax credit availed on inputs during the relevant period; and~~**

**~~(b) “Adjusted Total turnover” and “relevant period” shall have the same meaning as assigned to them in sub-rule (4).~~**

**~~“6. Notwithstanding anything contained in sub-rule (5), in cases where subsidies have been provided by the Central Government and the State Governments, and the value of taxable supply does not include such subsidies provided by the Central Government and the State Governments, as per clause (e) of sub-section (2) of section 15, the refund of input tax credit on account of inverted duty structure shall be granted as per the following formula:-~~**

**~~Maximum Refund Amount = {(Turnover of inverted rated supply of goods and services + Amount of subsidies on inverted rated supply) x Net ITC ÷ (Adjusted Total Turnover + Total Amount of subsidies)} - {(tax payable on inverted rated supply of goods and services including amount of subsidies) x (Net ITC ÷ ITC availed on inputs and input services)}.~~**

**~~Explanation: - For the purposes of sub-rule (5) and sub-rule (6), the expressions –~~**

**~~(a) “Net ITC” shall mean input tax credit availed on inputs during the relevant period;~~**

**~~(b) “Adjusted Total turnover” and “relevant period” shall have the same meaning as assigned to them in sub-rule (4);~~**

**~~(c) “Amount of subsidies on inverted rated supply” shall mean the amount of subsidies provided by the Central Government and the State Governments which have not been included in the value of inverted rated supply of goods and services as per clause (e) of sub-section (2) of section 15;~~**

**~~(d) “Total Amount of subsidies” shall mean the total amount of subsidies provided by the Central Government and the State Governments which have not been included in the value of taxable supplies as per clause (e) of sub-section (2) of section 15; and~~**

**~~(e) “tax payable on inverted rated supply of goods and services including amount of subsidies” shall mean the amount of tax that would have been payable on inverted rated supply of goods and services if the amount of subsidies provided by the Central Government and the State Governments was included in the value of inverted rated supply of goods and services”.~~**

7. Such amendment in CGST Rules will address the issue where the ITC accumulated also include the accumulation due to subsidies provided by Central and State Governments, in addition to

inverted rated structure. The said changes may be explained using illustrative values of Subsidy amount, Adjusted Total Turnover, Inverted rated supply and ITC on inputs and ITC on input services, as per the chart given below:

	<b>Scenario 1</b>	<b>Scenario 2</b>	<b>Scenario 3</b>
Subsidy amount	600	900	1200
Adjusted total turnover	1000	1000	1000
Inverted rated supply	900	900	900
Tax payable @5% on inverted rated supply	45	45	45
ITC on inputs and input services	500	500	500
Net ITC i.e. ITC on inputs	450	450	450
<b>Scenario</b>	<b>Maximum Refund amount</b>		
If no adjustment i.e. present formula	364.5	364.5	364.5
If inverted rated supplies and adjusted total turnover are calculated after including subsidy amount in them. Tax payable on inverted rated supplies will also be calculated accordingly.	354.37	345.31	335.04

8. The agenda note is placed before the GST Council for deliberation and approval.

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### **Agenda Item 3(vii): Miscellaneous proposals for amendment of the CGST Act, 2017.**

Law Committee has recommended various amendments in the Central Goods and Services Tax Act, 2017 (hereinafter referred to as “the CGST Act”).

2. The details of the proposed amendments are as given below:

#### **I. Amendment in section 107(6) and section 112(8) of CGST Act, 2017 to provide for payment of pre-deposit for filing an appeal in respect of an order demanding penalty amount without any demand of tax-reg**

References have been received from tax authorities regarding non-availability of a provision for pre-deposit for filing appeal in Appellate Tribunal in respect of an order passed under sub-section (3) of section 129 of CGST Act, 2017. Besides, it has also been mentioned that there may also be need for a general provision under section 107(6) and 112(8) of CGST Act, 2017 for pre-deposit for filing appeal in cases where no demand of tax is involved and only penalty amount has been demanded.

2. The relevant legal provisions of CGST Act, 2017 are as under:

#### **2.1 Section 107. Appeals to Appellate Authority. -**

*(1) Any person aggrieved by any decision or order passed under this Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act by an adjudicating authority may appeal to such Appellate Authority as may be prescribed within three months from the date on which the said decision or order is communicated to such person.*

...

*(6) No appeal shall be filed under sub-section (1), unless the appellant has paid-*

*(a) in full, such part of the amount of tax, interest, fine, fee and penalty arising from the impugned order, as is admitted by him; and*

*(b) a sum equal to ten per cent. of the remaining amount of tax in dispute arising from the said order, subject to a maximum of twenty crore rupees, in relation to which the appeal has been filed;*

***Provided*** that no appeal shall be filed against an order under sub-section (3) of section 129, unless a sum equal to twenty-five per cent. of the penalty has been paid by the appellant.

...

#### **2.2 Section 112. Appeals to Appellate Tribunal. —**

*(1) Any person aggrieved by an order passed against him under section 107 or section 108 of this Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act may appeal to the Appellate Tribunal against such order within three months from the date on which the order sought to be appealed against is communicated to the person preferring the appeal.*

....

(8) No appeal shall be filed under sub-section (1), unless the appellant has paid—

(a) in full, such part of the amount of tax, interest, fine, fee and penalty arising from the impugned order, as is admitted by him, and

(b) a sum equal to ten per cent. of the remaining amount of tax in dispute, in addition to the amount paid under sub-section (6) of section 107, arising from the said order, subject to a maximum of twenty crore rupees, in relation to which the appeal has been filed.

...

### **2.3 Section 129. Detention, seizure and release of goods and conveyances in transit. —**

...

(3) The proper officer detaining or seizing goods or conveyance shall issue a notice within seven days of such detention or seizure, specifying the penalty payable, and thereafter, pass an order within a period of seven days from the date of service of such notice, for payment of penalty under clause (a) or clause (b) of sub-section (1)

...

3.1 The Law Committee deliberated on the matter in its meeting held on 06.12.2024. The Law Committee observed that there is already a provision in sub-section (6) of section 107 of CGST Act for pre-deposit for filing appeal with Appellate Authority against the order passed under section 129(3) of CGST Act. But no similar provision is available in sub-section (8) of section 112 to provide for payment of pre-deposit for filing an appeal before the Appellate Tribunal against an order passed under section 107 or section 108 in respect of an order passed under sub-section (3) of section 129.

3.2 The Law Committee also observed that there may be some cases where no tax demand is raised by adjudicating officer and only penalty is imposed. For such cases, no requirement of pre-deposit for filing appeal before Appellate Authority and Appellate Tribunal is presently available in the existing provisions of CGST Act. This may lead to filing of frivolous appeals in such cases. Law Committee, therefore, felt that there may be a need for inserting a specific provision for requirement of pre-deposit in cases involving demand of penalty without involving any demand of tax, for the purpose of filing appeal before Appellate Authority and Appellate Tribunal. In such a scenario, the existing proviso to section 107(6) of CGST Act providing for requirement of pre-deposit in cases involving an order under section 129(3) of CGST Act may not be separately required.

3.3 The Law Committee further observed that as per recommendations of the GST Council, amendment has already been made in clause (b) of sub-section (6) of section 107 of CGST Act and in clause (b) of sub-section (8) of section 112 of CGST Act for rationalization of amount of pre-deposit in case of filing of appeal before the Appellate Authority and the Appellate Tribunal respectively, vide **Finance (No.2) Act 2024**, made effective from 01.11.2024, as per which now the amount of pre-deposit is only ten per cent of the disputed amount of tax. In view of this, there may be a need to align the amount of pre-deposit in the proposed provisions for cases involving penalty without involving

demand of any tax with the amount of pre-deposit in the existing provisions in respect of cases involving tax.

3.4 In light of the above, Law Committee recommended that the proviso to section 107(6) of CGST Act, 2017 (providing for the pre-deposit for filing appeal against the order passed tax, section 129(3) of CGST Act) may be omitted, and in place of it, proviso may be inserted in section 107(6) to provide for requirement of pre-deposit for filing appeals with Appellate Authority against an order involving demand of penalty without involving demand of any tax, as follows:

~~107(6) "Provided that no appeal shall be filed against an order under sub-section (3) of section 129, unless a sum equal to twenty five percent of the penalty has been paid by the appellant."~~

*"Provided that where an order has been issued demanding penalty without involving demand of any tax, no appeal shall be filed against the said order, unless a sum equal to ten percent, of the said penalty has been paid by the appellant."*

3.5 Law Committee also recommended that a similar proviso may also be inserted in section 112(8) of CGST Act to provide for requirement of pre-deposit for filing appeals with Appellate Tribunal against an order involving demand of penalty without involving demand of any tax, as follows:

*112(8) "Provided that where an order has been issued demanding penalty without involving demand of any tax, no appeal shall be filed against the said order, unless a sum equal to ten percent of the said penalty, in addition to the amount paid under proviso to sub section (6) of section 107 has been paid by the appellant."*

3.6 The Law Committee further recommended that **para 15 of Form GST APL-01 and para 14 of Form GST APL-05** may be amended accordingly, as per **Annexure-A** enclosed with this agenda note.

## Form GST APL-01

15. Details of payment of admitted amount and pre-deposit; -

(a) Details of payment required

Particulars		Central tax	State tax/UT tax	Integrated tax	Cess	Total amount	
(a) Admitted amount	Tax/cess					<total>	
	Interest					<total>	
	Penalty					<total>	
	Fees					<total>	
	Other Charges					<total>	
(b) Pre-deposit (10% of the disputed tax/cess but not exceeding Rs 20 crore each in respect of CGST, SGST>cess, and not exceeding Rs. 40 crores in respect of IGST	Tax/cess					<total>	<total>
(c) Pre-deposit in case of <del>sub-section (3) of section 129</del> demanding penalty without involving demand of any tax	Penalty					<total>	]



**Form GST APL-05**

14. Details of payment of admitted amount and pre-deposit; -

(a) Details of amount payable:

Particulars			Central tax	State tax/UT tax	Integrated tax	Cess	Total amount	
	(a)Admitted amount	Tax/cess					<total>	<total>
		Interest					<total>	
		Penalty					<total>	
		Fees					<total>	
		Other Charges					<total>	
	(b)Pre-deposit (10% of the disputed tax/ cess but not exceeding Rs 20 crore each in respect of CGST, SGST>cess, and not exceeding Rs. 40 crores in respect of IGST	Tax/cess					<total>	<total>
	(c) Pre-deposit in case demanding penalty without involving demand of any tax	Penalty					<total>	

## **II. Agenda regarding removal of levy of late fee under sub-section (1) of section 47 of the CGST Act, 2017 in respect of furnishing of details of outward supplies in FORM GSTR-1.**

In view of the implementation of mandatory furnishing of details of outward supplies in FORM GSTR-1 for a tax period, before furnishing of return in FORM GSTR-3B for the corresponding tax period, requests have been received from the taxpayers to remove the levy of late fee on a registered person under sub-section (1) of section 47 of the CGST Act, 2017, for the delay of furnishing the details of outward supplies in FORM GSTR-1, as late fee is already payable in respect of delayed filed return in FORM GSTR-3B. It has also been represented that charging of late fee on delayed filing of FORM GSTR-1 tantamount to charging of late fee twice in respect of delayed return, once in respect of FORM GSTR-1 and then in respect of FORM GSTR-3B, as FORM GSTR-3B return of a tax period cannot be filed before filing FORM GSTR-1 for the said tax period.

### **2.1 Relevant legal provisions are extracted below:**

#### ***“Section 37. Furnishing details of outward supplies. -***

- (1) Every registered person, other than an Input Service Distributor, a non-resident taxable person and a person paying tax under the provisions of section 10 or section 51 or section 52, shall furnish, electronically subject to such conditions and restrictions and in such form and manner as may be prescribed, the details of outward supplies of goods or services or both effected during a tax period on or before the tenth day of the month succeeding the said tax period and such details shall, subject to such conditions and restrictions, within such time and in such manner as may be prescribed, be communicated to the recipient of the said supplies:*

***Provided*** that the Commissioner may, for reasons to be recorded in writing, by notification, extend the time limit for furnishing such details for such class of taxable persons as may be specified therein:

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

*...*

#### ***“Section 39. Furnishing of returns.-***

- (1) Every registered person, other than an Input Service Distributor or a non-resident taxable person or a person paying tax under the provisions of section 10 or section 51 or section 52 shall, for every calendar month or part thereof, furnish, a return, electronically, of inward and outward supplies of goods or services or both, input tax credit availed, tax payable, tax paid and such other particulars, in such form and manner, and within such time, as may be prescribed:*

***Provided*** that the Government may, on the recommendations of the Council, notify certain class of registered persons who shall furnish a return for every quarter or part thereof, subject to such conditions and restrictions as may be specified therein.

...

*(10) 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 <sup>9</sup>[for the details of outward supplies under sub-section (1) of section 37 for the said tax period has not been furnished by him:*

*Provided that the Government may, on the recommendations of the Council, by notification, subject to such conditions and restrictions as may be specified therein, allow a registered person or a class of registered persons to furnish the return, even if he has not furnished the returns for one or more previous tax periods or has not furnished the details of outward supplies under sub-section (1) of section 37 for the said tax period*

...”

**“Section 47. Levy of late fee. -**

*(1) Any registered person who fails to furnish the details of outward or supplies required under section 37 or returns required under section 39 or section 45 or section 52 by the due date shall pay a late fee of one hundred rupees for every day during which such failure continues subject to a maximum amount of five thousand rupees.*

..”

**“Rule 59. Form and manner of furnishing details of outward supplies.-**

*(1) Every registered person, other than a person referred to in section 14 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017), required to furnish the details of outward supplies of goods or services or both under section 37, shall furnish such details in **FORM GSTR-1** for the month or the quarter, as the case may be, electronically through the common portal, either directly or through a Facilitation Centre as may be notified by the Commissioner.*

*Provided that the said person may, after furnishing the details of outward supplies of goods or service or both in FORM GSTR-1 for a tax period but before filing of return in FORM GSTR-3B for the said tax period, at his own option, amend or furnish additional details of outward supplies of goods or services or both in FORM GSTR-1A for the said tax period electronically through the common portal, either directly or through a Facilitation Centre as may be notified by the Commissioner.*

..”

**“Rule 61. Form and manner of furnishing of return.-**

*(1) Every registered person other than a person referred to in section 14 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017) or an Input Service Distributor or a non-resident taxable person or a person paying tax under section 10 or section 51 or, as the case may be, under section 52 shall furnish a return in **FORM GSTR-3B**, electronically through*

*the common portal either directly or through a Facilitation Centre notified by the Commissioner, as specified under -*

*(i) sub-section (1) of section 39, for each month, or part thereof, on or before the twentieth day of the month succeeding such month:*

*(ii) proviso to sub-section (1) of section 39, for each quarter, or part thereof, for the class of registered persons mentioned in column (2) of the Table given below, on or before the date mentioned in the corresponding entry in column (3) of the said Table, namely:-*

**Table**

<b>S. No.</b>	<b>Class of registered persons</b>	<b>Due Date</b>
<b>(1)</b>	<b>(2)</b>	<b>(3)</b>
1.	Registered persons whose principal place of business is in the States of Chhattisgarh, Madhya Pradesh, Gujarat, Maharashtra, Karnataka, Goa, Kerala, Tamil Nadu, Telangana, Andhra Pradesh, the Union territories of Daman and Diu and Dadra and Nagar Haveli, Puducherry, Andaman and Nicobar Islands or Lakshadweep.	twenty-second day of the month succeeding such quarter.
2.	Registered persons whose principal place of business is in the States of Himachal Pradesh, Punjab, Uttarakhand, Haryana, Rajasthan, Uttar Pradesh, Bihar, Sikkim, Arunachal Pradesh, Nagaland, Manipur, Mizoram, Tripura, Meghalaya, Assam, West Bengal, Jharkhand or Odisha, the Union territories of Jammu and Kashmir, Ladakh, Chandigarh or Delhi.	twenty-fourth day of the month succeeding such quarter.

..”

**2.2** As per the provisions of sub-section (1) of section 37 of the CGST Act, read with sub-rule (1) of rule 59 of the CGST Rules, 2017, a registered person, other than an Input Service Distributor, a non-resident taxable person and a person paying tax under the provisions of section 10 or section 51 or section 52, is required to furnish the details of outward supplies effected during a tax period in FORM GSTR-1 to be filed on or before the tenth day of the month succeeding the said tax period. Further, vide Notification No. 83/2020–Central Tax dated 10<sup>th</sup> November, 2020, the due date for filing of FORM GSTR-1 has been extended to eleventh day of the month succeeding the month or thirteenth day of the month succeeding the quarter, for the registered persons required to file monthly FORM GSTR-3B and quarterly FORM GSTR-3B, respectively. Further, sub-section (1) of section 47 of the CGST Act provides for a levy of late fee for the furnishing of such details of outward supplies in FORM GSTR-1, beyond its due date.

**2.3** Further, as per provisions of sub-section (1) of section 39 of the CGST Act, read with sub-rule (1) of rule 61 of the CGST Rules, 2017, a registered person, other than an Input Service Distributor, a non-resident taxable person and a person paying tax under the provisions of section 10

or section 51 or section 52, is required to furnish a return for every tax period in FORM GSTR-3B, which is to be filed on or before the twentieth day of the month succeeding the said tax period for the monthly filers and twenty-second or twenty-fourth day of the month succeeding the said tax period for the quarterly filers. Moreover, as per sub-section (1) of section 47 of the CGST Act, there is a levy of late fee for the furnishing of return in FORM GSTR-3B, beyond its due date. It is mentioned that the late fee payable for delayed filing of return in FORM GSTR-3B is auto-populated on the common portal in the return of the said taxpayer in FORM GSTR-3B for the next tax period.

**2.4** It is also to be mentioned that w.e.f. 01.10.2022, as per sub-section (10) of section 39 of the CGST Act, a registered person is not permitted to furnish the return in FORM GSTR-3B for a tax period, unless he has furnished the details of outward supplies in FORM GSTR-1 of the said tax period.

**3.** The Law committee deliberated on the matter in its meeting held on 13.10.2024 and felt that with the implementation of sequential furnishing of the details of outward supplies in FORM GSTR-1 before furnishing of return in FORM GSTR-3B of the corresponding tax period, in terms of sub-section (10) of section 39 of the CGST Act, a return in FORM GSTR-3B cannot be furnished without furnishing of FORM GSTR-1 of the said tax period and as there is already a late fee for delayed furnishing of return in FORM GSTR-3B under sub-section (1) of section 47 of the GST Act, which is getting auto-populated in the next return, charging a separate late fee for delayed furnishing of FORM GSTR-1 may not be desirable.

**4.** Accordingly, the Law committee recommended to remove the levy of late fee for delayed filing of FORM GSTR-1. To implement the same, Law Committee recommended an amendment in sub-section (1) of section 47 of the CGST Act, as below:

*Section 47. Levy of late fee. - (1) Any registered person who fails to furnish the ~~details of outward or supplies required under section 37 or~~ returns required under section 39 or section 45 or section 52 by the due date shall pay a late fee of one hundred rupees for every day during which such failure continues subject to a maximum amount of five thousand rupees.*

*(2) Any registered person who fails to furnish the return required under section 44 by the due date shall be liable to pay a late fee of one hundred rupees for every day during which such failure continues subject to a maximum of an amount calculated at a quarter per cent. of his turnover in the State or Union territory.*

### **III. Amendment in Section 2(69)(c) of CGST Act, 2017 to insert an Explanation regarding definitions of Local Fund and Municipal Fund.**

1. **Background:** While discussing an agenda regarding eligibility of an entity to be covered under the definition of “Local Authority” as per section 2(69) of CGST Act, 2017, Fitment Committee observed that while the definition of “Local Authority” under section 2(69) of CGST Act refers to ‘municipal or local fund’ in clause (c) thereof, but the said terms have not been specifically defined under CGST Act, which may create confusion and ambiguity regarding the interpretation of the said terms. The Fitment Committee referred the matter to the Law Committee for providing the definition of Local Fund and Municipal Fund under CGST Act.

#### **2. Current Legal Provision:**

Section 2(69) of the CGST Act states:

*“2(69) "local authority" means—*

- (a) a "Panchayat" as defined in clause (d) of article 243 of the Constitution;*
- (b) a "Municipality" as defined in clause (e) of article 243P of the Constitution;*
- (c) a Municipal Committee, a Zilla Parishad, a District Board, and any other authority legally entitled to, or entrusted by the Central Government or any State Government with the control or management of a **municipal or local fund**;*
- (d) a Cantonment Board as defined in section 3 of the Cantonments Act 2006;*
- (e) a Regional Council or a District Council constituted under the Sixth Schedule to the Constitution;*
- (f) a Development Board constituted under article 371 and article 371J of the Constitution; or*
- (g) a Regional Council constituted under article 371A of the Constitution;*

3. Law Committee deliberated in the matter in its meeting held on 07.12.2024 and recommended that the **clause (c) of Section 2(69) of CGST Act may be amended and an Explanation may be inserted after clause (c) of Section 2(69) of CGST Act, as below:**

*(c) a Municipal Committee, a Zilla Parishad, a District Board, and any other authority legally entitled to, or entrusted by the Central Government or any State Government with the control or management of a municipal **fund** or local fund;*

*"Explanation - For the purpose of this clause:*

- (i) *"Local Fund" means any fund under the control or management of an authority of local self-government established for discharging civic functions in relation to a "Panchayat Area", and is legally vested with the powers to levy, collect and appropriate any tax, duty, toll, cess or fee, by whatever name called.*
- (ii) *"Municipal Fund" means any fund under the control or management of an authority of local self-government established for discharging civic functions in relation to a "Metropolitan Area" or "Municipal Area", and is legally vested with the powers to levy, collect and appropriate any tax, duty, toll, cess or fee, by whatever name called.*

#### **IV. Amendment in provisions pertaining to Input Services Distributor mechanism under CGST Act, 2017 and CGST Rules, 2017.**

Representations have been received from trade raising doubts about applicability of Input Services Distributor (ISD) mechanism in respect of inter-State supplies of services, received by the ISD, on which tax is required to be paid on reverse charge basis. It has been mentioned that definition of ISD under sub-section (61) of section 2 of CGST Act, 2017, as amended vide the Finance Act, 2024, refers to reverse charge mechanism (RCM) liability only under sub-section (3) and sub-section (4) of section 9 of the CGST Act (i.e. intra-State RCM liability) and does not refer to inter-State RCM supplies under sub-section (3) and sub-section (4) of section 5 of IGST Act, 2017, which may lead to an interpretation that inter-State RCM liabilities are not covered under ISD mechanism.

**1.2** The definition of “Input Service Distributor” in sub-section (61) of section 2 of the CGST Act has been amended vide the Finance Act, 2024, notified through Notification No. 16/2024 - CT dated 06.08.2024, w.e.f. 01.04.2025 and reads as follows:

*“(61) “Input Service Distributor” means an office of the supplier of goods or services or both which receives tax invoices towards the receipt of input services, **including invoices in respect of services liable to tax under sub-section (3) or sub-section (4) of section 9**, for or on behalf of distinct persons referred to in section 25, and liable to distribute the input tax credit in respect of such invoices in the manner provided in section 20.”*

**1.3** Further, section 20 of CGST Act provides for manner of distribution of credit by ISD, as follows:

***“Section 20. Manner of distribution of credit by Input Service Distributor.-***

*(1) Any office of the supplier of goods or services or both which receives tax invoices towards the receipt of input services, including invoices in respect of services liable to tax under sub-section (3) or sub-section (4) of section 9, for or on behalf of distinct persons referred to in section 25, shall be required to be registered as Input Service Distributor under clause (viii) of section 24 and shall distribute the input tax credit in respect of such invoices.*



*(2) The Input Service Distributor shall distribute the credit of central tax or integrated tax charged on invoices received by him, including the credit of central or integrated tax in respect of services subject to levy of tax under sub-section (3) or sub-section (4) of section 9, paid by a distinct person registered in the same State as the said Input Service Distributor, in such manner, within such time and subject to such restrictions and conditions as may be prescribed.*

*(3) The credit of central tax shall be distributed as central tax or integrated tax and integrated tax as integrated tax or central tax, by way of issue of a document containing the amount of input tax credit, in such manner as may be prescribed.”*

2. The Law Committee deliberated on the matter in its meeting held on 11.12.2024. It was noted that amendments in sub-section (61) of section 2 and section 20 of CGST Act, vide the Finance Act, 2024, were intended to mandate distribution of ITC in respect of common input services, including ITC in respect of such input services which are liable to tax on reverse charge basis, through ISD route. As per the amended definition of ISD under sub-section (61) of section 2 of the CGST Act, an ISD is an office of the supplier which receives tax invoices for receipt of input services, including invoices in respect of services on which tax is payable under RCM as per sub-section (3) and sub-section (4) of section 9 of the CGST Act. The Law Committee observed that the definition is an inclusive one and appears to convey the intention of the new provisions related to ISD, so as to provide for distribution of credit in respect of supplies of services received by the ISD, including the supplies in respect of which tax has to be paid on RCM basis. On going through the provisions of sub-section (2) of section 20 of CGST Act, which also refers to distribution of credit of integrated tax in respect of RCM supplies, it appears that reference to RCM supplies in definition of ISD under sub-section (61) of section 2 and in section 20 of CGST Act appear to refer to both intra-State as well as inter-State RCM supplies. Law Committee, however, observed that to avoid any ambiguity and dispute in the matter, necessary amendments may be made in sub-section (61) of section 2 and section 20 of the CGST Act, and sub-rule (1A) of rule 39 of the CGST Rules to make the inclusion of inter-State RCM supplies under ISD mechanism more explicit.

**2.1 The Law Committee, accordingly, recommended the following amendments in sub-section (61) of section 2 and section 20 of CGST Act:**

**A. Amendment in sub-section (61) of section 2 of CGST Act:**

*2(61)"Input Service Distributor" means an office of the supplier of goods or services or both which receives tax invoices towards the receipt of input services, including invoices in respect of services liable to tax under sub-section (3) or sub-section (4) of section 9 of this Act or under sub-section (3) or sub-section (4) of section 5 of the Integrated Goods and Services Tax Act, 2017, for or on behalf of distinct persons referred to in section 25, and liable to distribute the input tax credit in respect of such invoices in the manner provided in section 20.*

**B. Amendment in section 20 of CGST Act:**

***“Section 20. Manner of distribution of credit by Input Service Distributor.-***

*(1) Any office of the supplier of goods or services or both which receives tax invoices towards the receipt of input services, including invoices in respect of services liable to tax under sub-section (3) or sub-section (4) of section 9 of this Act or under sub-section (3) or sub-section (4) of section 5 of the Integrated Goods and Services Tax Act, 2017, for or on behalf of distinct persons referred to in section 25, shall be required to be registered as Input Service Distributor under clause (viii) of section 24 and shall distribute the input tax credit in respect of such invoices.*

*(2) The Input Service Distributor shall distribute the credit of central tax or integrated tax charged on invoices received by him, including the credit of central or integrated tax in respect of services subject to levy of tax under sub-section (3) or sub-section (4) of section 9 of this Act or under sub-section (3) or sub-section (4) of section 5 of the Integrated Goods and Services Tax Act, 2017, paid by a distinct person registered in the same State as the said Input Service Distributor, in such manner, within such time and subject to such restrictions and conditions as may be prescribed.*

*(3) The credit of central tax shall be distributed as central tax or integrated tax and integrated tax as integrated tax or central tax, by way of issue of a document containing the amount of input tax credit, in such manner as may be prescribed.”*

2.1.1 The Law Committee also recommended that the above amendments in sub-section (61) of section 2 and section 20 of CGST Act, may be **brought into effect from 01.04.2025**, i.e. the date from which the amendments in respect of ISD made vide Finance Act, 2024 will come into effect.

**2.2 The Law Committee further recommended consequential amendment in sub-rule (1A) of rule 39 of CGST Rules, as follows:**

***“Rule 39. Procedure for distribution of input tax credit by Input Service Distributor.-***

*...*

*(1A) For the distribution of credit in respect of input services, attributable to one or more distinct persons, subject to levy of tax under sub-section (3) or (4) of section 9 of Central Goods and Services Tax Act, 2017 or under sub-section (3) or sub-section (4) of section 5 of the Integrated Goods and Services Tax Act, 2017, a registered person, having the same PAN and State code as an Input Service Distributor, may issue an invoice or, as the case may be, a credit or debit note as per the provisions of sub-rule(1A) of rule 54 to transfer the credit of such common input services to the Input Service Distributor, and such credit shall be distributed by the said Input Service Distributor in the manner as provided in sub-rule (1).*

*...”*

3. The agenda note for various amendments in CGST Act, as detailed above, is placed before the GST Council for deliberation and approval.

\*\*\*

### **Agenda Item 3(viii): Miscellaneous proposals for amendment of the CGST Rules, 2017.**

Law Committee has recommended various amendments in the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as “the CGST Rules”).

The details of the proposed amendments are as given below:

#### **I. Provision for grant of Temporary Identification Number by Tax Officers to the persons not liable to be registered otherwise**

As per rule 87(4) of the CGST Rules, 2017, where any payment has to be made by a person who is not registered under Goods and Services Tax Act, 2017 (hereinafter referred to as the “CGST Act”), a Temporary Identification Number (Temporary ID) may be generated by the proper officer for such a person on the common portal to enable him to discharge his liability under the CGST Act. In such cases, such person is not required to obtain registration as mandated under section 25(8) of the CGST Act. However, in some cases, tax officers are asking such person to undergo the registration process as mandated in section 25(8) of CGST Act, read with rule 16(3) of CGST Rules.

#### **2. Examination:**

2.1 Grant of temporary registration to a person is covered under section 25(8) of CGST Act read with rule 16 of the CGST Rules. The relevant provisions are reproduced below:

- i. **Section 25 (8) of the CGST Act** provides for the procedure for registration in cases where person liable to be registered fails to obtain registration. The provision reads as under:

“...  
“

*(8) where a person who is liable to be registered under this Act fails to obtain registration, the proper officer may, without prejudice to any action which may be taken under this Act or under any other law for the time being in force, proceed to register such person in such manner as may be prescribed.”*

- ii. **Rule 16 of CGST Rules** provides for suo-moto registration which reads as under:

*“(1) Where, pursuant to any survey, enquiry, inspection, search or any other proceedings under the Act, the proper officer finds that a person liable to registration under the Act has failed to apply for such registration, such officer may register the said person on a temporary basis and issue an order in FORM GST REG-12 .*

*(2) The registration granted under sub-rule (1) shall be effective from the date of such order granting registration.*

*(3) Every person to whom a temporary registration has been granted under sub-rule (1) shall, within a period of ninety days from the date of the grant of such registration, submit an application for registration in the form and manner provided in rule 8 or rule 12:*

***Provided** that where the said person has filed an appeal against the grant of temporary registration, in such case, the application for registration shall be submitted within a period of thirty days from the date of the issuance of the order upholding the liability to registration by the Appellate Authority.”*

2.2 Accordingly, in Form GST REG-12, it is mandatory for Tax Officer to select field, “<< You are hereby directed to file application for proper registration within 90 days of the issue of this

order >>”, while generating temporary registration, as below:

FORM GST REG-12

[See rule 16(1)]

Reference Number -

**Date:**

To

(Name)

(Address):

(Address):

Temporary Registration Number

### **Order of Grant of Temporary Registration/ Suo Moto Registration**

Whereas the undersigned has sufficient reason to believe that you are liable for registration under the Act, and therefore, you are hereby registered on a temporary basis. The particulars of the business as ascertained from the business premises are given as under:

Details of person to whom temporary registration granted		
1.	Name and Legal Name, if applicable	
2.	Gender	Male/Female/Other
3.	Father 's Name	
4.	Date of Birth	DD/MM/YYYY
5.	<div style="display: flex;"> <div style="flex: 1;">Address of the Person</div> <div style="flex: 2;"> <div>Building No./ Flat No.</div> <div>Floor No.</div> <div>Name of Premises/ Building</div> <div>Road/ Street</div> <div>Town/City/Locality/ Village</div> <div>Block / Taluka</div> <div>District</div> <div>State</div> <div>PIN Code</div> </div> </div>	
6.	Permanent Account Number of the person, if available	
7.	Mobile No.	

8.	Email Address	
9.	Other ID, if any (Voter ID No./ Passport No./Driving License No./Aadhaar No./ Other)	
10.	Reasons for temporary registration	
11.	Effective date of registration / temporary ID	
12.	Registration No. / Temporary ID	

(Upload of Seizure Memo / Detention Memo / Any other supporting documents)

<< You are hereby directed to file application for proper registration within 90 days of the issue of this order >>

**Mandatory to be selected**

Place	Signature << Name of the Officer>>:	
Date:	Designation/ Jurisdiction:	

Note: A copy of the order will be sent to the corresponding Central/ State Jurisdictional Authority.

[13. Details of Bank Accounts (s) [Optional]

Total number of Bank Accounts maintained by the applicant  
(Upto 10 Bank Accounts to be reported)

Details of Bank Account

1

Account Number														
Type of Account									IFSC					
Bank Name														
Branch Address	To be auto-populated (Edit mode)													

Note- Add more bank accounts]1

2.3 There are occasions when a Tax Officer is required to generate Temporary ID, during proceedings such as enforcement proceedings under section 129 or section 130 of the CGST Act, imposition of penalty upon co-noticees under sections 122, 125 or 127 of the CGST Act etc. to enable such persons to access portal and discharge their liabilities on the portal as per the provisions of rule 87(4) of CGST Rules. Rule 87(4) of CGST Rules provides for grant of a temporary identification number to any person required to make any payment under the Act and the said provision reads as under:

*“(4) Any payment required to be made by a person who is not registered under the Act, shall be made on the basis of a temporary identification number generated through the common portal.”*

2.4 However, such person, who is granted a temporary identification number, for enabling him to pay his liability as per the provisions of rule 87(4) of CGST Rules, is not required to obtain registration as required under the provisions of section 25 (8) of CGST Act, read with rule 16 (3) of CGST Rules, which are applicable only in the cases where the said person is required to obtain registration, but has failed to obtain the said registration.

3. Law Committee deliberated on the issue in its meeting held on 23.10.2024. Law Committee observed that as per the provisions of section 25(8) of the CGST Act and rule 16 of the CGST Rules, a proper officer is required to grant temporary registration to a person who is liable to get registered but who has failed to apply for the same. This temporary registration is issued vide FORM GST REG-12 and such person is required to apply for regular registration within 90 days. Law Committee observed that the present provisions of CGST Rules do not specifically provide for the procedure for grant of temporary identification number to a person, who is not required to register under GST, for enabling him to pay his liability as per the provisions of rule 87(4) of CGST Rules.

**4. Law Committee accordingly recommended that-**

(i) **a new rule 16A may be inserted in CGST Rules to provide for the procedure for grant of temporary identification number, to a person, as follows:**

**“Rule 16A. Grant of temporary identification number. -**

**Where a person is not liable to registration under the Act but is required to make any payment under the provisions of the Act, the proper officer may grant the said person a temporary identification number and issue an order in Part B of FORM GST REG-12.”**

(ii) Rule 87(4) of CGST Rules may be amended to include reference to rule 16A of CGST Rules, as below:

*“(4) Any payment required to be made by a person who is not registered under the Act, shall be made on the basis of a temporary identification number generated through the common portal as per rule 16A.”*

(iii) FORM GST REG-12 may be modified as detailed as under:

FORM GST REG-12  
[See rule 16(1), 16A]

Reference Number -

Date:

To

(Name)

(Address):

(Address):

Temporary Registration Number/Temporary Identification Number

**Order of Grant of Temporary Registration/ Suo Moto  
Registration/Temporary Identification Number**

Whereas the undersigned has sufficient reason to believe that you are liable for registration under the Act, and therefore, you are hereby registered on a temporary basis. The particulars of the business as ascertained from the business premises are given as under:

**PART A**

Details of person to whom temporary registration granted											
1.	Name and Legal Name, if applicable										
2.	Gender	Male/Female/Other									
3.	Father 's Name										
4.	Date of Birth	DD/MM/YYYY									
5.	Address of the Person	<table><tbody><tr><td>Building No./ Flat No.</td></tr><tr><td>Floor No.</td></tr><tr><td>Name of Premises/ Building</td></tr><tr><td>Road/ Street</td></tr><tr><td>Town/City/Locality/ Village</td></tr><tr><td>Block / Taluka</td></tr><tr><td>District</td></tr><tr><td>State</td></tr><tr><td>PIN Code</td></tr></tbody></table>	Building No./ Flat No.	Floor No.	Name of Premises/ Building	Road/ Street	Town/City/Locality/ Village	Block / Taluka	District	State	PIN Code
Building No./ Flat No.											
Floor No.											
Name of Premises/ Building											
Road/ Street											
Town/City/Locality/ Village											
Block / Taluka											
District											
State											
PIN Code											





## PART B

Whereas the undersigned has sufficient reason to believe that you are liable to make any payment under the Act, and therefore, you are hereby granted a temporary identification number as per the following details:

Details of person to whom temporary identification number has been granted		
1.	Name and Legal Name, if applicable	
2.	Gender	Male/Female/Other
3.	Father 's Name	
4.	Date of Birth	DD/MM/YYYY
5.	<div style="display: flex;"> <div style="width: 20%; text-align: center;">Address of the Person</div> <div style="width: 80%;"> <div style="border-bottom: 1px solid black; padding: 2px;">Building No./ Flat No.</div> <div style="border-bottom: 1px solid black; padding: 2px;">Floor No.</div> <div style="border-bottom: 1px solid black; padding: 2px;">Name of Premises/ Building</div> <div style="border-bottom: 1px solid black; padding: 2px;">Road/ Street</div> <div style="border-bottom: 1px solid black; padding: 2px;">Town/City/Locality/ Village</div> <div style="border-bottom: 1px solid black; padding: 2px;">Block / Taluka</div> <div style="border-bottom: 1px solid black; padding: 2px;">District</div> <div style="border-bottom: 1px solid black; padding: 2px;">State</div> <div style="border-bottom: 1px solid black; padding: 2px;">PIN Code</div> </div> </div>	
6.	Permane Account Number of the person, if nt available	
7.	Mobile No.	
8.	Email Address	
9.	Other ID, if any (Voter ID No./ Passport No./Driving License No./Aadhaar No./ Other)	
10.	Effective date of temporary ID	

11.	Temporary ID	
<p style="text-align: center;">Signature</p> <p>Place &lt;&lt; Name of the Officer&gt;&gt;:</p> <p>Date: Designation/ Jurisdiction:</p> <p>Note: A copy of the order will be sent to the corresponding Central/ State Jurisdictional Authority.</p>		
<p>3. Details of Bank Accounts (s) [Optional]</p> <p>Total number of Bank Accounts maintained by the applicant (Upto 10 Bank Accounts to be reported)</p> <p style="text-align: center;">Details of Bank Account 1</p> <p>Note- Add more bank accounts</p>		

## II. Amendment in the field ‘category of registered person’ for taxpayers who opted composition levy through Form CMP-02.

GSTN has received tickets pertaining to composition tax payers, who are unable to make amendments in the options provided below in “**Category of Registered Person**” after opting for composition scheme: -

1. *Manufacturers, other than manufacturers of such goods as may be notified by the Government for which option is not available*
2. *Suppliers making supplies referred to in clause (b) of paragraph 6 of schedule II*
3. *Any other supplier eligible for composition levy*

2. There are two scenarios in which the “Category of Registered Person” is selected by the applicant:

i. When an applicant files FORM GSTREG-01 and selects composition scheme wherein sometimes, he selects the wrong category out of the three options for the field “Category of Registered Person”, Rule 19 of CGST Rules provides for mechanism for application through FORM GST REG-14 for change in particulars in details furnished in the application of registration.

ii. When a taxpayer applied for composition scheme through FORM GST CMP-02 and gets converted himself from regular taxpayer to composition taxpayer, and wrongly selects a wrong category in FORM GST CMP-02, e.g. selects category 3 “(Any other supplier eligible for composition levy)” but actually falls under category 2 “(Suppliers making supplies referred to in clause (b) of paragraph 6 of schedule II)”. In such cases, he is unable to change the category due to non-availability of any provision in CGST Rules providing for such amendment of the “Category of Registered Person” in cases where composition scheme has been opted through FORM GST CMP-02 as FORM GST CMP-02 is not included in Rule 19.

iii. Rule 19 of CGST Rules, 2017 is reproduced below:

*“(1)Where there is any change in any of the particulars furnished in the application for registration in **FORM GST REG-01** or **FORM GST REG-07** or **FORM GST REG-09** or **FORM GST REG-10** or for Unique Identity Number in **FORM GST-REG-13**, either at the time of obtaining registration or Unique Identity Number or as amended from time to time, the registered person shall, within a period of fifteen days of such change, submit an application, duly signed or verified through electronic verification code, electronically in **FORM GST REG-14**, along with the documents relating to such change at the common portal, either directly or through a Facilitation Centre notified by the Commissioner:*  
...”

3. Law Committee deliberated on the matter in its meeting held on 23.10.2024 and observed that there is a need to make amendment in rule 19 of CGST Rules to provide for amendment in details furnished in FORM GST CMP-02 through FORM GST REG-14. Law Committee, accordingly, recommended that sub-rule (1) of rule 19 of CGST Rules, 2017 may be amended, as below, to provide for non-core amendment in the details furnished in FORM GST CMP-02 and allow the composition taxpayers to change “Category of registered person” which was selected wrongly in **FORM GST CMP-02** earlier:

*“As per Rule 19 of CGST Rules, 2017 pertaining to Amendment of registration, (1)Where there is any change in any of the particulars furnished in the application for registration in **FORM GST REG-01** or **FORM GST REG-07** or **FORM GST REG-09** or **FORM GST REG-10** or in the intimation furnished by the composition taxpayer in **FORM GST CMP-02** or for Unique Identity Number in **FORM GST-REG-13** either at the time of obtaining registration or Unique Identity Number or as amended from time to time, the*

*registered person shall, within a period of fifteen days of such change, submit an application, duly signed or verified through electronic verification code, electronically in FORM GST REG-14, along with the documents relating to such change at the common portal, either directly or through a Facilitation Centre notified by the Commissioner:”*

### **III. Agenda on requirement of signature or digital signature of the supplier or his authorized representative in respect of e-invoice.**

Representations have been received from trade and industry requesting to dispense with the requirement of “signature or digital signature of the supplier or his authorized representative”, as specified in clause (q) of rule 46 of CGST Rules 2017, in respect of tax invoices which are issued in the manner prescribed under sub-rule (4) of rule 48 of the CGST Rules. It has been represented that the same will facilitate end-to-end automation of e-invoicing & ITC reconciliation process, will help to avoid wastage of stationary and will be an eco-friendly measure to reduce carbon footprint.

#### **2. Relevant statutory provisions are extracted below:**

##### **“Section 31. Tax Invoice.-**

*(1) A registered person supplying taxable goods shall, before or at the time of,-*

*(a) removal of goods for supply to the recipient, where the supply involves movement of goods; or*

*(b) delivery of goods or making available thereof to the recipient, in any other case, issue a tax invoice showing the description, quantity and value of goods, the tax charged thereon and such **other particulars as may be prescribed**:*

*Provided that the Government may, on the recommendations of the Council, by notification, specify the categories of goods or supplies in respect of which a tax invoice shall be issued, within such time and in such manner as may be prescribed.*

*(2) A registered person supplying taxable services shall, before or after the provision of service but within a prescribed period, issue a tax invoice, showing the description, value, tax charged thereon and such **other particulars as may be prescribed**:*

*Provided that the Government may, on the recommendations of the Council, by notification,-*

*(a) specify the categories of services or supplies in respect of which a tax invoice shall be issued, within such time and in such manner as may be prescribed;*

*(b) subject to the condition mentioned therein, specify the categories of services in respect of which-*

*(i) any other document issued in relation to the supply shall be deemed to be a tax invoice;  
or*

*(ii) tax invoice may not be issued.*

*...”*

***“Rule 46. Tax invoice. - Subject to rule 54, a tax invoice referred to in section 31 shall be issued by the registered person containing the following particulars, namely,-***

...

***(q) signature or digital signature of the supplier or his authorised representative; and***

***(r) Quick Response 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.***

***(s) a declaration as below, that invoice is not required to be issued in the manner specified under sub-rule (4) of rule 48, in all cases where an invoice is issued, other than in the manner so specified under the said sub-rule (4) of rule 48, by the taxpayer having aggregate turnover in any preceding financial year from 2017-18 onwards more than the aggregate turnover as notified under the said sub-rule (4) of rule 48- "I/We hereby declare that though our aggregate turnover in any preceding financial year from 2017-18 onwards is more than the aggregate turnover notified under sub-rule (4) of rule 48, we are not required to prepare an invoice in terms of the provisions of the said sub-rule."***

.....

***Provided also that the signature or digital signature of the supplier or his authorised representative shall not be required in the case of issuance of an electronic invoice in accordance with the provisions of the Information Technology Act,2000 (21 of 2000):***

... ”

***“Rule 48. Manner of issuing invoice.-***

.....

***(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.***

***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) 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.***

***(6) The provisions of sub-rules (1) and (2) shall not apply to an invoice prepared in the manner specified in sub-rule (4).”***

**3.1** Sub-section (1) or sub-section (2) of section 31 of the CGST Act, provide for issuance of tax invoice by a registered person supplying taxable goods or taxable service showing the description, quantity and value of goods or services, the tax charged thereon and such other particulars as may be

prescribed. Further, rule 46 of the CGST Rules enlists the particulars which are required to be contained on a tax invoice issued by a registered person. As per clause (q) to rule 46 of the CGST Rules, a tax invoice is required to contain the signature or digital signature of the supplier or his authorized representative. Also, as per clause (r) of said rule, an invoice is required to contain the QR 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 of CGST Rules. Further, fourth proviso to the said rule, inserted w.e.f. 31.12.2018, exempts the requirement of signature or digital signature of the supplier or his authorized representative in case of issuance of an electronic invoice in accordance with the provisions of the Information Technology Act, 2000 (21 of 2000).

**3.2** Further, sub-rule (4) of rule 48 of the CGST rules provides for notification of the class of taxpayers who would be required to prepare invoice in the manner specified therein, and such taxpayers as per sub-rule (6) of the said rule would not be required to issue tax invoice in the manner specified in sub-rule (1) and sub-rule (2) of the said rule. Also, as per sub-rule (5) of the said rule, any invoice issued by a person to whom sub-rule (4) of the said rule applies, in any manner other than that specified in the said sub-rule, shall not be treated as an invoice. Such class of registered persons are required to prepare invoice by including the particulars contained in the 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.

**3.3** Accordingly, vide **Notification No. 69/2019 – Central Tax dated 13<sup>th</sup> December, 2019**, the Government, on the recommendations of the Council, has notified the list of Common Goods and Services Tax Electronic Portal under section 146 of the CGST Act, for the purpose of preparation of the invoice in terms of sub-rule (4) of rule 48 of the CGST Rules, which are websites managed by GSTN. Further, the Government has on the recommendation of the Council vide **Notification No. 13/2020- Central Tax dated 21.03.2020**, as amended from time to time, notified the class of registered persons having aggregate turnover in any preceding financial year above the specified limit, as the taxpayers who are required to prepare the invoice in terms of sub-rule (4) of rule 48 of CGST Rules in respect of supplies to registered person and for exports. The said limit of aggregate turnover has been made Rs. 5 crores w.e.f. 1st August 2023.

**3.4** The Law Committee deliberated on the matter in its meeting held on 06.12.2024 and observed that the purpose of affixing signature or digital signature of the supplier or his authorized representative on a tax invoice is a way of validating the authenticity and integrity of the tax invoice and the particulars contained therein and its non-repudiation by the supplier or his authorized representative. Thus, it verifies the identity of the supplier, ensures that the contents of the document remain unaltered during transmission, and prevents the supplier from denying or disputing the invoice at a later stage. It thus becomes a valid document for the recipient to avail input tax credit.

**3.5** In respect of the invoices prepared through e-invoicing process, as per sub-rule (4) of rule 48 of the CGST Rules, the following was noted:

- As per sub-rule (4) of rule 48 of CGST Rules, the notified class of registered persons are required to prepare invoice by uploading specified particulars of invoice, some of which are mandatory and others are optional (in FORM GST INV-01), on Common Goods and Services Tax Electronic Portal and obtain an Invoice Reference Number (IRN).

- The website for uploading of invoice particulars have been notified by the Government under section 146 of the CGST Act, to function as the Common Goods and Services Tax Electronic Portal, and they are commonly referred to as Invoice Registration Portal (IRP).
- A one-time registration is required to be done by the registered person with the IRP for generation of IRN. For registration, the registered person is required to enter GSTIN on the IRP portal, whereafter the portal sends an OTP to the mobile number of the registered person which is registered with GST Portal and after authenticating the same, the system enables him to generate his/her username and password for the said portal. After generation of username and password of his/her choice, he/she may proceed to report invoice particulars to generate IRN.
- An IRN is a unique reference number (hash) generated and returned by IRP, based on Supplier's GSTIN, Document Number, Type of Document; Financial Year, on successful reporting of invoice on IRP.
- On reporting the invoice particulars in the specified schema on IRP, the IRP performs prescribed validations on invoice particulars and returns the signed JSON (signed by the IRP) which includes the QR code (containing, inter alia, the IRN). The QR code also consists of the following key particulars of invoice:
  - i. GSTIN of Supplier
  - ii. GSTIN of Recipient
  - iii. Invoice number, as given by Supplier
  - iv. Date of generation of Invoice
  - v. Invoice value (taxable value and gross tax)
  - vi. Number of line items
  - vii. HSN Code of main item (line item having highest taxable value)
  - viii. Unique IRN (Invoice Reference Number/hash)
  - ix. IRN Generation Date
- Thereafter, the invoice can be issued by the registered person to the recipient (along with QR Code, which embeds the IRN) through various modes (e.g. generating as PDF and printing as paper copy or forwarding via e-mail etc.), and any further addition, i.e. insertion of company logo, additional text etc., can be made.
- Further, mechanism has been put in place to verify the authenticity or correctness of an invoice using the signed JSON file or Signed QR Code.

**3.6** Based on the above, the Law Committee felt that process of issuing an invoice under sub-rule (4) of rule 48 of CGST Act, is reliable as login credentials for the IRP portal are granted only after authenticating the identity of the registrant from the OTP which is sent to his registered mobile number, which ensures that the e-invoice issued with the QR code can be linked to the supplier or his authorized representative and to no other person. Further, after uploading of the specified particulars of an invoice into the IRP portal using the said credentials, there is no manual interference upto the point when the IRP portal returns the signed JSON copy with QR Code containing *inter-alia* IRN

back to the taxpayer which ensures that the particulars in the QR code generated which also embeds the IRN, are under the control of supplier or his authorized representative and no other person at the time of generation of the QR code. Furthermore, if any alteration is made to the QR code or the particulars embedded therein after its generation, such alteration is detectable which ensures that an invoice copy containing the QR Code containing *inter-alia* IRN issued by the supplier to buyer, commonly referred to as ‘e-invoice’ is also tamper proof and if tampered, the same is detectable.

**3.7 Accordingly, the Law Committee felt that an invoice containing Quick Response code, having embedded Invoice Reference Number (IRN) in it, which has been issued in the manner prescribed under sub-rule (4) of rule 48 of the CGST Rules, may be considered to meet the objectives of signing or digitally signing an invoice stated in para 3.4 above, and the requirement of signing or digitally signing the same may be an unnecessary compliance burden in such cases.**

**4.** In light of the above, the Law Committee recommended that to reduce the compliance burden in such cases, the requirement of signature or digital signature by the supplier or his authorized representative may be dispensed with in respect of an invoice which is prepared in the manner prescribed in sub-rule (4) of rule 48 of the CGST Rules. Accordingly, it recommended an amendment in the fourth proviso to rule 46 of the CGST Rules, as below:

*“Rule 46. Tax invoice. - Subject to rule 54, a tax invoice referred to in section 31 shall be issued by the registered person containing the following particulars, namely,-*

*...*

*Provided also that the signature or digital signature of the supplier or his authorised representative shall not be required in the case of issuance of an electronic invoice in accordance with the provisions of the Information Technology Act,2000 (21 of 2000) or in case of issuance of an invoice prepared in the manner prescribed under sub-rule (4) of rule 48:*

*...”*

**3.** Accordingly, the Agenda Note for various amendments in CGST Rules, as detailed above, is placed before the GST Council for deliberation and approval.

\*\*\*



**Agenda Item 3(ix): Clarification on availability of Input tax credit as per clause (b) of sub-section (2) of section 16 of CGST Act in respect of goods which have been delivered by the supplier at his (supplier's) place of business.**

Representation has been received from automobile industry seeking clarification on availability of input tax credit (ITC) as per clause (b) of sub-section (2) of section 16 of CGST Act, 2017 in respect of goods which have been delivered by the supplier at his (supplier's) place of business.

**1.2** It has been stated that in automobile sector, the contract between the automobile dealers and the Original Equipment Manufacturer (OEM) is generally an Ex-Works (EXW) contract, and as per the terms of contract, the property in goods (i.e. vehicles) passes to the dealer at the factory gate of the OEM, when the goods are handed over to the transporter at the instance of the dealer, and the delivery on the part of OEM is complete at their factory gate. The transport is generally arranged by the OEM on behalf of the dealer. Besides, where insurance is arranged by OEM, it is also generally done on behalf of the dealer and any claim in case of loss has to be lodged by the dealer. The dealers also duly account the invoice in their books of accounts on such delivery of the vehicles at the factory gate of the OEM. The dealers generally avail ITC on the date the vehicles are billed to them and handed over to the transporter by the OEM at their factory gate. However, some field formations are taking a view that ITC can only be availed by the dealer after the vehicles are physically received by them at their business premises and show cause notices have been issued to numerous dealers, demanding tax for wrongful availment of ITC for contravention of provisions of clause (b) of sub-section (2) of section 16 of CGST Act.

**1.3** Accordingly, it has been requested to clarify that where actual receipt of goods is proved and all other conditions for availing ITC are satisfied, and where tax has been paid by the supplier, no other irregularity or violation of legal provisions or claim of fraudulent ITC is involved, the time of entitlement to take ITC may be considered to be the moment when the property in goods has been passed to the recipient and delivery on part of supplier is complete on handing over goods to transporter.

**2** The Law Committee deliberated on the matter in its meeting held on 23.10.2024. The Law Committee observed that the main issue to be deliberated is as to whether the goods can be construed to have been "received" as per provisions of clause (b) of sub-section (2) of section 16 of CGST Act at the moment when the said goods (i.e. vehicles in this case) are delivered by the supplier (i.e. OEM in this case) to a transporter, at his factory gate, at the instance of the buyer (i.e. dealer in this case), in pursuance to an EXW contract for sale of goods, but where goods are physically received by the buyer at his place of business after the transit period.

**2.1 Relevant Legal provisions:**

- As per provisions of sub-section (1) of section 16 of CGST Act, every registered taxpayer is entitled to take input tax credit charged on any **supply** of goods and services made to him, where such goods or services are used or intended to be used in the course or furtherance of business of such person, subject to such conditions and restrictions as may be prescribed and, in the manner specified in section 49.

- Further, as per sub-section (1) of section 7 of CGST Act, “supply” includes all forms of supply of goods or services or both such as sale, transfer, barter, exchange, licence, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business.
- Sub-section (2) of section 16 of CGST Act is a non-obstante clause to section 16 of the CGST Act which enlists the conditions, failing which the registered person is not entitled to ITC in respect of supply of goods or services or both. One of the conditions as per clause (b) of the said sub-section (reproduced below) is that a registered person is not entitled to claim ITC in respect of any supply of goods or services or both unless he has “received” the said goods or services or both. The Explanation to the said clause provides for deemed receipt of goods and services in certain scenarios.

***Section 16. Eligibility and conditions for taking input tax credit.***

...

*(2) Notwithstanding anything contained in this section, no registered person shall be entitled to the credit of any input tax in respect of any supply of goods or services or both to him unless, -*

...

*(b) he has **received** the goods or services or both.*

*Explanation.- For the purposes of this clause, it shall be deemed that the registered person has received the goods or, as the case may be, services-*

*(i) where the goods are delivered by the supplier to a recipient or any other person on the direction of such registered person, whether acting as an agent or otherwise, before or during movement of goods, either by way of transfer of documents of title to goods or otherwise;*

*(ii) where the services are provided by the supplier to any person on the direction of and on account of such registered person;*

...

**2.2** The Law committee observed that from a plain reading of the clause (b) of sub-section (2) of section 16 of CGST Act, it is quite apparent that there is no reference of any particular place where goods are required to be “received” by the registered person. This is in contrast to the erstwhile Central Excise regime, where the provisions contemplated physical receipt of the goods at the factory of the manufacturer, for taking of CENVAT credit on the said goods. It was also noted that in most of the State VAT Acts, the provisions related to credit of the input tax did not have any explicit mention of physical receipt of goods at any particular place and input tax credit was allowed on purchase of goods.

**2.3** Explanation to clause (b) of sub-section (2) of section 16 of CGST Act provides that the goods would be deemed to have been “received” by the registered person for the purpose of this clause, where:

- a) the goods are delivered by the supplier to a recipient or to any other person on the direction of such registered person, whether acting as an agent or otherwise;
- b) such direction may be given before or during movement of goods; and
- c) the goods may be delivered either by way of transfer of documents of title to goods or otherwise.

**2.3.1** The Explanation provides that where goods are delivered by the supplier to any other person, whether acting as an agent or not, upon the direction of the registered person, and such delivery may occur through transfer of documents of title to goods or otherwise, the registered person is deemed to have “received” such goods for the purpose of the said clause. Therefore, the Law committee observed that as per the said Explanation, in cases where goods are delivered by the supplier to the registered person either directly, or to any other person on the directions of the said registered person, the registered person shall be considered to have “received” the said goods for the purpose of clause (b) of sub-section (2) of section 16 of CGST Act.

**2.4** In the instant case, as per the terms of contract between the OEM and the dealer, the goods are being handed over by the supplier i.e. OEM, to the transporter at the factory gate of the OEM, at the behest of the dealer i.e. the registered person. Therefore, Law committee was of the view that as the goods are being delivered to the registered person i.e. the dealer through the transporter by the supplier (i.e. the OEM) at his (supplier’s) factory gate, as per Explanation to clause (b) of sub-section (2) of section 16 of CGST Act, the registered person (i.e. the dealer) can be considered to have received the said goods at the time of such handing over of the goods by the supplier at his factory gate.

**2.5** The Law committee observed that in the instant case, as per the terms of the EXW contract between the dealer and the OEM:

- a) the goods are being handed over by the OEM to the transporter at his factory gate for onward transmission to the dealer;
- b) transport is arranged by OEM on the behalf of dealer; and
- c) if insurance is arranged, it is done on the behalf of dealer and any claim in case of loss has to be lodged by the dealer.

Accordingly, the Law committee felt that the property in the said goods can be considered to have been passed on to the dealer by the OEM upon handing over of the said goods to the transporter, at his factory gate, meaning thereby that the sale of the said goods can be said to have fructified at the factory gate of the OEM, despite the fact that the goods are physically received by the registered person (dealer in this case) after the transit period. **In light of the same, and in accordance with the Explanation to clause (b) of sub-section (2) of section 16 of CGST Act, as discussed above, the Law committee felt that in such cases the goods can be considered to have been “received” by**

**the registered person (dealer) at the time of its delivery by the supplier (OEM) to the transporter for transmission of goods to the said registered person (dealer).**

**3.1** It is also mentioned that as per provisions of sub-section (1) of section 16 of the CGST Act, a registered person is entitled to input tax credit only in respect of supply of goods or services or both, **which is used or intended to be used in the course or furtherance of business.** Therefore, the input tax credit may be available to the registered person on such receipt of goods by the registered person from the supplier at his (supplier's) factory gate or business premises, subject to fulfilment of other conditions of section 16 and section 17 of CGST Act, including that the said goods are used or intended to be used in the course or furtherance of business.

**3.2** Further, if the goods are found to have been diverted for non-business purposes, the registered person shall not be entitled to input tax credit on such goods in terms of sub-section (1) of section 16 of CGST Act. Further, if at any time after "receiving" the goods, such goods are lost, stolen, destroyed, written off or disposed of by way of gift or free samples, the registered person would not be entitled to the input tax credit in respect of such goods as per provisions of clause (h) of sub-section (5) of section 17 of CGST Act.

**3.3.** The Law Committee also observed that although, the issue above has been examined from the perspective of automobile sector, the same principles will apply in cases of similar nature in respect of other goods also.

**4.** Accordingly, Law Committee recommended to clarify through a circular that wherever the contract between the supplier and recipient is an Ex-Works (EXW) contract, and as per the terms of contract, the goods are to be delivered by the supplier to the recipient, or to any other person, including a transporter, on behalf of the recipient, at his ( supplier's) place of business and the property in the goods stands transferred to the recipient on such handing over, the said goods can be construed to have been "received" by the said recipient at the time of handing over the said goods to the recipient or the transporter, as the case may be, as per provisions of clause (b) of sub-section (2) of section 16 of CGST Act. The said recipient may avail the ITC on such goods, subject to fulfilment of other conditions stipulated in section 16 and section 17 of the CGST Act.

**4.1** Draft **circular, as recommended by the Law committee, is attached as Annexure A to this Agenda.**

**5.** The recommendations of Law Committee are placed before the GST Council for approval.

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Circular No. /10/2024-GST

**F. No. CBIC-20001/3/2024-GST**

**Government of India  
Ministry of Finance  
Department of Revenue  
\*\*\*\*\***

New Delhi, Dated the , 2024

To,

All the Principal Chief Commissioners/ Chief Commissioners/ Principal Commissioners/  
Commissioners of Central Tax  
All the Principal Directors General/ Directors General

Madam/Sir,

**Subject: Clarification on availability of Input tax credit as per clause (b) of sub-section (2) of section 16 of the Central Goods and Services Tax Act, 2017, in respect of goods which have been delivered by the supplier at his place of business-reg.**

Reference has been received from automobile sector seeking clarification on availability of Input tax credit (hereinafter referred to as “ITC”) as per clause (b) of sub-section (2) of section 16 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as “CGST Act”) in respect of goods which have been delivered by the supplier at his place of business.

**1.2** It has been stated that in automobile sector, the contract between the automobile dealers and the Original Equipment Manufacturers (OEMs) is generally an Ex-Works (EXW) contract, and as per the terms of contract, the property in goods (i.e. vehicles) passes to the dealer at the factory gate of the OEM, when the goods are handed over to the transporter at the instance of the dealer, and the delivery on the part of OEM is complete at their factory gate. The transport is generally arranged by the OEM on behalf of the dealer and where insurance is arranged, it is also generally done on behalf of the dealer. Any claim in case of loss has to be lodged by the dealer. The dealer also duly accounts for the invoice in their books of accounts on such delivery of the vehicles at the factory gate of the OEM. The dealer avails ITC on the date the vehicles are billed to him and handed over to the transporter by the OEM at their factory gate. However, some field formations are taking a view that ITC can be availed by the dealer only after the vehicles are physically received by him at his business premises and show cause notices have been issued to a number of dealers, demanding tax for wrongful availment of ITC for contravention of provisions of clause (b) of sub-section (2) of section 16 of the CGST Act.

**2.** In order to ensure uniformity in the implementation of the provisions of law across the field formations, the Board, in exercise of its powers conferred by sub-section (1) of section 168 of the CGST Act, hereby clarifies the issues as below.

**3.** Sub-section (2) of section 16 of the CGST Act, is a non-obstante clause to section 16 of the CGST Act which enlists the conditions, failing which the registered person is not entitled to ITC in

respect of supply of goods or services or both. One of the conditions as per clause (b) of the said sub-section (reproduced below) is that a registered person is not entitled to claim ITC in respect of any supply of goods or services or both unless he has “received” the said goods or services or both. The Explanation to the said clause provides for deemed receipt of goods and services in certain scenarios.

***Section 16. Eligibility and conditions for taking input tax credit.***

...

*(2) Notwithstanding anything contained in this section, no registered person shall be entitled to the credit of any input tax in respect of any supply of goods or services or both to him unless, -*

...

*(b) he has **received** the goods or services or both.*

*Explanation.- For the purposes of this clause, it shall be deemed that the registered person has received the goods or, as the case may be, services-*

*(i) where the goods are delivered by the supplier to a recipient or any other person on the direction of such registered person, whether acting as an agent or otherwise, before or during movement of goods, either by way of transfer of documents of title to goods or otherwise;*

*(ii) where the services are provided by the supplier to any person on the direction of and on account of such registered person;*

...

**3.1** From a plain reading of the clause (b) of sub-section (2) of section 16 of the CGST Act, it is quite apparent that there is no reference of any particular place where goods are required to be “received” by the registered person. This is in contrast to the erstwhile Central Excise regime, where the provisions contemplated physical receipt of the goods at the factory of the manufacturer, for taking CENVAT credit on the said goods. In most of the State VAT Acts, the provisions related to credit of the input tax did not have any explicit mention of physical receipt of goods at any particular place and input tax credit was allowed on purchase of goods.

**3.2** Explanation to clause (b) of sub-section (2) of section 16 of the CGST Act provides that the goods would be deemed to have been “received” by the registered person for the purpose of this clause, where:

- a) the goods are delivered by the supplier to a recipient or to any other person on the direction of such registered person, whether acting as an agent or otherwise;
- b) such direction may be given before or during movement of goods; and
- c) the goods may be delivered either by way of transfer of documents of title to goods or otherwise.

**3.2.1** The said Explanation provides that where goods are delivered by the supplier to any other person, whether acting as an agent or not, upon the direction of the registered person, and where such

delivery occurs either through transfer of documents of title to goods or otherwise, the registered person is deemed to have “received” such goods for the purpose of the clause (b) of sub-section (2) of section 16 of CGST Act. Accordingly, in cases where goods are delivered by the supplier to the registered person, either directly or to any other person on the directions of the said registered person, the registered person shall be considered to have “received” the said goods for the purpose of clause (b) of sub-section (2) of section 16 of CGST Act.

**3.3** In the instant case, as per the terms of the EXW contract between the dealer and the OEM:

- a) the goods are being handed over by the OEM to the transporter at his factory gate for onward transmission to the dealer;
- b) transport is arranged by OEM on the behalf of dealer; and
- c) if insurance is arranged, it is done on the behalf of dealer and any claim in case of loss has to be lodged by the dealer.

**3.3.1** In such a scenario, the property in the said goods can be considered to have been passed on to the dealer by the OEM upon handing over of the said goods to the transporter at his factory gate, meaning thereby that the goods can be considered to have been delivered to the registered person (the dealer), through the transporter, by the supplier (the OEM) at his factory gate and the supply of the said goods can be considered to have fructified at the factory gate of the OEM, even though the goods may be physically received by the registered person (the dealer) after the transit period. Accordingly, it is clarified that as per Explanation to clause (b) of sub-section (2) of section 16 of CGST Act, the registered person (the dealer) can be considered to have “received” the said goods at the time of such handing over of the goods by the supplier to the transporter, at his factory gate, for their onward transmission to the said registered person (the dealer).

**3.4** The same principle is applicable in respect of supply of other goods also where the contract between the supplier and recipient is an EXW contract, and as per terms of the contract, the goods are to be delivered by the supplier to the recipient, or to any other person (including a transporter) on behalf of the recipient, at his (supplier’s) place of business and the property in the goods stands transferred to the recipient at the time of such handing over. In such cases, the said goods can be construed to have been “received” by the said recipient at the time of handing over the said goods to the recipient or the transporter, as the case may be, as per provisions of clause (b) of sub-section (2) of section 16 of CGST Act.

**3.5** It is also mentioned that as per provisions of sub-section (1) of section 16 of the CGST Act, a registered person is entitled to input tax credit only in respect of supply of goods or services or both, **which is used or intended to be used in the course or furtherance of business.** Therefore, the input tax credit may be available to the registered person on such receipt of goods by the registered person from the supplier at his (supplier’s) factory gate or business premises, subject to fulfilment of other conditions of section 16 and section 17 of CGST Act, including the condition that the said goods are used or intended to be used in the course or furtherance of business by the said registered person.

**3.6** It is also to be noted that if the goods are found to have been diverted for non-business purposes, the registered person shall not be entitled to input tax credit on such goods in terms of sub-section (1) of section 16 of CGST Act. Further, if at any time after “receiving” the goods, such goods

are lost, stolen, destroyed, written off or disposed of by way of gift or free samples, the registered person would not be entitled to the input tax credit in respect of such goods as per provisions of clause (h) of sub-section (5) of section 17 of CGST Act.

4. It is requested that suitable trade notices may be issued to publicize the contents of this Circular.
5. Difficulty, if any, in the implementation of this Circular may be brought to the notice of the Board. Hindi version would follow.

Sanjay Mangal  
Principal Commissioner (GST)



**Agenda Item 3(x): Clarification regarding mentioning of correct details of name of the State of the un-registered recipient as well as correct declaration of place of supply in respect of supply of 'Online Services'.**

References have been received from field formations regarding non-compliance of provisions of mandatory recording of correct place of supply on the invoices by the suppliers in respect of online services provided by them either themselves or through electronic commerce operators to un-registered recipients due to wrong interpretation of provisions of section 12(2)(b) of Integrated Goods and Services Tax Act, 2017 (hereinafter referred to as “IGST Act”) read with rule 46 of Central Goods and Services Rules, 2017 (hereinafter referred to as “CGST Rules”). It has also been mentioned that though in such cases of taxable supplies of services to unregistered recipients, registered suppliers are required to mention State name of the recipient on the invoice and should declare place of supply of such services as the State of the recipient as per the provisions of clause (i) of section 12(2)(b) of IGST Act but many suppliers are not recording the State name of the unregistered recipient on the invoice and are declaring place of supply of such services as the location of the supplier as per clause (ii) of section 12(2)(b) of IGST Act. This is resulting in wrong declaration of place of supply, resulting in flow of revenue in respect of the said supply to wrong State. Request has been made to clarify the issue, so as to ensure correct declaration of place of supply by the suppliers of such services to un-registered recipients.

2. Legislative Provisions:

The existing provisions related to online services in IGST Act, CGST Act and CGST Rules are as below: -

2.1 As per sub-section (17) of section 2 of the IGST Act, ‘Online information and database access or retrieval services’ means:

*“services whose delivery is mediated by information technology over the internet or an electronic network and the nature of which renders their supply impossible to ensure in the absence of information technology and includes electronic services such as,—*

*(i) advertising on the internet;*

*(ii) providing cloud services;*

*(iii) provision of e-books, movie, music, software and other intangibles through telecommunication networks or internet;*

*(iv) providing data or information, retrievable or otherwise, to any person in electronic form through a computer network;*

*(v) online supplies of digital content (movies, television shows, music and the like);*

*(vi) digital data storage; and*

*(vii) online gaming, excluding the online money gaming as defined in clause (80B) of section 2 of the Central Goods and Services Tax Act, 2017 (12 of 2017);”*

2.2 The term 'electronic commerce' has been defined under sub-section (44) of Section 2 of CGST Act, as follows:

*"electronic commerce" means the supply of goods or services or both, including digital products over digital or electronic network;*

2.3 The term 'electronic commerce operator' has been defined under sub-section (45) of Section 2 of CGST Act, as follows:

*"electronic commerce operator" means any person who owns, operates or manages digital or electronic facility or platform for electronic commerce;*

2.4 Sub-section (2) of section 12 of the IGST Act, reads as follows:

*"(2) the place of supply of services, except the services specified in sub- section (3) to (14),—  
(a) made to a registered person shall be the location of such person;  
(b) made to any person other than a registered person shall be, -  
(i) The location of the recipient where the address on records exists; and  
(ii) The location of the supplier of services in other cases."*

2.5 As per sub-section (2) of Section 31 of the CGST Act,

*"(1) .....*

*(2) A registered person supplying taxable services shall, before or after the provision of service but within a prescribed period, issue a tax invoice, showing the description, value, tax charged thereon and such other particulars as may be prescribed:"*

2.6 Rule 46 of CGST Rules provides as below:

*"Rule 46. Tax invoice -*

*Subject to rule 54, a tax invoice referred to in section 31 shall be issued by the registered person containing the following particulars, namely,-*

*.....*

*.....*

*(f) name and address of the recipient and the address of delivery, along with the name of the State and its code, if such recipient is unregistered and where the value of the taxable supply is less than fifty thousand rupees and the recipient requests that such details be recorded in the tax invoice:*

***Provided that in cases involving supply of online money gaming or in cases where any taxable service is supplied by or through an electronic commerce operator or by a supplier of online information and database access or retrieval services to a recipient who is unregistered, irrespective of the value of such supply, a tax invoice issued by the registered person shall contain the name of the State of the recipient and the same shall be deemed to be the address on record of the recipient;***

*....."*

### 3. Examination:

3.1 Section 12 of the IGST Act provides that except in cases specified in sub-sections (3) to (14) of the said section, when the services are supplied to a registered person, the place of supply of services shall be the location of the recipient and **when the services are supplied to an unregistered person, the place of supply of the said services shall be the location of the recipient, if his address is available on record,** and shall be the location of the supplier, if the address is not available on record.

3.2 Section 31(2) of the CGST Act provides that a registered person providing taxable services, either before or after the service, but within a specified time period, must issue a tax invoice with details like the service description, value, tax charged, and such other **particulars as may be prescribed**.

3.3 Rule 46 of CGST Rules provides the particulars required to be mentioned on the tax invoice. Clause (f) of the said rule provides for mentioning some details of the invoice in case of supplies made to un-registered recipient. Further, proviso to clause (f) of rule 46 of the CGST Rules provides that in cases involving the supply of online money gaming or involving supply of any taxable services by or through an electronic-commerce operator or by a supplier of online information and database access or retrieval services, to an unregistered recipient, irrespective of the value of the said supply, the tax invoice issued by the registered supplier must contain the recipient's State name. It has also been provided in the said proviso that such State name shall be deemed to be the address on record of the recipient.

3.4 A conjoint reading of clause (b) of sub-section (2) of Section 12 of the IGST Act, sub-section (2) of Section 31 of the CGST Act read with proviso to rule 46(f) of CGST Rules leads to a conclusion that in respect of supply of services made to un-registered persons, irrespective of the value of the said supply, the supplier is required to mandatorily record the name of the State of the unregistered recipient on the tax invoice, in cases involving supply of online money gaming or supply of taxable services by or through an electronic commerce operator or supply of online information and database access or retrieval (OIDAR) services. Recording of the name of State of the unregistered recipient on the tax invoice in respect of such supply of services shall be deemed as the address on record of the recipient for the purpose of determination of place of supply of the said services under section 12(2)(b) of IGST Act. Accordingly, in such cases, the place of supply of such services shall be considered as the location of the recipient of the services as per provisions of clause (i) of section 12(2)(b) of IGST Act.

3.5 It is also observed that from a combined reading of the definitions of 'electronic commerce' and 'electronic commerce operator' as per section 2(44) and section 2(45) of CGST Act, along with rule 46(f) of CGST Rules, leads to an understanding that all services supplied to unregistered recipients over digital or electronic network, either by the supplier using his own digital or electronic facility/ platform or through any other electronic or digital platform owned and operated by an independent electronic commerce operator, will be covered under proviso to rule 46(f) of CGST Rules.

3.5.1 Therefore, it may be clarified that provisions of proviso to rule 46(f) of CGST Rules shall be applicable in respect of all the online supplies of services supplied to an un-registered recipient, in addition to the supply of online money gaming and OIDAR services. Some of the examples of such online services are subscription of e-newspapers and e-magazines, online subscription of entertainment services (e.g. OTT platforms), online telecom services, digital services through mobile applications etc. Therefore, in respect of supply of any such online / digital services, OIDAR services and online money gaming to un-registered recipients, the suppliers are mandatorily required to record the name of the State of the recipient on the tax invoice and to declare place of supply of the said services as the location of the recipient (based on the name of State of the recipient) in their details of outward supplies in FORM GSTR-1/1A.

3.5.2 For the purpose of recording the name of the State of the recipient on tax invoice in respect of such supplies made to un-registered persons for such online services, supplier should devise suitable mechanism to ensure collection of such details from un-registered recipient before making any supplies to him. As mentioned above, in such cases, the name of the State of the recipient so recorded shall be deemed to be the address of recipient available on record and thus, for determining place of supply of the said services, provisions of section 12(2)(b)(i) of IGST Act will be applicable as per which the place of supply shall be the location of recipient. It is also mentioned that if the supplier fails to issue invoice in accordance with the said provisions by not recording correct mandatory particulars including recording of name of State of unregistered recipient in respect of such supplies, he may be liable to a penal action under the provisions of section 122(3)(e) of CGST Act.

4. The Law Committee deliberated on this issue in the meeting held on 06.12.2024. The Law Committee recommended that a clarification may be issued in the matter on the above lines through a circular. Draft circular as recommended by the Law Committee is attached as **Annexure A** to this Agenda Note.

5. The agenda note is placed before the GST Council for deliberation and approval.

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F. No. CBIC-.....-GST

Government of India  
Ministry of Finance  
Department of Revenue  
CBIC, GST Policy Wing

North Block, New Delhi

Date\_\_ Dec, 2024

To,

The Principal Chief Commissioners/ Chief Commissioners of Central Tax (All) /  
The Principal Directors General/ Directors General (All)  
Madam/ Sir,

**Sub: Clarification on place of supply of Online Services supplied by the suppliers of services to un-registered recipients-Reg.**

References have been received from field formations regarding non-compliance of provisions of mandatory recording of correct place of supply on the invoices by the suppliers in respect of online services provided by them either themselves or through electronic commerce operators to un-registered recipients due to wrong interpretation of provisions of section 12(2)(b) of Integrated Goods and Services Tax Act, 2017 (hereinafter referred to as “IGST Act”) read with rule 46 of Central Goods and Services Rules, 2017 (hereinafter referred to as “CGST Rules”). It has also been mentioned that though in such cases of taxable supplies of services to unregistered recipients, registered suppliers are required to mention State name of the recipient on the invoice and should declare place of supply of such services as the State of the recipient as per the provisions of clause (i) of section 12(2)(b) of IGST Act but many suppliers are not recording the State name of the unregistered recipient on the invoice and are declaring place of supply of such services as the location of the supplier as per clause (ii) of section 12(2)(b) of IGST Act. This is resulting in wrong declaration of place of supply, resulting in flow of revenue in respect of the said supply to wrong State. Request has been made to clarify the issue, so as to ensure correct declaration of place of supply by the suppliers of such services to un-registered recipients.

2. In order to clarify the issue and to ensure uniformity in the implementation of the provisions of the law across field formations, the Board, in exercise of its powers conferred by section 168(1) of the Central Goods and Services Act, 2017 (hereinafter referred to as “CGST Act”) hereby issues the following clarification.

**3. Legislative provisions**

3.1 As per sub-section (17) of section 2 of the IGST Act, ‘Online information and database access or retrieval services’ means:

*“services whose delivery is mediated by information technology over the internet or an electronic network and the nature of which renders their supply impossible to ensure in the absence of information technology and includes electronic services such as,—*

*(i) advertising on the internet;*

*(ii) providing cloud services;*

*(iii) provision of e-books, movie, music, software and other intangibles through telecommunication networks or internet;*

*(iv) providing data or information, retrievable or otherwise, to any person in electronic form through a computer network;*

*(v) online supplies of digital content (movies, television shows, music and the like);*

*(vi) digital data storage; and*

*(vii) online gaming, excluding the online money gaming as defined in clause (80B) of section 2 of the Central Goods and Services Tax Act, 2017 (12 of 2017);”*

3.2 The term 'electronic commerce' has been defined under sub-section (44) of Section 2 of CGST Act, as follows:

*"electronic commerce" means the supply of goods or services or both, including digital products over digital or electronic network;*

3.3 The term 'electronic commerce operator' has been defined under sub-section (45) of Section 2 of CGST Act, as follows:

*"electronic commerce operator" means any person who owns, operates or manages digital or electronic facility, or platform for electronic commerce;*

3.4 Sub-section (2) of section 12 of the IGST Act, reads as follows:

*“(2) the place of supply of services, except the services specified in sub- section (3) to (14)*

*(a) made to a registered person shall be the location of such person;*

***(b) made to any person other than a registered person shall be, -***

***(i) The location of the recipient where the address on records exists; and***

***(ii) The location of the supplier of services in other cases.”***

3.5 As per sub-section (2) of Section 31 of the CGST Act,

*“(1) .....*

*(2) A registered person supplying taxable services shall, before or after the provision of service but within a prescribed period, issue a tax invoice, showing the description, value, tax charged thereon and such other particulars as may be prescribed:”*

3.6 Rule 46 of CGST Rules provides as below:

*"Rule 46. Tax invoice -*

*Subject to rule 54, a tax invoice referred to in section 31 shall be issued by the registered person containing the following particulars, namely,-*

*.....*

*.....*

*(f) name and address of the recipient and the address of delivery, along with the name of the State and its code, if such recipient is unregistered and where the value*

*of the taxable supply is less than fifty thousand rupees and the recipient requests that such details be recorded in the tax invoice;*

***Provided that in cases involving supply of online money gaming or in cases that where any taxable service is supplied by or through an electronic commerce operator or by a supplier of online information and database access or retrieval services to a recipient who is unregistered, irrespective of the value of such supply, a tax invoice issued by the registered person shall contain the name of the State of the recipient and the same shall be deemed to be the address on record of the recipient;***

*.....”*

#### 4. Clarification:

4.1 Section 12 of the IGST Act provides that except in cases specified in sub-sections (3) to (14) of the said section, when the services are supplied to a registered person, the place of supply of services shall be the location of the recipient and **when the services are supplied to an unregistered person, the place of supply of the said services shall be the location of the recipient, if his address is available on record,** and shall be the location of the supplier, if the address is not available on record.

4.2 Section 31(2) of the CGST Act provides that a registered person providing taxable services, either before or after the service, but within a specified time period, must issue a tax invoice with details like the service description, value, tax charged, and such other **particulars as may be prescribed.**

4.3 Rule 46 of CGST Rules provides the particulars required to be mentioned on the tax invoice. Clause (f) of the said rule provides for mentioning some details of the invoice in case of supplies made to un-registered recipient. Further, proviso to clause (f) of rule 46 of the CGST Rules provides that in cases involving the supply of online money gaming or involving supply of any taxable services by or through an electronic-commerce operator or by a supplier of online information and database access or retrieval services, to an unregistered recipient, irrespective of the value of the said supply, the tax invoice issued by the registered supplier must contain the recipient's State name. It has also been provided in the said proviso that such State name shall be deemed to be the address on record of the recipient.

4.4 A conjoint reading of clause (b) of sub-section (2) of Section 12 of the IGST Act, sub-section (2) of Section 31 of the CGST Act read with proviso to rule 46(f) of CGST Rules leads to a conclusion that in respect of supply of services made to un-registered persons, irrespective of the value of the said supply, the supplier is required to mandatorily record the name of the State of the unregistered recipient on the tax invoice, in cases involving supply of online money gaming or supply of taxable services by or through an electronic commerce operator or supply of online information and database access or retrieval (OIDAR) services. Recording of the name of State of the unregistered recipient on the tax invoice in respect of such supply of services shall be deemed as the address on record of the recipient for the purpose of determination of place of supply of the said services under section 12(2)(b) of IGST Act. Accordingly, in such cases, the place of supply of such services shall be considered as the location of the recipient of the services as per provisions of clause (i) of section 12(2)(b) of IGST Act.

4.5 It is also observed that from a combined reading of the definitions of ‘electronic commerce’ and ‘electronic commerce operator’ as per section 2(44) and section 2(45) of CGST Act, along with rule 46(f) of CGST Rules, leads to an understanding that all services supplied to unregistered recipients over digital or electronic network, either by the supplier using his own digital or electronic facility / platform or through any other electronic or digital platform owned and operated by an independent electronic commerce operator, will be covered under proviso to rule 46(f) of CGST Rules.

4.5.1 It is, accordingly, clarified that provisions of proviso to rule 46(f) of CGST Rules shall be applicable in respect of all the online supplies of services supplied to an un-registered recipient, in addition to the supply of online money gaming and OIDAR services. Some of the examples of such online services are subscription of e-newspapers and e-magazines, online subscription of entertainment services (e.g. OTT platforms), online telecom services, digital services through mobile applications etc. Therefore, in respect of supply of any such online/ digital services, OIDAR services and online money gaming to un-registered recipients, the suppliers are mandatorily required to record the name of the State of the recipient on the tax invoice and to declare place of supply of the said services as the location of the recipient (based on the name of State of the recipient) in their details of outward supplies in FORM GSTR-1/1A.

4.5.2 For the purpose of recording the name of the State of the recipient on tax invoice in respect of such supplies made to un-registered persons for such online services, supplier should devise suitable mechanism to ensure collection of such details from un-registered recipient before making any supplies to him. As mentioned above, in such cases, the name of the State of the recipient so recorded shall be deemed to be the address of recipient available on record and thus, for determining place of supply of the said services, provisions of section 12(2)(b)(i) of IGST Act will be applicable as per which the place of supply shall be the location of recipient.

4.5.3 It is also mentioned that if the supplier fails to issue invoice in accordance with the said provisions by not recording correct mandatory particulars including recording of name of State of unregistered recipient in respect of such supplies, he may be liable to a penal action under the provisions of section 122(3)(e) of CGST Act.

5. Difficulty, if any, in the implementation of this circular may be brought to the notice of the Board.

(Sanjay Mangal)  
Principal Commissioner (GST)



### **Agenda Item 3(xi): Issues pertaining to taxability of Vouchers under GST.**

Representations have been received from trade and industry requesting for clarification regarding taxability of gift cards/vouchers, GST treatment of transactions related to vouchers like issuance, distribution, redemption, time of supply, place of supply and treatment of the income booked in the accounts in respect of unredeemed voucher etc. It has also been mentioned that various judicial pronouncements and advance rulings are taking divergent views on the same and therefore, there is a need to amend the provisions of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as “the CGST Act”) and issue a clarification accordingly.

#### **2. The following issues regarding transactions involving gift cards/vouchers need deliberation:**

- (i) Whether ‘supply of vouchers’ falls under the category of supply of goods and/or supply of services?
- (ii) What would be the time and value of supply of vouchers?
- (iii) What would be the GST treatment of distribution of vouchers through distributors/ sub-distributors, agent etc.?
- (iv) What would be the GST treatment of additional services such as advertisement/co-branding, marketing & promotion, customization services, technology support service, customer support services, Sale of products/ accessories etc.?
- (v) What would be the GST treatment of unredeemed vouchers (breakage)?

#### **3. The relevant legal provisions of CGST Act, 2017 are as under:**

- (i) *Section 2(118) — “voucher” means an instrument where there is an obligation to accept it as consideration or part consideration for a supply of goods or services or both and where the goods or services or both to be supplied or the identities of their potential suppliers are either indicated on the instrument itself or in related documentation, including the terms and conditions of use of such instrument;*
- (ii) *Section 2(52) - “goods” means every kind of movable property other than money and securities but includes actionable claim, growing crops, grass and things attached to or forming part of the land which are agreed to be severed before supply or under a contract of supply;*
- (iii) *Section 2(102) - “services” means anything other than goods, money and securities but includes activities relating to the use of money or its conversion by cash or by any other mode, from one form, currency or denomination to another form, currency or denomination for which a separate consideration is charged;*

*Explanation. - For the removal of doubts, it is hereby clarified that the expression “services” includes facilitating or arranging transactions in securities.*

#### **(iv) Section 12. Time of Supply of Goods. –**

*(1) The liability to pay tax on goods shall arise at the time of supply, as determined in accordance with the provisions of this section.*

.....

*(4) In case of supply of vouchers by a supplier, the time of supply shall be-*

- (a) the date of issue of voucher, if the supply is identifiable at that point; or
- (b) the date of redemption of voucher, in all other cases.

(v) **Section 13. Time of Supply of Services. –**

*(1) The liability to pay tax on services shall arise at the time of supply, as determined in accordance with the provisions of this section.*

.....

*(4) In case of supply of vouchers by a supplier, the time of supply shall be-*

- (a) the date of issue of voucher, if the supply is identifiable at that point; or*
- (b) the date of redemption of voucher, in all other cases.*

(vi) *Section 2(75) — "money" means the Indian legal tender or any foreign currency, cheque, promissory note, bill of exchange, letter of credit, draft, pay order, traveler cheque, money order, postal or electronic remittance or any other instrument recognized by the Reserve Bank of India when used as a consideration to settle an obligation or exchange with Indian legal tender of another denomination but shall not include any currency that is held for its numismatic value;*

(vii) *Section 2(1) – “actionable claim” shall have the same meaning as assigned to it in Section 3 of the Transfer of Property Act, 1882 (4 of 1882).*

*Section 3 of the Transfer of Property Act, 1882 provides the definition of “actionable claim” as below: -*

*"actionable claim" means a claim to any debt, other than a debt secured by mortgage of immovable property or by hypothecation or pledge of movable property, or to any beneficial interest in movable property not in the possession, either actual or constructive, of the claimant, which the Civil Courts recognize as affording grounds for relief, whether such debt or beneficial interest be existent, accruing, conditional or contingent;*

(viii) *Section 2(102A) — “specified actionable claim” means the actionable claim involved in or by way of-(i) betting;(ii) casinos;(iii) gambling; (iv)horse racing; (v)lottery; or (vi)online money gaming.*

(ix) *Section 7 (2)- Notwithstanding anything contained in sub-section (1), -*

*(a)activities or transactions specified in Schedule III; or*

.....

*shall be treated neither as a supply of goods nor a supply of services.*

(x) **Schedule III-** *Activities or Transactions which shall be treated neither as a supply of Goods nor a supply of services:*

.....  
6. Actionable claims, other than specified actionable claims.  
.....

(xi) **Rule 32 of the** Central Goods and Services Tax Rules, 2017 (hereinafter referred to as “**the CGST Rules**”), provides for the determination of value in respect of vouchers as under:

*(6) The value of a token, or a voucher, or a coupon, or a stamp (other than postage stamp) which is redeemable against a supply of goods or services or both shall be equal to the money value of the goods or services or both redeemable against such token, voucher, coupon, or stamp.*

#### 4. International practices in respect of voucher are as follows:

(i) **European Union:** Vouchers are considered as an instrument for which supplier is obligated to accept that as consideration or part consideration. Further vouchers are broadly categorized into two categories:

- a. Single purpose voucher (SPV), where supply is identifiable viz. rate of duty and place of supply; and
- b. Multipurpose voucher (MPV), for others.

(ii) **United Kingdom:** - The voucher categorization and time of taxation in United Kingdom is on the same line as in European Union. Rate of goods and/or services and place of supply are two important and mandatory factors in determination of Single purpose voucher (SPV) cases and all other cases are classified as Multipurpose voucher (MPV).

(iii) **Singapore:** Vouchers are broadly categorized into two categories:

- Multi-Redemption Voucher (MRV) which can be used to redeem a range of goods and/or services, and GST is payable at the time of redemption. The mandatory condition for this voucher is that it should be issued for consideration and no specific goods and/or services should be mentioned on the voucher itself.
- Non-Multi-Redemption Voucher (non MRV) which need not to be issued with consideration and can be used to redeem only specific goods and/or services as mentioned on voucher, and GST is payable at the time of issuance.

5. The matter was deliberated by the Law Committee in its meeting held on 31.08.2023, 01.09.2023, 13.11.2024 and 06.12.2024 and various issues were deliberated as follows:

#### 5.1 Whether ‘transactions in vouchers’ falls under the category of supply of goods and/or supply of services?

5.1.1 From the definition of voucher under section 2(118) of CGST Act, it appears that ‘voucher’ is in nature of ‘payment instrument’ which creates an obligation on the supplier to accept it as a consideration or part consideration for the supply of goods and/or services. The issue of payment instruments, including pre-paid instruments, in India is regulated by Reserve Bank of India (RBI) in terms of the Payment and Settlement Act, 2007 (PSS Act), RBI’s Master Directions and the relevant Notifications/Circulars/Communications issued by the RBI in this regard from time to time.

5.1.2 Prepaid payment instruments, as defined by RBI, are as follows:

*“Prepaid Payment Instruments” are payment instruments that facilitate purchase of goods and services, financial services, remittance facilities, etc., against the value stored therein. “*

Therefore, payment instruments, which are recognized by RBI and inter alia fulfil the following conditions, can qualify under the term ‘Vouchers’ as defined in Section 2(118) of CGST Act, 2017.

- The goods and/or services redeemable against such payment instruments are specified in the payment instruments themselves or its associated documents and/or the identity of the potential suppliers of such goods and/or services are clearly mentioned in the payment instruments themselves or in the associated documents.
- The suppliers mentioned above have an obligation to accept it as a consideration for supply of goods and/or services, with conditions, if any, that are mentioned in the payment instruments themselves or in the associated documents.

5.1.3 Further, as per section 2(75) of CGST Act, “money” includes an instrument recognized by the Reserve Bank of India which is used as a consideration to settle an obligation.

5.1.4 On combined reading of the definition of ‘voucher’ as per section 2(118) of the CGST Act, along with definition of ‘money’ as per section 2(75) of the CGST Act and the description of ‘pre-paid instruments’ given by RBI, it emerges that where the voucher is covered as a pre-paid instrument recognized by the RBI and is used as a consideration to settle an obligation, then, the voucher will fall under the definition of ‘money’. In such a case, as ‘money’ is excluded from the definition of goods as well as of services, as provided in section 2(52) and section 2(102) of the CGST Act respectively, the transactions of voucher would be considered neither as a supply of goods nor as a supply of services.

5.1.5 In cases, where voucher is not covered as a pre-paid instrument recognized by RBI and hence, cannot be treated as money, the voucher will be in nature of an obligation on the supplier to receive it as consideration or part consideration and assure the beneficiary/voucher holder to claim certain goods and/or services as specified on the voucher or the related document. In such cases, the voucher can be considered as an *"actionable claim"* within the meaning of Section 2(1) of the CGST Act, read with Section 3 of the Transfer of Property Act, 1882.

5.1.6 Further, as per para 6 of Schedule III of CGST Act, an activity or transactions of actionable claims, other than specified actionable claims, is to be treated neither as a "supply of goods" nor as a "supply of services". Further as per section 2(102A) of CGST Act, specified actionable claim means the actionable claim involved in or by way of betting, casinos, gambling, horse racing, lottery or online money gaming. As vouchers are not covered under definition of specified actionable claim, it appears that they are covered in para 6 of Schedule III of CGST Act as actionable claims, other than specified actionable claims. Therefore, the Law Committee felt that even in such a case, transaction in vouchers would be treated neither as a "supply of goods" nor as a "supply of services".

5.1.7 The Law Committee, accordingly, observed that irrespective of whether voucher is covered as a pre-paid instrument recognized by RBI or not, the voucher is just an instrument which creates an obligation on supplier to accept it as consideration or part consideration and the transaction in

vouchers themselves can be considered neither as a supply of goods nor as a supply of services. However, supply of underlying goods and/or services, for which vouchers are used as consideration or part consideration, may be taxable under GST.

## **5.2 Time and value of Supply of Vouchers:**

5.2.1 The time of supply in relation to supply of voucher (where voucher is/would be accepted as consideration or part consideration for a supply of goods or services) is determined in accordance with the provisions of sub-section (4) of section 12 (in case of underlying supply being goods) and sub-section (4) of section 13 (in case of underlying supply being services) of CGST Act, and value is determined as per rule 32(6) of CGST Rules, 2017 which are reproduced in Para 3 above.

5.2.2 The said sections provide that when a supply is identifiable, the time of supply shall be the date of issue of the voucher and in other cases, it would be at the time of redemption of voucher. However, the Law Committee noted that there is no clarity on parameters to be known at the time of issue of voucher for supply to be classified as identifiable at that point.

5.2.3 As per the existing provisions, for the supply to be identifiable at the point of issuance of voucher, some factors such as identity and GST rate of underlying goods and/or services, place of supply and the supplier (GSTIN) of underlying goods and/or services are mandatorily required, for determination of GST liability. These parameters may be essential for determination of tax to be paid at the time of issuance of voucher, as well as the nature of tax to be paid (whether CGST/SGST or IGST) and also to determine the place of supply. Further, there may be doubts regarding who had to make this tax payment and file return, whether the voucher issuer or supplier.

5.2.4 Further, as discussed above, the transactions in voucher itself are neither supply of goods nor supply of services and as per section 9 (1) of the CGST Act, tax is only payable for supply of underlying goods and/or services. In any case, the tax is payable on the underlying supply of goods and/or services when the voucher is redeemed against the supply of said goods and/or services. Therefore, the Law Committee recommended that as transactions in voucher itself are neither supply of goods nor supply of services, the provisions related to time of supply of vouchers in section 12(4) and 13(4) of CGST Act may not be required and may be omitted. The Law Committee also observed that since vouchers are instrument with an obligation to accept it as consideration or part consideration for a supply of goods or services or both, and as the transactions in voucher itself are neither supply of goods nor supply of services, the provisions related to valuation of vouchers as provided in rule 32(6) of CGST Rules may not be desirable and may be omitted.

5.2.5 Accordingly, the Law Committee recommended omission of sections 12(4) and 13(4) from CGST Act and also omission of rule 32(6) from CGST Rules, as follows:

### ***“Section 12. Time of Supply of Goods. -***

.....

~~*(4) In case of supply of vouchers by a supplier, the time of supply shall be-*~~  
~~*(a) the date of issue of voucher, if the supply is identifiable at that point; or*~~  
~~*(b) the date of redemption of vouchers for supply of goods in all other cases.*~~

“

***“Section 13. Time of Supply of Services. -***

..

~~*(4) In case of supply of vouchers by a supplier, the time of supply shall be*~~

~~*(a) the date of issue of voucher, if the supply is identifiable at that point; or*~~

~~*(b) the date of redemption of vouchers for supply of services. in all other case.*~~

..”

***“Rule 32. Determination of value in respect of certain supplies. -***

..

~~*(6) The value of a token, or a voucher, or a coupon, or a stamp (other than postage stamp) which is redeemable against a supply of goods or services or both shall be equal to the money value of the goods or services or both redeemable against such token, voucher, coupon, or stamp.*~~

..”

**5.3 GST treatment of distribution of vouchers through distributors/ sub-distributors, agent etc.-**

5.3.1 The Law Committee observed that the following two models are primarily used for distribution of vouchers through distributors/ sub distributors/ agents, etc.:

- (i) Where vouchers are distributed through the distributors/sub-distributors/dealers on Principal-to-Principal (P2P) basis.
- (ii) Where vouchers are distributed using agents/distributors on commission/fee basis.

**5.3.2 Where vouchers are distributed through the distributors/sub-distributors/dealers on Principal- to-Principal (P2P) basis** – In such cases, the distributors purchase voucher/gift cards from the voucher issuer typically at a discounted rate and subsequently sell the same to sub-distributors, corporates or end customers. Distributors (including sub distributors) generate revenue through a trading margin, which is the difference between the acquisition cost and the selling price of the voucher/gift cards. In such cases, distributors (including sub-distributors) operate autonomously, with full control over the process from purchase to the final sale to the consumer.

5.3.2.1 As per section 9 (1) of CGST Act, 2017, GST is chargeable on the supply of goods and/or services. As discussed earlier, the supply of vouchers is neither supply of goods nor supply of services. Therefore, the Law Committee felt that pure trading of vouchers would not constitute to be a supply of goods and/or supply of services and hence, would not be liable to GST.

**5.3.3 Where vouchers are distributed using agents/ sub-distributors/ distributors on commission/fee basis-** In such cases, the transactions between the voucher issuer and the distributors/ sub-distributors/ agents are on principal-agency basis. These arrangements, as per contract/ agreement between agents/ sub-distributor/ distributor and the voucher issuer, may specify a set of obligations on such agents such as marketing & promotion and other related support activities for distribution of vouchers against a commission/fee or any other name called for such purpose. In such cases,

distributors/ sub-distributors do not operate autonomously, do not own the vouchers and only act as agent of the voucher issuer. The Law Committee felt that in such cases, GST would be payable by such distributors/ sub-distributors, acting as an agent of the voucher issuer, on such commission/fee or any other amount, by whatever name called, charged for such purpose.

#### **5.4 GST treatment of additional services such as advertisement/co-branding, marketing & promotion, customization services, technology support service, customer support services, etc**

5.4.1 Sometimes additional services such as advertisement/ co-branding, customization services, technology support service, customer support services, etc. are provided by either the distributor/ sub-distributor or by another person to the voucher issuer against a service fee/ service charge/ affiliate charge or any other amount, by whatever name called, as per contract/agreement between such service provider and the service recipient. In such cases, the Law Committee felt that for supply of these services by the service provider, GST would be payable by the service provider on such service fee/ service charge/ affiliate charge or any other amount, by whatever name called, for such purpose.

#### **5.5 GST treatment of the income booked in the accounts in respect of unredeemed voucher (breakage)**

5.5.1 Sometimes, vouchers remain unused/ unredeemed at the end of their expiry period. In such cases, the businesses generally make book adjustments and account the amount received in their statement of income. The value of such unredeemed vouchers accounted for in the statement of income is called breakage. There is ambiguity among trade in respect of GST treatment on breakage.

5.5.2 As per section 9 (1) of the CGST Act, 2017, GST is leviable only on the supply of goods and/or services or both. As in the case of breakage, there is no redemption of voucher and there is no supply of underlying goods and/or services, so income generated out of breakage to the voucher issuer would not be leviable to GST. Therefore, the Law Committee felt that breakage would not be taxable under the current legal provisions.

5.5.3 A doubt may arise as to whether such amount received in exchange for a non-redemption of voucher (breakage) would constitute as a '*monetary value of any act or forbearance, in respect of, in response to, or for the inducement of, the supply of goods or services or both, whether by the recipient or by any other person*'.

5.5.4 In this regard, definition of consideration as provided in sub-section (31) of Section 2 of CGST Act, 2017 becomes relevant:

“(31) "*consideration*" **in relation to the supply of goods or services or both** includes-

(a) *any payment made or to be made, whether in money or otherwise, in respect of, in response to, or for the inducement of, the supply of goods or services or both, whether by the recipient or by any other person but shall not include any subsidy given by the Central Government or a State Government;*

(b) *the monetary value of any act or forbearance, in respect of, in response to, or for the inducement of, the supply of goods or services or both, whether by the recipient or by any other person but shall not include any subsidy given by the Central Government or a State Government;*

*Provided that a deposit given in respect of the supply of goods or services or both shall not be considered as payment made for such supply unless the supplier applies such deposit as consideration for the said supply.”*

‘Consideration’ under GST Acts have been defined in relation to the supply of goods or services or both. As there is no underlying supply of goods and/or services in case of non-redemption of vouchers by the customer, the amount retained for unredeemed vouchers by the voucher issuer cannot be construed as consideration for a supply.

5.5.5 Subsequently, for clarification in this regard, **Circular No. 178/10/2022-GST** was issued, which states the following:

**“Agreement to do or refrain from an act should not be presumed to exist**

*7. There has to be an express or implied agreement; oral or written, to do or abstain from doing something against payment of consideration for doing or abstaining from such act, for a taxable supply to exist.*

*...”*

In the case of voucher, there may not be such agreement between the issuer of the voucher and the redeemer of the voucher to act or to refrain from redeeming the same, i.e. neither the recipient of the voucher promises to come and redeem the same, nor the issuer is tolerating an act of non-redemption of the voucher. (The only implied agreement may be that the issuer of the voucher should accept the voucher as a consideration).

5.5.6 Para 7.1.5 of **Circular No. 178/10/2022-GST** also states as below,

*“Similarly, forfeiture of earnest money by a seller in case of breach of ‘an agreement to sell’ an immovable property by the buyer or by Government or local authority in the event of a successful bidder failing to act after winning the bid, for allotment of natural resources, is a mere flow of money, as the buyer or the successful bidder does not get anything in return for such forfeiture of earnest money. Forfeiture of Earnest money is stipulated in such cases not as a consideration for tolerating the breach of contract but as a compensation for the losses suffered and as a penalty for discouraging the non-serious buyers or bidders. Such payments being merely flow of money are not a consideration for any supply and are not taxable. The key in such cases is to consider whether the impugned payments constitute consideration for another independent contract envisaging tolerating an act or situation or refraining from doing any act or situation or simply doing an act. If the answer is yes, then it constitutes a ‘supply’ within the meaning of the Act, otherwise it is not a “supply”.”*

5.5.7 Considering the above principle laid out in the said circular, the Law Committee felt that in such cases, as the voucher is issued for the purpose of redemption in respect of a supply of goods and/or services and no contract appears to be involved between the issuer of voucher and redeemer for mandatory redemption of voucher and for any consideration in case of non-redemption of voucher by the redeemer, it cannot be said that non-redemption of voucher tantamounts to a separate supply by the voucher issuer to the redeemer. Therefore, the Law Committee felt that the amount on account of non-redemption of voucher (breakage) would not constitute as a ‘monetary value of any act or forbearance, in respect of, in response to, or for the inducement of, the supply of goods or services or



both, whether by the recipient or by any other person'. Therefore, no GST is payable on the amount on account of non-redemption of voucher (breakage).

6. Accordingly, the Law Committee recommended:

- a) Omission of section 12(4) and section 13(4) of CGST Act and Rule 32(6) of CGST Rules, as mentioned in para 5.2.5 above.
- b) Clarification on the various issues pertaining to the transactions involving vouchers through issuance of a circular on the above lines. The draft circular recommended by the Law Committee is attached as **Annexure-A** to this agenda.

7. The agenda note is placed before the GST Council for deliberation and approval.

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**F.No. CBIC-XXXXXX/X/2024-GST**

**Government of India  
Ministry of Finance  
Department of Revenue  
Central Board of Indirect Taxes and Customs  
GST Policy Wing**

New Delhi, Dated **the XX<sup>th</sup> YYY, 2024**

To,

The Principal Chief Commissioners/ Chief Commissioners/

The Principal Directors General/ Directors General (All)

Madam/Sir,

**Subject: Clarification on various issues pertaining to GST treatment of vouchers - reg.**

References have been received from the trade and industry as well as the field formations seeking clarity on various issues with respect to vouchers such as whether transactions of voucher are a supply of goods and/or services, whether GST is leviable on trading of vouchers by distributor/sub-distributor and whether unredeemed vouchers (breakage) are taxable. It has been represented that the field formations are taking different views on these issues leading to ambiguity and litigations.

2. Accordingly, in view of the difficulties being faced by the trade and industry and to ensure uniformity in the implementation of the provisions of the law across field formations, the Board, in exercise of its powers conferred by section 168 (1) of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as "CGST Act"), hereby clarifies the issues detailed hereunder.

**3. Issue 1 -Whether 'transaction of vouchers' falls under the category of 'supply of goods and/or services'?**

3.1 The relevant legal provisions of CGST Act, 2017 are as under:

- (i) *Section 2(52) - "goods" means every kind of movable property other than money and securities but includes actionable claim, growing crops, grass and things attached to or*

*forming part of the land which are agreed to be severed before supply or under a contract of supply.*

- (ii) *Section 2(102) - "services" means anything other than goods, money and securities but includes activities relating to the use of money or its conversion by cash or by any other mode, from one form, currency or denomination to another form, currency or denomination for which a separate consideration is charged. Explanation. - For the removal of doubts, it is hereby clarified that the expression "services" includes facilitating or arranging transactions in securities.*
- (iii) *Section 2(118) — "voucher" means an instrument where there is an obligation to accept it as consideration or part consideration for a supply of goods or services or both and where the goods or services or both to be supplied or the identities of their potential suppliers are either indicated on the instrument itself or in related documentation, including the terms and conditions of use of such instrument.*
- (iv) *Section 2(75) — "money" means the Indian legal tender or any foreign currency, cheque, promissory note, bill of exchange, letter of credit, draft, pay order, traveler cheque, money order, postal or electronic remittance or any other instrument recognized by the Reserve Bank of India when used as a consideration to settle an obligation or exchange with Indian legal tender of another denomination but shall not include any currency that is held for its numismatic value;*
- (v) *Section 2(1) – "actionable claim" shall have the same meaning as assigned to it in Section 3 of the Transfer of Property Act, 1882 (4 of 1882).*

*Section 3 of the Transfer of Property Act, 1882 provides the definition of "actionable claim" as below: -*

*"actionable claim" means a claim to any debt, other than a debt secured by mortgage of immovable property or by hypothecation or pledge of movable property, or to any beneficial interest in movable property not in the possession, either actual or constructive, of the claimant, which the Civil Courts recognize as affording grounds for relief, whether such debt or beneficial interest be existent, accruing, conditional or contingent;*

- (vi) *Section 2(102A) — "specified actionable claim" means the actionable claim involved in or by way of-(i) betting;(ii) casinos;(iii) gambling; (iv)horse racing; (v)lottery; or (vi)online money gaming.*

- (vii) *Section 7 (2)- Notwithstanding anything contained in sub-section (1), -*

*(a)activities or transactions specified in Schedule III; or*

*.....*

*shall be treated neither as a supply of goods nor a supply of services.*

- (viii) **Schedule III-** *Activities or Transactions which shall be treated neither as a supply of Goods nor a supply of services:*

*6. Actionable claims, other than specified actionable claims.*

3.2 From the definition of voucher under section 2(118) of CGST Act, it emerges that 'voucher' may be in nature of payment instrument which creates an obligation on the supplier to accept it as a

consideration or part consideration for the supply of goods and/or services. The issue of payment instruments, including pre-paid instruments, in India is regulated by Reserve Bank of India (RBI) in terms of the Payment and Settlement Act, 2007 (PSS Act), RBI's Master Directions and the relevant Notifications/Circulars/Communications issued by the RBI from time to time.

3.3 Pre-paid instruments as defined by RBI are payment instruments that facilitate purchase of goods and/or services against the value stored on such instruments. The value stored on such instruments represents the value paid for by the holder, by cash, by debit to a bank account, or by credit card. The pre-paid instruments can be issued as smart cards, magnetic stripe cards, internet accounts, internet wallets, mobile accounts, mobile wallets and any such instruments which can be used to access the prepaid amount. Further, as per section 2(75) of CGST Act, "money" includes an instrument recognized by the Reserve Bank of India which is used as a consideration to settle an obligation.

3.4 On combined reading of the definition of 'voucher' as per section 2(118) of the CGST Act, along with definition of 'money' as per section 2(75) of the CGST Act and the description of 'pre-paid instruments' given by RBI, it emerges that where the voucher is covered as a pre-paid instrument recognized by the RBI and is used as a consideration to settle an obligation, then, the voucher will fall under the definition of 'money'. In such a case, as 'money' is excluded from the definition of good and services as provided in section 2(52) and section 2(102) of the CGST Act respectively, the transactions of voucher would not be considered either as a supply of goods or as a supply of services.

3.5. In cases, where voucher is not covered as a pre-paid instrument recognized by RBI and hence, cannot be treated as money, the voucher will be in nature of an obligation on the supplier to receive it as consideration or part consideration and assure the beneficiary/voucher holder to claim certain goods and/or services as specified on the voucher or the related document. In such cases, the voucher can be considered as an "*actionable claim*" within the meaning of Section 2(1) of the CGST Act, read with Section 3 of the Transfer of Property Act, 1882.

3.6 Further as per para 6 of Schedule III of CGST Act, an activity or transactions of actionable claims, other than specified actionable claims, is to be treated neither as a "supply of goods" nor as a "supply of services". Further as per section 2(102A) of CGST Act, specified actionable claim means the actionable claim involved in or by way of betting, casinos, gambling, horse racing, lottery or online money gaming. As vouchers are not covered under definition of specified actionable claim, it appears that they are covered in para 6 of Schedule III of CGST Act as actionable claims, other than specified actionable claims. Therefore, it appears that even in such a case, transaction in vouchers would be treated neither as a "supply of goods" nor as a "supply of services".

3.7 Therefore, it is clarified that irrespective of whether voucher is covered as a pre-paid instrument recognized by RBI or not, the voucher is just an instrument which creates an obligation on supplier to accept it as consideration or part consideration and the transaction in vouchers themselves cannot be considered either as a supply of goods or as a supply of services. However, supply of underlying goods and/or services, for which vouchers are used as consideration or part consideration, may be taxable under GST.

## **Issue 2 - What would be the GST treatment of transactions in vouchers by distributors/ sub-distributors/agents etc.?**

4.1 There are primarily two models for distribution of vouchers through distributors/ sub distributors/ agents, etc.

- (i) Where vouchers are distributed through the distributors/ sub-distributors/ dealers on Principal-to-Principal (P2P) basis.
- (ii) Where vouchers are distributed using agents/ distributors/ sub-distributors on commission/ fee basis.

**4.2 Where vouchers are distributed through the distributors/ sub-distributors/ dealers on Principal-to-Principal (P2P) basis:** In such cases, the distributor/ dealer purchases voucher from the voucher issuer typically at a discounted rate and subsequently sells the same to the sub-distributors, corporates or end customers and generate revenue through a trading margin, which is a difference between the acquisition cost and the selling price of the vouchers by the said distributor/ dealer. In such cases, distributors/ dealers (including sub-distributors) own the vouchers and operate autonomously with full control over the process from purchase to the final sale of the vouchers to the end user.

4.2.1 As per section 9 (1) of CGST Act, GST is chargeable on the supply of goods and/or services. As the transaction in vouchers is neither supply of goods nor supply of services, therefore, pure trading of vouchers in this case would not constitute either supply of goods or supply of services. Accordingly, such trading of vouchers would not be leviable to GST as per section 9 (1) of CGST Act.

**4.3 Where vouchers are distributed using distributors/ sub-distributors/ agents on commission/ fee basis:** In such cases, the transactions between the voucher issuer and the distributors/ sub-distributors/ agents are on principal-agency basis. These arrangements, as per contract/agreement between distributor/ sub-distributor/ agents and the voucher issuer may specify a set of obligations on such agents such as marketing & promotion and other related support activities for distribution of vouchers against a commission/ fee or any other amount by whatever name called, for such purpose. In such cases, distributors/sub-distributors/agents do not operate autonomously, do not own the vouchers and only act as agent of the voucher issuer. In such cases, GST would be payable by such distributor/sub-distributor/agent, acting as an agent of the voucher issuer, on the commission/fee or any other amount by whatever name called, for such purpose, as a supply of services to the voucher issuer.

## **Issue 3 -What would be GST treatment of additional services such as advertisement, co-branding, marketing & promotion, customization services, technology support service, customer support services etc.**

5.1 There may be cases where additional services such as advertisement, co-branding, customization services, technology support service, customer support services, etc. are provided by either the distributor/ sub-distributor or by another person to the voucher issuer against a service fee/ service

charge/ affiliate charge or any other amount, by whatever name called, as per contract/agreement between such service provider and the service recipient (voucher issuer). In such a case, the said service fee/ service charge/ affiliate charge or other amount for supply of such additional services to the voucher issuer as per the terms of contract/agreement, would be liable to GST at the applicable rate in the hands of the said service provider.

#### **Issue 4 - What would be the GST treatment of unredeemed vouchers (breakage).**

6.1 Sometimes, vouchers remain unused/ unredeemed at the end of their expiry period. In such cases, the businesses generally make book adjustments and account the said amount on account of unredeemed vouchers in their statement of income. The value of such unredeemed vouchers accounted for in the statement of income is called breakage. There are ambiguities and doubts in respect of GST treatment of such breakage. Also, doubts are raised whether the amount attributed to the unredeemed voucher(breakage) can be considered as *‘monetary value of any act or forbearance, in respect of, in response to, or for the inducement of, the supply of goods or services or both, whether by the recipient or by any other person’*.

6.2 As per section 9 (1) of the CGST Act, GST is leviable only on the supply of goods and/or services. In the case of breakage, there is no redemption of voucher and there is no supply of underlying goods and/or services. Therefore, there is no supply of goods and/or services on account of such unredeemed vouchers(breakage). Also, ‘consideration’ under GST is defined under section 2 (31) of CGST Act, in relation to the supply of goods or services or both. As there is no underlying supply of goods and/or services in case of non-redemption of vouchers by the customer, the amount retained for unredeemed vouchers by the voucher issuer cannot be construed as consideration for any supply. Accordingly, such amount attributable to unredeemed vouchers (breakage) would not be taxable as per the provisions of section 9(1) of CGST Act.

6.3 Further, **Circular No. 178/10/2022-GST dated 03.08.2022** clarifies that agreement to do or refrain from an act should not be presumed to exist, and that there must be an express or implied agreement, oral or written, to do or abstain from doing something against payment of consideration for doing or abstaining from such act, for a taxable supply to exist. Considering the principle laid out in the said circular, it emerges that where the voucher is issued for the purpose of redemption in respect of a supply of goods and/or services and there is no express or implied agreement, oral or written, between the issuer of voucher and redeemer for payment of any amount or charges by the redeemer to the voucher issuer in case of non-redemption of the voucher, it cannot be considered that non-redemption of voucher by the redeemer tantamount to supply of services. Therefore, it appears that the amount attributable to non-redemption of voucher (breakage) would not constitute as a *‘monetary value of any act or forbearance, in respect of, in response to, or for the inducement of, the supply of goods or services or both, whether by the recipient or by any other person’*. Therefore, no GST appears to be payable on such amount attributable to non-redemption of voucher (breakage).

7. It is requested that suitable trade notices may be issued to publicize the contents of this Circular.

8. Difficulty, if any, in the implementation of this Circular may be brought to the notice of the Board. Hindi version will follow.

(Sanjay Mangal)

Principal Commissioner (GST)

**Agenda Item 3(xii): Amendment in place of supply provisions for intermediary services under section 13(8)(b) of the IGST Act, 2017.**

Representations have been received from trade and industry regarding the hardships being faced due to disputes arising out of contradictory interpretation of scope of “intermediary” & “intermediary services” and the place of supply provisions in respect of supply of intermediary services. It has been represented that despite the issuance of clarification vide CBIC Circular No. 159/15/2021-GST dated 20<sup>th</sup> September 2021, the disputes regarding the scope of intermediary and the place of supply of intermediary services are still continuing. It has been requested to have a relook at the need for the special provisions for place of supply of intermediary services provided under section 13(8)(b) of IGST Act, 2017.

**2. Brief historical background**

2.1 The concept of ‘intermediary’ has been borrowed in GST from the Service Tax Regime. The concept of ‘intermediary’ was introduced under the erstwhile Service Tax law when the negative list scheme was introduced in the year 2012. The definition of ‘intermediary’ was given in the Service Tax under rule 2(f) of Place of Provision of Services Rules, 2012 issued vide Notification No. 28/2012-ST, dated 20-6-2012.

2.1.1 As per sub-rule (f) of rule 2 of the Place of Provisions of Services Rules, 2012 (‘POS Rules’), ‘Intermediary’ was defined to mean a broker, an agent, or any other person, by whatever name called, who arranged or facilitated a provision of a service between two or more persons, but did not include a person who provided the main service on his account. In terms of rule 9(c) of the POS Rules, the place of supply of intermediary services was prescribed to be the location of the service provider, i.e. the location of the intermediary providing the intermediary services. An intermediary in respect of goods (such as a buying or selling agent, or a stockbroker or commission agent) was not included in the said definition at that time.

2.1.2 Education Guide to Service Tax, 2012 provided that:

*“An “**intermediary**” is a person who arranges or facilitates a supply of goods, or a provision of service, or both, between two persons, without material alteration or further processing. Thus, an intermediary is involved with two supplies at any one time:*

- (i) the supply between the principal and the third party; and*
- (ii) the supply of his own service (agency service) to his principal, for which a fee or commission is usually charged. For the purpose of this rule, an intermediary in respect of goods (commission agent i.e a buying or selling agent) is excluded by definition.”*

2.2 Subsequently, vide Notification No. 14/2014 - Service Tax dated 11.07.2014, the scope of intermediary services was increased to include the intermediary engaged in supply of goods also, primarily to tax Indian companies who helped their foreign counterparts to directly sell goods to Indian customers. This change was given effect by amending the definition of intermediary to include intermediaries in respect of goods as well. The amended definition of “intermediary” read as under:

*‘(f) “intermediary” means a broker, an agent or any other person, by whatever name called, who arranges or facilitates a provision of a service (hereinafter called the ‘main’ service) or a*

*supply of goods, between two or more persons, but does not include a person who provides the main service or supplies the goods on his account;'*

2.3 After introduction of concept of intermediary services and specific place of supply provisions for intermediary services in service tax regime, requests were made by industry to roll back the said amendment requesting that place of supply of intermediary services in relation to both goods and services may be considered as the location of the recipient. The issue was looked into by two Committees constituted by the CBIC in year 2014. These Committees took a view that intermediary of services should be continued to be covered by rule 9(c) of the Place of Provisions of Services Rules, 2012, as the effective use and enjoyment of intermediary service is the location of intermediary. This also ensured that Indian exporters of goods did not require to get registered for payment of tax under RCM, since foreign intermediaries were outside taxable territory and thus, no tax was payable on their services to Indian exporters. The Committee also viewed that if PoS of intermediary services is made as location of recipient, then Indian intermediaries providing services to foreign exporters would go out of the tax net, causing revenue loss and also making imports cheaper, which will be against the idea of Make in India.

2.4 In GST, 'Intermediary' has been defined in the sub-section (13) of section 2 of the Integrated Goods and Services Tax Act, 2017. The comparison of the definition of "intermediary" under service tax regime and under GST is shown below:

<b>"Intermediary" definition in Service Tax Law</b>	<b>"Intermediary" definition in GST Regime</b>
<i>"Intermediary" means a broker, an agent or any other person, by whatever name called, who arranges or facilitates a provision of a service (hereinafter called the 'main' service) or a supply of goods, between two or more persons, but does not include a person who provides the main service or supplies the goods on his account;"</i>	<i>"Intermediary means a broker, an agent or any other person, by whatever name called, who arranges or facilitates the supply of goods or services or both, or securities, between two or more persons, but does not include a person who supplies such goods or services or both or securities on his own account."</i>

2.5 From the perusal of the definition of "intermediary" under IGST Act as well as under Service Tax law, it is evident that there is broadly no change in the scope of intermediary services in the GST regime vis-à-vis the Service Tax regime, except addition of supply of securities in the definition of intermediary in the GST Law.

3. As a number of disputes were arising in respect of scope of "intermediary", the issue was deliberated by GST Council in its 45th meeting held in September 2021 and as per recommendations of GST Council, Circular No. 159/15/2021-GST dated 20<sup>th</sup> September 2021 was issued clarifying various doubts related to scope of "Intermediary". It was expected that after issuance of the said clarification, the disputes in relation to interpretation of scope of intermediary and place of supply of intermediary services will be considerably reduced.

3.1 However, it has been represented by various trade and industry associations that the disputes regarding scope of intermediary services and place of supply thereof, are still continuing, resulting in



issuance of a large number of show cause notices to the taxpayers, denying them the benefit of export of services.

3.2. A study done by the Directorate General of GST (DGGST), CBIC shows that for F.Y. 2020-21, 2021-22, 2022-23 and 2023 -24 (till January 2024), 245 demand notices were issued pan-India by CGST field formations in respect of Intermediary services, involving an amount of Rs. 3357.66 crore.

Subject	F.Y.	SCNs issued	
		No.	Amount involved (In Rs Crores)
1	2	3	4
Denial of benefit of export of services in respect of some services on the basis that the said services are covered under "intermediary services"	FY 2020-21	59	586.80
	FY 2021-22	62	742.31
	FY 2022-23	53	461.87
	FY 2023-24 (till Jan 2024)	71	1566.66
	<b>Total</b>	<b>245</b>	<b>3357.66</b>

#### 4. **Relevant legal provisions**

4.1 ‘Intermediary’ has been defined in the sub-section (13) of section 2 of the Integrated Goods and Services Tax Act, 2017. The same is reproduced below:

*“(13) Intermediary means a broker, an agent or any other person, by whatever name called, who arranges or facilitates the supply of goods or services or both, or securities, between two or more persons, but does not include a person who supplies such goods or services or both or securities on his own account.”*

4.2 Sub-section (2) of Section 13 of IGST Act provides for place of supply of services, in cases where location of the supplier or the location of the recipient is outside India, as below:

*“(2) The place of supply of services except the services specified in sub-sections (3) to (13) shall be the location of the recipient of services:*

*Provided that where the location of the recipient of services is not available in the ordinary course of business, the place of supply shall be the location of the supplier of services.”*

4.3 However, some exceptions have been provided for determination of place of supply in respect of certain services specified in sub-section (3) to sub-section (12) of section 13 of IGST Act. Clause (b) of sub-section (8) of section 13 of the IGST Act, 2017 provides for the place of supply of the intermediary services, as below:

*“(8) The place of supply of the following services shall be the location of the supplier of services, namely:—*

*(a) services supplied by a banking company, or a financial institution, or a non-banking financial company, to account holders;*

***(b) intermediary services;***

*(c) services consisting of hiring of means of transport, including yachts but excluding aircrafts and vessels, up to a period of one month.”*

4.4 Sub-section (6) of section 2 of IGST Act defines “export of services” as below:

*(6) “export of services” means the supply of any service when,—*

*(i) the supplier of service is located in India;*

*(ii) the recipient of service is located outside India;*

*(iii) the place of supply of service is outside India;*

*(iv) the payment for such service has been received by the supplier of service in convertible foreign exchange or in Indian rupees wherever permitted by the Reserve Bank of India; and*

*(v) the supplier of service and the recipient of service are not merely establishments of a distinct person in accordance with Explanation 1 in section 8;*

## **5. Analysis**

5.1 From the perusal of place of supply provisions in section 13 of IGST Act, it emerges that in cases where the location of the supplier or the location of the recipient is outside India, the default provision for determination of place of supply of services is under sub-section (2) of section 13 of IGST Act, i.e. the location of the recipient of the services. However, in respect of certain specified services, special provisions of place of supply have been provided in sub-section (3) to sub-section (12) of section 13 of IGST Act. One such special provision for place of supply has been provided in clause (b) of sub-section (8) of section 13 of IGST Act for supply of intermediary services. As per the said clause, in case of supply of intermediary services, the place of supply is the location of the supplier (and not the location of recipient). As per the said clause, if a supplier located in India is providing intermediary services to a recipient located outside India, the place of supply of such services will be the location of supplier, i.e. in India.

5.2 As per sub-section (6) of section 2 of IGST Act, a supply of services is considered to be export of services, if all the conditions specified in clause (i) to (v) of sub-section (6) of section 2 of IGST Act are satisfied. However, in case of intermediary services provided by a supplier in India to a recipient outside India, as the place of supply of the said services is in India as per section 13(8)(b) of IGST Act, the condition of place of supply of service being outside India as per clause (iii) of section 2(6) of IGST Act is not satisfied, though the conditions of other clauses of section 2(6) of IGST Act may be satisfied, including the condition of the location of recipient being outside India and payment of the said services being received in foreign exchange. In view of this, the said supply of services

will not be considered as export of services and the said supplier will not be eligible for the benefit of GST refund under section 16 of IGST Act, read with section 54 of CGST Act, in respect of zero-rated supply of services.

5.3 Due to this, legal disputes are arising on the interpretation as to whether a particular supply of services made by a supplier in India to a recipient outside India, can be considered as “intermediary services” or not and whether in respect of supply of the said services, the place of supply can be considered as the location of the supplier or not under section 13(8)(b) of IGST Act for the purpose of eligibility as export of services.

5.4 To clarify issues related to intermediary services, various clarificatory circulars have been issued, as per the recommendations of GST Council, from time to time. Circular No. 159/15/2021-GST dated 20<sup>th</sup> September 2021 has been issued for clarifying doubts related to scope of “intermediary”; Circular No. 232/26/2024-GST dated 10th September 2024 has been issued in respect of clarification on place of supply of data hosting services provided by service providers located in India to cloud computing service providers located outside India; and Circular 230/24/2024-GST dated 10th September 2024 has been issued to provide clarity in respect of place of supply of advertising services provided to foreign clients.

5.5 However, despite these clarifications, disputes are still continuing on determination of as to whether a particular supply of service provided by a supplier located in India to a recipient located outside India can be considered as intermediary services or not and whether the benefit of export of services can be denied to the said supplier by considering the place of supply of the said services as the location of the supplier i.e. in India, as per provisions of section 13(8)(b) of IGST Act, 2017. Concerns are being raised that this is not only leading to prolonged litigation in various courts but is also causing huge financial loss and capital blockage to the services sector involved in export of services such as IT and ITeS sector, which are involved in providing various business processing and support services to their clients based abroad.

5.6 It has been represented that provisions of section 13(8)(b) of IGST Act are against the spirit of destination-based taxation under GST, as the place of supply of intermediary services is being considered as location of supplier, instead of the location of the recipient of the services. Further, it has been represented that denial of benefit of export of services due to the provisions of section (13)(8)(b) of IGST Act, the Indian service providers, providing supply of a services, considered as intermediary services, to the foreign recipients, are required to pay tax on this supply of services, in respect of which ITC cannot be availed by the recipient of services located abroad. This is causing increased cost of providing services, considered as intermediary services, by the services sectors such as business processing sector, media industry, IT and ITeS sector, etc. to the entities outside India, making them less competitive vis-à-vis their foreign counterparts. This is leading to lost business opportunities for the industries based in India and may ultimately limit India's growth in the global services economy.

5.7 It is observed that GST has been introduced in India as a destination-based taxation system with the general principle that tax should be levied on a supply at a place where such supply is destined or meant to be consumed. Sub-section (2) of section 13 of IGST Act provides the default clause of determination of place of supply of services based on this destination-based principle. The exceptions to this default clause provided through sub-section (3) to sub-section (12) of section 13 of

IGST Act mostly refer to those specific situations where the services are being consumed at a place other than the location of the recipient such as supply of services in relation to immovable property, supply of services in relation to admission or organisation of a cultural, artistic, entertainment event, etc.

5.8 However, in respect of intermediary services, though the services may be provided by a supplier based in India to a recipient outside India, clause (b) of sub-section (8) of section 13 of IGST Act provides that the place of supply of such services will be considered as location of supplier only, which appear to be in variance with destination/consumption-based taxation principle of GST.

5.9 As discussed in paras above, under service tax regime, specific provision for place of supply of intermediary services was introduced primarily as a revenue garnering measure to tax Indian intermediaries providing services to foreign exporters and also with understanding that effective use and enjoyment of intermediary service was the location of intermediary. This was also intended to benefit Indian exporters receiving intermediary services from foreign intermediaries, by keeping such supplies by foreign intermediaries out of tax net.

5.10 It is not, however, clear as to how effective use and enjoyment of intermediary services provided by a supplier in India to a recipient outside India can be considered at the location of the intermediary, as the intermediary appears to be providing services to the service recipient located outside India, who appears to effectively enjoy the benefit of the said intermediary services. Further, while the location of effective use and enjoyment of a service may be a determining factor for determining place of supply under service tax regime, no such principle of effective use and enjoyment of the service, in general, is considered under GST for determining place of supply of service, which is mainly determinable on destination/ consumption-based principle.

5.11 It is further observed that due to the place of supply provisions of section 13(8)(b) of IGST Act, supply of services by Indian intermediaries to foreign recipients is not considered as export of services due to place of supply being in India, thus denying them benefit of duty-free exports. Besides, no ITC in respect of tax paid by the supplier for such intermediary services is available to the recipient of the said services, being located abroad. Therefore, such tax paid by the supplier on the intermediary services becomes a cost to him. On the other hand, due to the said provisions of section 13(8)(b) of IGST Act, the supply of services from foreign based intermediaries, either to foreign based recipients or Indian recipients, remains out of purview of GST due to location of supplier as well as place of supply of the said services being outside India. This is providing a non-level playing field to the Indian intermediaries vis-à-vis foreign intermediaries and makes Indian intermediaries uncompetitive vis-à-vis foreign intermediaries.

5.12 It is also observed that the supplier of intermediary services is arranging or facilitating the principal supply of goods or services or both between two or more persons. In case of intermediary services provided to a foreign based entity (recipient of the said service), the intermediary facilitates principal supply of goods or provisions of services between the said foreign based recipient, and his clients, either based abroad or based in India. In case, the intermediary services to foreign based entity are for facilitating principal supply of goods by such foreign based entity, IGST will be payable on such import of goods into India if the said principal supply of goods by foreign based entity is made to the customers based in India. In case, the intermediary services to foreign based entity are for facilitating principal supply of services by such foreign based entity, if the said principal supply of

services by foreign based entity is made to the customers based in India, IGST will be payable on such import of services by the recipient in India, where such recipient is registered, and by the foreign based entity as OIDAR service provider, if the recipient of the services in India is unregistered and the service is included as online information and database access or retrieval services (OIDAR) as per section 2(17) of IGST Act. In such cases, payment of GST by intermediary service provider in India to foreign based entity, by denying him the benefit of duty-free exports, effectively leads to double taxation.

5.13 Further, as already mentioned in earlier paras, despite clarifications issued through a number of circulars, multiple disputes are still being raised on interpretation of scope of “intermediary services” as to whether a particular service supplied by a supplier of services located in India to a recipient located outside India can be considered as intermediary services or not and whether such supply of services can be considered as export of services or not. A number of demand notices have been issued against such suppliers denying them GST refund on account of zero-rated supplies/ demand of tax liability on such supplies considered as export by such supplier. This is especially affecting IT and ITeS related sectors, causing uncertainty about taxation and also making industries in related sectors uncompetitive vis-à-vis their foreign counterparts. Such a situation may not be in the interest of growth of such sectors in the country, which otherwise may have huge potential to grow.

5.14 Law Committee deliberated on the issue in the meeting held on 06.12.2024 and felt that to avoid the legal disputes arising out of specific provision for place of supply of intermediary services under section 13(8)(b) of IGST Act and to provide certainty in the matter of taxation of such services, the said special provision for the place of supply in respect of intermediary services may be omitted and instead, the place of supply of such services may be determined as per the default provision for place of supply for such services i.e. as per sub-section (2) of section 13 of IGST Act, viz. location of the recipient of the services. This will provide a level-playing field to Indian intermediaries and will also promote the growth of export-oriented IT and ITeS related sectors in India.

5.15 Law Committee also noted that the proposed amendment will ensure that such services are treated at par with other services and the place of supply is considered outside India if the location of the recipient of such services is outside India. This will provide the benefit of export of services to Indian supplier of such services making supplies to foreign recipients, if other conditions of section 2(6) of IGST Act are satisfied.

5.16 Member from the State of Karnataka raised the concern that the proposed amendment in place of supply provisions of intermediary services may have adverse effect on the revenue. The Law Committee observed that even after the proposed amendment, wherever principal supply of goods by the foreign based recipient of intermediary services is made to the customers in India, IGST shall be payable on import of such goods. Also, wherever principal supply of services by the foreign based recipient of intermediary services is made to the customers in India, and the recipient in India is registered, the same will be taxable in the hands of Indian customer under reverse charge mechanism as import of services, due to place of supply being location of the recipient i.e. in India. Besides, where the principal supply of services is made to unregistered recipients in India by foreign based recipient of intermediary services and the said services are covered as online information and database access or retrieval services (OIDAR) as per section 2(17) of IGST Act, the same will be liable to tax in the hands of such foreign based entity as in terms of section 14 of IGST Act. Accordingly, the interest of revenue will be safeguarded in both the cases. Besides, the substantial portion of potential

revenue loss on account of the said amendment pertains to the cases which are under disputes due to interpretation as to whether the said services are covered under ‘intermediary services’ or not and accordingly, such potential revenue loss is only presumptive in nature.

6. Law Committee, accordingly, recommended that **clause (b) may be omitted from sub-section (8) of section 13 of IGST Act, 2017 so as to provide that the place of supply for “intermediary services” will be determined as per the default provision under section 13(2) of the IGST Act i.e. the location of the recipient of such services.**

7. Accordingly, the agenda is placed before the GST Council for approval.

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**Agenda Item 3(xiii): Clarification regarding applicability of late fee for delay in furnishing of FORM GSTR-9C.**

Representations have been received seeking clarification regarding levy of late fee for delay in furnishing of reconciliation statement in FORM GSTR-9C. It has been requested to clarify whether late fee under sub-section (2) of section 47 of CGST Act will be leviable where the reconciliation statement in FORM GSTR-9C is furnished by the registered person beyond the due date of furnishing of annual return, in cases where annual return in FORM GSTR-9 has already been furnished.

**2. The relevant statutory provisions are extracted below:**

**2.1 Section 44 of the CGST Act, 2017 which deals with Annual return, before 01.08.2021, read as below:**

***Section 44. Annual Return. -***

*(1) Every registered person, other than an Input Service Distributor, a person paying tax under section 51 or section 52, a casual taxable person and a non-resident taxable person, shall furnish an annual return for every financial year electronically in such FORM and manner as may be prescribed on or before the thirty-first day of December following the end of such financial year.*

*Provided that the Commissioner may, on the recommendations of the Council and for reasons to be recorded in writing, by notification, extend the time limit for furnishing the annual return for such class of registered persons as may be specified therein:*

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

*(2) Every registered person who is required to get his accounts audited in accordance with the provisions of sub-section (5) of section 35 shall furnish, electronically, the annual return under sub-section (1) along with a copy of the audited annual accounts and a reconciliation statement, reconciling the value of supplies declared in the return furnished for the financial year with the audited annual financial statement, and such other particulars as may be prescribed.*

*Explanation.- For the purposes of this section, it is hereby declared that the annual return for the period from the 1st July, 2017 to the 31st March, 2018 shall be furnished on or before the 31st January, 2020 and the annual return for the period from the 1st April, 2018 to the 31st March, 2019 shall be furnished on or before the 31st March, 2020.*

**2.2 Thereafter, vide Notification No.29/2021- Central tax dated 30.07.2021, with effect from 01.08.2021, Section 44 of the CGST Act, 2017 was substituted as below:**

***Section 44. Annual return. -***

*(1) Every registered person, other than an Input Service Distributor, a person paying tax under section 51 or section 52, a casual taxable person and a non-resident taxable person*

***shall furnish an annual return which may include a self-certified reconciliation statement, reconciling the value of supplies declared in the return furnished for the financial year, with the audited annual financial statement for every financial year electronically, within such time and in such FORM and in such manner as may be prescribed:***

*Provided that the Commissioner may, on the recommendations of the Council, by notification, exempt any class of registered persons from filing annual return under this section:*

*Provided further that nothing contained in this section shall apply to any department of the Central Government or a State Government or a local authority, whose books of account are subject to audit by the Comptroller and Auditor-General of India or an auditor appointed for auditing the accounts of local authorities under any law for the time being in force.”*

**2.3** Further, **Rule 80 of the CGST Rules, 2017** which deals with Annual return, **before 01.08.2021**, read as below:

***“Rule 80. Annual return. -***

*(1) Every registered person, other than an Input Service Distributor, a person paying tax under section 51 or section 52, a casual taxable person and a non-resident taxable person, shall furnish an annual return as specified under sub-section (1) of section 44 electronically in FORM GSTR-9 through the common portal either directly or through a Facilitation Centre notified by the Commissioner:*

*Provided that a person paying tax under section 10 shall furnish the annual return in FORM GSTR-9A.*

*(2) Every electronic commerce operator required to collect tax at source under section 52 shall furnish annual statement referred to in sub-section (5) of the said section in FORM GSTR -9B.*

*(3) Every registered person other than those referred to in the proviso to sub-section(5) of section 35, whose aggregate turn over during a financial year exceeds two crore rupees shall get his accounts audited as specified under sub-section (5) of section 35 and he shall furnish a copy of audited annual accounts and a reconciliation statement, duly certified, in FORM GSTR-9C, electronically through the common portal either directly or through a Facilitation Centre notified by the Commissioner.*

*Provided that for the financial year 2018-2019 and 2019-2020, every registered person whose aggregate turnover exceeds five crore rupees shall get his accounts audited as specified under sub-section (5) of section 35 and he shall furnish a copy of audited annual accounts and a reconciliation statement, duly certified, in FORM GSTR-9C for the said financial year, electronically through the common portal either directly or through a Facilitation Centre notified by the Commissioner.”*

**2.4** **Rule 80 of the CGST Rules, 2017** was substituted **with effect from 01.08.2021**, vide Notification No. 30/2021-CT dated 30.07.2021, as below:



**“Rule 80. Annual return.-**

*(1) Every registered person, other than those referred to in the second proviso to section 44, an Input Service Distributor, a person paying tax under section 51 or section 52, a casual taxable person and anon-resident taxable person, shall furnish an annual return for every financial year as specified under section 44 electronically in FORM GSTR-9 on or before the thirty-first day of December following the end of such financial year through the common portal either directly or through a Facilitation Centre notified by the Commissioner:*

*Provided that a person paying tax under section 10 shall furnish the annual return in FORM GSTR-9A.*

*(2) Every electronic commerce operator required to collect tax at source under section 52 shall furnish annual statement referred to in sub-section (5) of the said section in FORM GSTR -9B .*

*(3) Every registered person, other than those referred to in the second proviso to section 44, an Input Service Distributor, a person paying tax under section 51 or section 52, a casual taxable person and a non-resident taxable person, whose aggregate turnover during a financial year exceeds five crore rupees, shall also furnish a self-certified reconciliation statement as specified under section 44 in FORM GSTR-9C along with the annual return referred to in sub-rule (1), on or before the thirty-first day of December following the end of such financial year, electronically through the common portal either directly or through a Facilitation Centre notified by the Commissioner.*

...”

**2.5 Further, sub-section (2) of Section 47 of the CGST Act 2017, as below, deals with late fee in respect of annual return:**

“..

*(2) Any registered person who fails to furnish the return required under section 44 by the due date shall be liable to pay a late fee of one hundred rupees for every day during which such failure continues subject to a maximum of an amount calculated at a quarter per cent. of his turnover in the State or Union territory.”*

**3.** The Law committee deliberated on the matter in its meeting held on 06.12.2024 and 11.12.2024. Law Committee observed that prior to 01.08.2021, as per sub-section (2) of section 44 of CGST Act, a registered person, with requirement to get his accounts audited in accordance with the provisions of sub-section (5) of section 35 of the CGST Act, **was required to furnish the annual return under sub-section (1) of the said section along with a copy of the audited annual accounts and a reconciliation statement.** From 01.08.2021 onwards, with the omission of the requirement of getting accounts audited in accordance with the provisions of sub-section (5) of section 35 of the CGST Act, section 44 of CGST Act also underwent amendment and sub-section (1) of section 44 of CGST Act provided for **furnishing of annual return which may include a self-certified reconciliation statement**, reconciling the value of supplies declared in the return furnished for the

financial year, with the audited annual financial statement for every financial year electronically, within such time and in such form and in such manner as may be prescribed. Law Committee further observed that before 01.08.2021, sub-rule (3) of rule 80 of CGST Rules provided that the accounts to be audited as per sub-section (5) of section 35 of the CGST Act in case the aggregate turnover of a registered person exceeded two crore rupees in a financial year and such taxpayer were required to furnish a copy of audited annual accounts and a reconciliation statement, duly certified, in FORM GSTR-9C. From 01.08.2021 onwards, sub-rule (3) of rule 80 of CGST Rules provides that taxpayer with aggregate turnover during a financial year exceeding five crore rupees, shall furnish a self-certified reconciliation statement in FORM GSTR-9C, along with the annual return in FORM GSTR-9, on or before the thirty-first day of December following the end of such financial year

**3.1** Therefore, on a combined reading of section 44 of CGST Act, 2017 with rule 80 of the CGST Rules, 2017, it appears that both pre as well as post the above mentioned amendment, the provisions mandated that registered persons **required to furnish an annual return in FORM GSTR-9 for every financial year shall also furnish along with it, a duly certified or self-certified reconciliation statement in FORM GSTR-9C, which reconciles the value of supplies declared in FORM GSTR-9 furnished for the financial year with the audited annual financial statement. It is also mentioned that reconciliation statement in FORM GSTR-9C is only required to be filed if the aggregate turnover of the said registered person during a financial year exceeds the specified threshold limit.**

**3.2** Further, before 01.08.2021, annual return in FORM GSTR-9 for a financial year was required to be furnished on or before thirty-first day of December following the end of the financial year as per sub-section (1) of section 44 Act, and as per sub-section (2) of section 44 of the CGST Act, the said annual return in FORM GSTR-9 was to be furnished along with reconciliation statement in FORM GSTR-9C. From 01.08.2021 onwards, sub-rule (1) and sub-rule (3) of rule 80 of the CGST Rules provide that annual return in FORM GSTR-9 for a financial year, along with the reconciliation statement in FORM GSTR-9C for the said year, is to be furnished on or before thirty-first day of December following the end of the financial year.

**3.3** Law Committee observed that sub-section (2) of section 47 of the CGST Act provides for a levy of late fee for failure to furnish the return under section 44 of the CGST Act by its due date, to be computed at the specified rate, for each day for which such failure continues, subject to a maximum amount. Annual return under section 44 of CGST Act consists only of FORM GSTR-9, in cases where the reconciliation statement is not required to be furnished. However, in respect of taxpayers above the specified threshold who are required to furnish the reconciliation statement, the annual return under section 44 of CGST Act consists of the return in FORM GSTR-9 along with a reconciliation statement in FORM 9C. Reconciliation statement in FORM GSTR-9C reconciles the value of supplies declared in the return furnished for the financial year, with the audited annual financial statement and therefore, becomes a key document for undertaking audit of a taxpayer under section 65 of the CGST Act. **Therefore, the Law committee observed that in cases where reconciliation statement in FORM GSTR-9C is required to be furnished along with the annual return in FORM GSTR-9, the furnishing of annual return under section 44 of the CGST Act, may not be said to be complete, unless both return in FORM GSTR-9 and reconciliation statement in FORM GSTR-9C are furnished. If only return in FORM GSTR-9 is furnished and**

reconciliation statement in FORM GSTR-9C is required and not furnished, annual return under section 44 of CGST Act cannot be said to have been furnished.

**3.4** The Law committee accordingly observed that late fee under sub-section (2) of section 47 of the CGST Act is leviable for the delay in furnishing of complete annual return in section 44 of the CGST Act, i.e. both FORM GSTR-9 and FORM GSTR-9C (where reconciliation statement in FORM GSTR-9C is required to be furnished) and the late fee shall be payable for the period from the due date of furnishing of the said annual return upto the date of furnishing of the complete annual return i.e. FORM GSTR-9 and FORM GSTR-9C, wherever required. Late fee is not separately leviable for delayed furnishing of FORM GSTR-9 and delayed furnishing of FORM GSTR-9C, but has to be calculated for the period from the due date of furnishing of annual return under section 44 of the CGST Act till the date of furnishing of complete annual return i.e. date of furnishing of FORM GSTR-9 (where FORM GSTR-9C is not required to be furnished) or the date of furnishing of FORM GSTR-9 along with FORM GSTR-9C (where FORM GSTR-9C is required to be furnished along with FORM GSTR-9). In cases, where FORM GSTR-9C is required to be furnished, and where although FORM GSTR-9 has already been furnished either within due date or subsequent to the due date, and reconciliation statement in FORM GSTR-9C is furnished subsequently, the late fee shall be calculated under sub-section (2) of section 47 of CGST Act from the due date of filling annual return till the date of such delayed filing of FORM GSTR-9C.

**4.** Accordingly, the Law Committee recommended that:

**a)** Clarification may be issued through a circular on the above lines.

**b)** In view of the lack of clarity in respect of the late fee on the delay of filing of FORM GSTR-9C, for the past period i.e. upto FY 2022-23, the amount of late fee on account of delayed filing of FORM GSTR-9C, in excess of the amount of late fee payable upto the date of filing of FORM GSTR-9, may be waived, subject to the condition that the said FORM GSTR-9C, where required to be filed, is filed on or before 31.03.2025. Further, the Law Committee also recommended that if the late fee for delayed filing of FORM GSTR-9C for the said financial years has already been paid by the registered person, no refund of the same shall be available.

**4.1** The draft circular for issuance of clarification, and the draft notification under section 128 of CGST Act for the waiver of late fee in respect of FORM GSTR-9C upto the FY 2022-23, as recommended by the Law Committee, are attached as Annexure A and Annexure B respectively with this agenda.

**5.** The agenda note is placed before the GST Council for deliberation and approval.

Circular No. /10/2024-GST

**F. No. CBIC-20001/3/2024-GST**

**Government of India  
Ministry of Finance  
Department of Revenue  
\*\*\*\*\***

New Delhi, Dated the , 2024

To,

All the Principal Chief Commissioners/ Chief Commissioners/ Principal Commissioners/  
Commissioners of Central Tax  
All the Principal Directors General/ Directors General

Madam/Sir,

**Subject: Clarification on applicability of late fee for delay in furnishing of FORM  
GSTR-9C- reg.**

Representations have been received seeking clarification regarding levy of late fee payable for delay in furnishing of reconciliation statement in FORM GSTR-9C. It has been requested to clarify whether late fee under section 47 of Central Goods and Services Tax Act, 2017 (hereinafter referred to as the “CGST Act”) will be leviable where reconciliation statement in FORM GSTR-9C is not furnished by the registered person along with the annual return in FORM GSTR-9 but is filed subsequently beyond the due date of furnishing of annual return.

2. In order to ensure uniformity in the implementation of the provisions of law across the field formations, the Board, in exercise of its powers conferred by sub-section (1) of section 168 of the CGST Act, hereby clarifies the issues as below.

3. Prior to 01.08.2021, sub-section (2) of section 44 of CGST Act provided that a registered person who is required to get his accounts audited in accordance with the provisions of sub-section (5) of section 35 of the CGST Act **shall furnish the annual return under sub-section (1) of the said section along with a copy of the audited annual accounts and a reconciliation statement.** From 01.08.2021 onwards, with the omission of the requirement of getting accounts audited in accordance with the provisions of sub-section (5) of section 35 of the CGST Act, sub-section (1) of section 44 of CGST Act provides for **furnishing of annual return which may include a self-certified reconciliation statement**, reconciling the value of supplies declared in the return furnished for the financial year, with the audited annual financial statement for every financial year electronically, within such time and in such form and in such manner as may be prescribed. Further, before 01.08.2021, sub-rule (3) of rule 80 of Central Goods and Services Tax Rules, 2017 (hereinafter referred to as the “CGST Rules”) provided that accounts shall be audited as per sub-section (5) of section 35 of the CGST Act in case the aggregate turnover of a registered person exceeded two crore rupees in a financial year and such taxpayer shall furnish a copy of audited annual accounts and a reconciliation statement, duly certified, in FORM GSTR-9C. From 01.08.2021 onwards, sub-rule (3) of rule 80 of CGST Rules provides that taxpayer with aggregate turnover during a financial year

exceeding five crore rupees, shall furnish a self-certified reconciliation statement as specified under section 44 of the CGST Act in FORM GSTR-9C along with the annual return in FORM GSTR-9 on or before the thirty-first day of December following the end of such financial year.

**3.1** Therefore, on a combined reading of section 44 of CGST Act with rule 80 of the CGST Rules, it can be concluded that both pre and post amendment, the provisions mandated that registered persons required to furnish an annual return in FORM GSTR-9 for every financial year shall also furnish along with it, a duly certified or self-certified reconciliation statement in FORM GSTR-9C, which reconciles the value of supplies declared in FORM GSTR-9 furnished for the said financial year with the audited annual financial statement. It is also mentioned that reconciliation statement in FORM GSTR-9C is required to be filed only if the aggregate turnover of the said registered person during a financial year exceeds the specified threshold limit.

**3.2** Sub-section (2) of section 47 of the CGST Act provides for a levy of late fee for failure to furnish the return under section 44 of the CGST Act by its due date, which is to be computed at the specified rate, for each day for which such failure continues, subject to a maximum amount. As per the discussions above, in cases where reconciliation statement in FORM GSTR-9C is not required to be furnished, annual return under section 44 of CGST Act consists only of FORM GSTR-9 and in cases where reconciliation statement in FORM GSTR-9C is required to be furnished, the annual return under section 44 of CGST Act consists of the return in FORM GSTR-9 along with a reconciliation statement in FORM GSTR-9C. Therefore, in cases where reconciliation statement in FORM GSTR-9C is required to be furnished along with the annual return in FORM GSTR-9, the furnishing of annual return under section 44 of the CGST Act, may not be said to be complete, unless both return in FORM GSTR-9 and reconciliation statement in FORM GSTR-9C are furnished. If only return in FORM GSTR-9 is furnished and reconciliation statement in FORM GSTR-9C is required but not furnished, annual return under section 44 of CGST Act cannot be said to have been furnished.

**3.3** In view of the above, it is clarified that late fee under sub-section (2) of section 47 of the CGST Act, is leviable for the delay in furnishing of complete annual return under section 44 of the CGST Act, i.e. both FORM GSTR-9 and FORM GSTR-9C (where FORM GSTR-9C is also required to be furnished) and the late fee shall be payable for the period from the due date of furnishing of the said annual return upto the date of furnishing of the complete annual return i.e. FORM GSTR-9 and FORM GSTR-9C. It is also to be noted that late fee is not separately leviable for delayed furnishing of FORM GSTR-9 and delayed furnishing of FORM GSTR-9C, but has to be calculated for the period from the due date of furnishing of annual return under section 44 of the CGST Act till the date of furnishing of complete annual return i.e.:

- i. in cases where FORM GSTR-9C is not required to be furnished, the date of furnishing of FORM GSTR-9;
- ii. in cases where FORM GSTR-9C is required to be furnished along with FORM GSTR-9,
  - a. the date of furnishing of FORM GSTR-9, if FORM GSTR-9C is furnished along with FORM GSTR-9; or
  - b. the date of furnishing of FORM GSTR-9C, if FORM GSTR-9C is furnished subsequent to furnishing of FORM GSTR-9.

6. It is further mentioned that vide notification no. XX/2024 dated , the late fee in respect of delayed filing of complete annual return for any financial year upto FY 2022-23 has been waived, which is in excess of the late fee payable under sub-section (2) of section 47 of CGST Act upto the date of furnishing of return in FORM GSTR-9 for the said financial year, if the reconciliation statement in FORM GSTR-9C is furnished on or before 31<sup>st</sup> March 2025. Accordingly, in cases where reconciliation statement in FORM GSTR-9C was required to be furnished along with the return in FORM GSTR-9, but was not furnished so for any financial years upto FY 2022-23, and has been furnished subsequently on or before 31<sup>st</sup> March, 2025, then no additional late fee shall be payable for delayed furnishing of FORM GSTR-9C in excess of the late fee payable upto the date of furnishing FORM GSTR-9. Further, no refund shall be admissible in respect of any amount of late fee already paid in respect of delayed furnishing of FORM GSTR-9C for the said financial years.

7. It is requested that suitable trade notices may be issued to publicize the contents of this Circular.

8. Difficulty, if any, in the implementation of this Circular may be brought to the notice of the Board. Hindi version would follow.

Sanjay Mangal  
Principal Commissioner (GST)

**[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II,  
SECTION 3, SUB-SECTION (i)]**

**GOVERNMENT OF INDIA  
MINISTRY OF FINANCE  
(DEPARTMENT OF REVENUE)  
CENTRAL BOARD OF INDIRECT TAXES AND CUSTOMS**

**NOTIFICATION  
NO. --/2024 – CENTRAL TAX**

**New Delhi, dated the -- December, 2024**

S.O.....(E).– In exercise of the powers conferred by section 128 of the Central Goods and Services Tax Act, 2017 (12 of 2017) (hereinafter referred to as ‘the said Act’), the Central Government, on the recommendations of the Council, hereby waives the amount of late fee referred to in section 47 of the said Act in respect of the return to be furnished under section 44 of the said Act, for any of the financial years 2017-18, 2018-19, 2019-20, 2020-21, 2021-22 or 2022-23, which is in excess of the late fee payable under section 47 of the said Act upto the date of furnishing of FORM GSTR-9 for the said financial year, for the class of registered persons who were required to furnish reconciliation statement in FORM GSTR-9C along with the annual return in FORM GSTR-9 for the said financial year but failed to furnish the same along with the said return in FORM GSTR-9, and furnish the said statement in FORM GSTR-9C subsequently on or before 31<sup>st</sup> March, 2025:

Provided that no refund of late fee already paid in respect of delayed furnishing of FORM GSTR-9C for the said financial years shall be available.

[F. No. CBIC-20006/24/2021-GST]

(Raushan Kumar)  
Under Secretary

**Agenda Item 3(xiv): Amendment in CGST Act, 2017 and CGST Rules, 2017 in respect of functionality of Invoice Management System (IMS).**

The 54<sup>th</sup> GST Council in its meeting held on 9<sup>th</sup> September, 2024 recommended introduction of a new optional functionality Invoice Management System (IMS) on the portal, which will allow the taxpayers to accept, reject, or to keep the invoices pending for the purpose of availment of Input Tax Credit. The said functionality is expected to reduce errors in claiming input tax credit and improve reconciliation between the input tax credit which is availed in FORM GSTR-3B vis-a-vis the input tax credit which is available in FORM GSTR-2B.

**1.2** Accordingly, IMS has been launched on the GST Portal from 1<sup>st</sup> October 2024 and was available to the taxpayers for taking actions on the invoices reported by their suppliers for the purpose of availment of input tax credit. The key features of IMS, as implemented on the portal presently, are as follows:

- All the details of the outward supplies uploaded or furnished by the suppliers in the FORM GSTR-1 / IFF / FORM GSTR-1A/FORM GSTR-5 and the details of bill of entry reported on ICEGATE, with certain exceptions shall be made available in the IMS of recipients for taking the actions of accepting, rejecting or keeping pending the same on IMS, subject to certain conditions and restrictions. Further, at the time of generation of FORM GSTR-2B, only the details furnished by the supplier, will be considered for the computation of input tax credit.
- If no action is taken by the recipients till the date of generation of FORM GSTR-2B, the details shall be deemed to have been accepted by the recipient.
- Input tax credit in respect of the accepted and deemed accepted details shall flow into FORM GSTR-2B of the recipient.
- An action taken on IMS in respect of a detail can be changed any number of times before filing of FORM GSTR-3B. However, if any change is made in respect of details pertaining to a certain tax period after the date of generation of FORM GSTR-2B, the recipient shall have to recompute FORM GSTR-2B, to update the same in respect of the change made on IMS.
- Recipients shall be able to keep the details reported by the suppliers pending on the IMS for the purpose of availment of credit, subject to the provisions of section 16(4) and section 16(6) of the CGST Act.
- 'Pending' action shall not be allowed in respect of credit notes or any other document which reduces the output tax liability of the supplier and in case the same are rejected by the



recipient on IMS and FORM GSTR-3B is furnished by him, the tax liability in respect of the same would be added to the tax liability of the supplier in his subsequent FORM GSTR-3B.

- All the accepted/ deemed accepted/ rejected details will move out of IMS dashboard after filing of respective FORM GSTR-3B.

2. The Law committee in its meeting held on 23.10.2024 and 07.12.2024, took a note of the key features of IMS, deliberated on the same and recommended that amendment may be made in CGST Act, CGST Rules, FORMS and on the portal, in respect of the following:

### **2.1 Adjustment of tax liability of the supplier in respect of credit note and Addition of Tax liability of the supplier in next return in case of rejection of Credit Notes on IMS by recipient:**

**2.1.1** In respect of the same, the Law committee observed that **section 34(2) of CGST Act**, which deals with credit notes, provides for issuance of a credit note in relation to a supply within the specified time limit and states that **the corresponding tax liability shall be adjusted in such manner as may be prescribed**. Also, proviso to the sub-section states that output tax liability of the supplier shall not be permitted to be reduced, if the incidence of tax and interest on such supply has been passed on to any other person.

**2.1.2** Although section 34 (2) of CGST Act provides that tax liability of the supplier issuing credit note shall be adjusted in such manner as may be prescribed, however, as of now there is no specific provision in CGST Rules to prescribe the manner in which the tax liability is to be adjusted in case of issuance of credit notes. Further, the proviso to section 34(2) also does not specifically provide for the condition of reversal of corresponding input tax credit by the recipient, though such a condition of reversal of corresponding input tax credit by the recipient against a credit note for post-sale discount has been provided in section 15(3)(b)(ii) of CGST Act.

**2.1.3** Accordingly, the Law committee recommended that amendment may be made in **sub-section (2) of section 34 of the CGST Act**, as below, so as to specifically provide for requirement of reversal of corresponding input tax credit by the recipient.

“

...

*(2) Any registered person who issues a credit note in relation to a supply of goods or services or both shall declare the details of such credit note in the return for the month during which such credit note has been issued but not later than the thirtieth day of November following the end of the financial year in which such supply was made, or the date of furnishing of the relevant annual return, whichever is earlier, and the tax liability shall be adjusted in such manner as may be prescribed:*

*Provided that no reduction in output tax liability of the supplier shall be permitted, if the:*

*i) input tax credit as is attributable to such a credit note, if availed, has not been reversed by the said recipient, where such recipient is a registered person;*

ii) incidence of tax ~~and interest~~ on such supply has been passed on to any other person, in other cases.

“

**2.1.4 Law Committee further recommended that a new rule may be inserted in the CGST Rules, as below, to prescribe the manner in which the output tax liability of the supplier will be adjusted against the credit note.**

*“Rule 67B.Adjustment of tax liability on issuance of credit note or any other document reducing the tax liability.-*

*If the details of a credit note, or any other document which reduces the tax liability of the registered person, declared by such person in his details of outward supplies furnished in FORM GSTR-1 or FORM GSTR-1A or using IFF or FORM GSTR-5 for a tax period, is rejected by the recipient on the IMS referred to in sub-rule(6A) of rule 60, the output tax liability as is attributable to such a credit note or the other document, as the case may be, shall be payable along with the applicable interest as per section 50, in the return for the next tax period to be filed by the said registered person and such tax liability shall be deemed to be payable from the due date of filing of return for the tax period in which details of such credit note or the other document, as the case may be, had been declared.”*

**2.2 Non-availability of the facility of keeping the credit notes or upward revision of credit notes pending on the IMS:** The Law committee took a note of the concerns raised by the trade in respect of the non-availability of keeping the credit notes pending on IMS. In order to address the concerns of the trade along with safeguard to protect the interest of revenue, **the Law Committee recommended providing a limited pendency period for the recipient in respect of credit notes or the documents decreasing tax liability of the supplier, for the period upto filing of return in FORM GSTR-3B for the next tax period by the said recipient, or the due date of filing of FORM GSTR-3B of the tax period subsequent to the said next period, whichever is earlier.**

**2.3 Whether FORM GSTR-3B can be allowed to be filed before FORM GSTR-2B of the corresponding tax period is made available to the taxpayer:** The Law committee felt that in light of restriction on availment of input tax credit to that available in FORM GSTR-2B as per section 16(2)(ba) of CGST Act read with rule 36(4) of CGST Rules and also considering that in future the ITC auto-populated in FORM GSTR-3B from FORM GSTR-2B will be locked, it **is desirable to place restriction on filing of FORM GSTR-3B return before the generation of FORM GSTR-2B.**

**2.3.1 In order to implement the same, it recommended that amendment may be made in sub-section (1) of section 39 of CGST Act to draw powers to prescribe conditions and restriction on**

filing of FORM GSTR-3B and to provide the said condition of filing of FORM GSTR-3B only after FORM GSTR-2B is made available on the portal for the corresponding tax period, in rule 61 of CGST Rules, as below. Also, validation may be built into the system by GSTN, to restrict the taxpayers from filing FORM GSTR-3B before the generation of corresponding FORM GSTR-2B.

**a. Amendment in section 39 of CGST Act:**

***“Section 39. Furnishing of returns. -***

*(1) Every registered person, other than an Input Service Distributor or a non-resident taxable person or a person paying tax under the provisions of [section 10](#) or [section 51](#) or [section 52](#) shall, for every calendar month or part thereof, furnish, a return, electronically, of inward and outward supplies of goods or services or both, input tax credit availed, tax payable, tax paid and such other particulars, in such form and manner, ~~and~~ within such time, ~~and subject to such conditions and restrictions~~ [as may be prescribed](#):*

***Provided** that the Government may, on the recommendations of the Council, notify certain class of registered persons who shall furnish a return for every quarter or part thereof, subject to such conditions and restrictions [as may be specified](#) therein.*

*..”*

**b. Amendment in Rule 61 of CGST Rules:**

***“Rule 61. Form and manner of furnishing of return.-***

*1. Every registered person other than a person referred to in section 14 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017) or an Input Service Distributor or a non-resident taxable person or a person paying tax under section 10 or section 51 or, as the case may be, under section 52 shall furnish a return in FORM GSTR-3B, electronically through the common portal either directly or through a Facilitation Centre notified by the Commissioner, as specified under –*

- (i) sub-section (1) of section 39, for each month, or part thereof, on or before the twentieth day of the month succeeding such month:*
- (ii) proviso to sub-section (1) of section 39, for each quarter, or part thereof, for the class of registered persons mentioned in column (2) of the Table given below, on or before the date mentioned in the corresponding entry in column (3) of the said Table, namely:-*

Table

S. No.	Class of registered persons	Due Date
(1)	(2)	(3)
1.	Registered persons whose principal place of business is in the States of Chhattisgarh, Madhya Pradesh, Gujarat, Maharashtra, Karnataka, Goa, Kerala, Tamil Nadu, Telangana, Andhra Pradesh, the Union territories of Daman and Diu and Dadra and Nagar Haveli, Puducherry, Andaman and Nicobar Islands or Lakshadweep.	twenty-second day of the month succeeding such quarter.
2.	Registered persons whose principal place of business is in the States of Himachal Pradesh, Punjab, Uttarakhand, Haryana, Rajasthan, Uttar Pradesh, Bihar, Sikkim, Arunachal Pradesh, Nagaland, Manipur, Mizoram, Tripura, Meghalaya, Assam, West Bengal, Jharkhand or Odisha, the Union territories of Jammu and Kashmir, Ladakh, Chandigarh or Delhi.	twenty-fourth day of the month succeeding such quarter.

*Provided that return in FORM GSTR-3B of a tax period can be furnished only after the statement in FORM GSTR-2B for the said tax period is made available electronically on the common portal to the registered person.*

...“

#### **2.4 Amendment in Section 38 of CGST Act and Rule 60 of CGST Rules to give statutory backing to the actions on IMS for generation of FORM GSTR-2B:**

##### **a. Section 38 of CGST Act:**

- (i) Currently, FORM GSTR-2B is made available to the taxpayer on the portal without any intervention from him. However, under IMS, statement in FORM GSTR-2B will be now be made available to the tax payer based on the action taken by him on the IMS. Further, even after FORM GSTR-2B is made available on the portal, the taxpayer can still take further action on the IMS before filing of return in FORM GSTR-3B for the said tax period and in such case, the taxpayer may be required to generate revised FORM GSTR-2B based on such subsequent actions on IMS, before filing of return in FORM GSTR-3B for the said tax period. Also, if the taxpayer has not filed the FORM GSTR-3B of the previous tax period by the default date of generation of FORM GSTR-2B, he will be required to generate the FORM GSTR-2B after filing of FORM GSTR-3B of the previous tax period. Therefore, it is desirable to **not to refer to it as an auto-generated statement and merely refer it as a statement of input tax credit in sub-section (1) and sub-section (2) of section 38 of CGST Act.** Similar amendments will also be required in sub-rule(7) of rule 60 and rule 88D of CGST Rules and in the FORM GSTR-2B.
- (ii) Clause (b) of sub-section (2) of Section 38 provides that statement of ITC shall contain the details of such credit which cannot be availed by the recipient, having been passed by the listed class of registered persons. However, currently, as per the Sr.No. 2 (c) of the instructions to FORM GSTR-2B, Input tax credit is indicated to be non-available in the following scenarios:

- a. Invoice or debit note for supply of goods or services or both where the recipient is not entitled to input tax credit as per the provisions of sub-section (4) of Section 16 of CGST Act, 2017.
- b. Invoice or debit note where the Supplier (GSTIN) and place of supply are in the same State while recipient is in another State.

Therefore, clause (b) of sub-section (2) of Section 38 does not appear to cover the above scenarios. Accordingly, the Law Committee recommended to make the said provision an inclusive one, so that other cases where ITC is not available to the taxpayers in terms of any other provisions of the Act, may also get covered in the said clause.

- (iii) Table 5 of FORM GSTR-2B which contains the ITC reversal summary, i.e. the details of ITC which is required to be reversed as per rule 37 A of CGST Rules has also been inserted in FORM GSTR-2B. Besides, FORM GSTR-2B is also proposed to contain the details of ITC which have been rejected by the recipient, which is a third category from, ITC available and ITC not available from the specified class of suppliers as per section 38(2) of CGST Act. Accordingly, Law Committee recommended that it may be desirable to provide for enabling clause to prescribe other details to be made available in FORM GSTR-2B by amending section 38(2) of CGST Act, as proposed below.

**The Law Committee recommended the following amendment in Section 38 of CGST Act:**

*“Section 38. Communication of details of inward supplies and input tax credit.*

*(1) The details of outward supplies furnished by the registered persons under sub-section (1) of section 37 and of such other supplies as may be prescribed, and ~~an auto-generated~~ statement containing the details of input tax credit shall be made available electronically to the recipients of such supplies in such form and manner, within such time, and subject to such conditions and restrictions as may be prescribed.*

*(2) The ~~auto-generated~~ statement referred in ~~under~~ sub-section (1) shall consist of—*

*a) details of inward supplies in respect of which credit of input tax may be available to the recipient; ~~and~~*

*(b) details of supplies in respect of which such credit cannot be availed, whether wholly or partly, by the recipient, **including** on account of the details of the said supplies being furnished under sub-section (1) of section 37,—*

*(i) by any registered person within such period of taking registration as may be prescribed; or*

*(ii) by any registered person, who has defaulted in payment of tax and where such default has continued for such period as may be prescribed; or*

*(iii) by any registered person, the output tax payable by whom in accordance with the statement of outward supplies furnished by him under the said sub-section*

*during such period, as may be prescribed, exceeds the output tax paid by him during the said period by such limit as may be prescribed; or*

*(iv) by any registered person who, during such period as may be prescribed, has availed credit of input tax of an amount that exceeds the credit that can be availed by him in accordance with clause (a), by such limit as may be prescribed; or*

*(v) by any registered person, who has defaulted in discharging his tax liability in accordance with the provisions of sub-section (12) of section 49 subject to such conditions and restrictions as may be prescribed; or*

*(vi) by such other class of persons as may be prescribed; ~~and~~ and*

*(c) such other details as may be prescribed.*

- b. Rule 60 of the CGST Rules 2017** deals with “Form and manner of ascertaining details of inward supplies”. The Law Committee observed that amendment in Rule 60 of CGST Rules may be required, in view of the following features of IMS:

1. To prescribe IMS as the functionality wherein recipient will be able to take specific actions such as accept or reject or keeping pending, the specified inward details, subject to the specified conditions and restrictions.

2. FORM GSTR-2B for a tax period is to be made available to the taxpayer only after the FORM GSTR-3B of the previous tax period has been filed by the said taxpayer, whereas currently there is no such restriction.

3. FORM GSTR-2B of a taxpayer required to file quarterly return as per proviso to section 39(1) of the CGST Act, is to be made available on a quarterly basis only, whereas currently FORM GSTR-2B is made available for each month for all taxpayers.

4. As per rule 60(7) of CGST Rules, the FORM GSTR-2B shall consist of the details furnished by the suppliers in their FORM-GSTR1/1A/IFF/5/6 etc from the period after the due date of such FORMS for the previous tax period to the due date of current tax period. However, after IMS, it is proposed that FORM GSTR-2B would in addition to the same, also contain the details of previous tax periods which were kept pending in the IMS till filing of return in FORM GSTR-3B for the previous tax period but are subsequently accepted or rejected on the IMS by the said taxpayer.

**The Law Committee accordingly recommended the following amendment in Rule 60 of CGST Rules:**

*“Rule 60. Form and manner of ascertaining details of inward supplies.-*

- (1) The details of outward supplies furnished by the supplier in FORM GSTR-1 or FORM GSTR1A or using the IFF shall be made available electronically to the*



*concerned registered persons (recipients) in Part A of FORM GSTR-2A, in FORM GSTR-4A and in FORM GSTR-6A through the common portal, as the case may be .*

- (2) The details of invoices furnished by a non-resident taxable person in his return in FORM GSTR-5 under rule 63 shall be made available to the recipient of credit in Part A of FORM GSTR 2A electronically through the common portal.*
- (3) The details of invoices furnished by an Input Service Distributor in his return in FORM GSTR-6 under rule 65 shall be made available to the recipient of credit in Part B of FORM GSTR 2A electronically through the common portal.*
- (4) The details of tax deducted at source furnished by the deductor under sub-section (3) of section 39 in FORM GSTR-7 shall be made available to the deductee in Part C of FORM GSTR-2A electronically through the common portal.*
- (5) The details of tax collected at source furnished by an e-commerce operator under section 52 in FORM GSTR-8 shall be made available to the concerned person in Part C of FORM GSTR 2A electronically through the common portal.*
- (6) The details of the integrated tax paid on the import of goods or goods brought in domestic Tariff Area from Special Economic Zone unit or a Special Economic Zone developer on a bill of entry shall be made available in Part D of FORM GSTR-2A electronically through the common portal.*

*(6A) The details of the outward supplies uploaded electronically on the common portal or furnished by the supplier in FORM GSTR-1 or FORM GSTR-1A or using IFF, or by a non-resident taxable person in FORM GSTR-5, except the supply of goods or services or both the tax on which is required to be paid on reverse charge basis by the recipient of such goods or services or both under sub-section (3) or sub-section (4) of section 9, and the details of the integrated tax paid on the import of goods or goods brought in the Domestic Tariff Area from Special Economic Zone unit or a Special Economic Zone developer on a bill of entry, shall be made available to the registered person, in the Invoice Management System (hereinafter referred to as the "IMS"), electronically on the common portal, and such registered person may take an action of either accepting or rejecting such details or keeping the same pending on the IMS, subject to the following conditions and restrictions-*

- (i) In respect of the details of the integrated tax paid on the import of goods or goods brought in the Domestic Tariff Area from Special Economic Zone unit or a Special Economic Zone developer on a bill of entry, the registered person can only either accept or keep the details pending on the IMS.*
- (ii) If the registered person does not take any action in respect of a detail referred in clause (i), (ii), (iia) and (iii) of sub-rule (7), by either accepting or rejecting or keeping the said detail pending on the IMS, till the date of filing of return in FORM GSTR-3B for the said tax period, the said detail shall be deemed to have been accepted by the said person on the IMS.*
- (iii) The details of any invoice or debit note can be kept pending by the registered person on the IMS, only till the time upto which input tax credit in respect of*

*the said details can be availed as per sub-section (4) or sub-section (6) of section 16, as the case may be, after which the said pending details shall not be available on the IMS.*

- (iv) *The details in respect of a credit note or any other document, which reduces the outward tax liability of the supplier, can be kept pending by the registered person on the IMS only till filing of return in FORM GSTR-3B for the next tax period, after which the said details shall be deemed to have been accepted by the registered person on the IMS:*

*Provided that if the return in FORM GSTR-3B for the said next tax period is not filed till the due date of filing of return in FORM GSTR-3B for the tax period subsequent to the said next tax period, the said details shall be deemed to have been accepted by the registered person on the IMS:*

*Provided further that the interest under section 50 shall be payable in respect of input tax credit, if availed, as is attributable to the said credit note or the other document, as the case may be, for the period from the due date of filing the return in FORM GSTR-3B for the tax period for which the said details had been made available on the IMS till the date of filing return in FORM GSTR-3B for the next tax period in which such details have been accepted or deemed to have been accepted .*

- (7) *~~An auto-generated~~ statement containing the details of input tax credit which have either been accepted or rejected by the registered person on the IMS, wherever applicable, or are no longer available on the IMS as per clause (iii) of sub-rule (6A), shall be made available to the registered person in FORM GSTR-2B, for every month, in case of a registered person required to furnish return for every month as per sub-section (1) of section 39, or for every quarter, in case of a registered person required to furnish return for every quarter as per proviso to sub-section (1) of section 39, electronically through the common portal, and shall consist of—*

- (i) *the details of outward supplies furnished by his supplier, other than a supplier required to furnish return for every quarter under proviso to sub-section (1) of section 39, in FORM GSTR-1, between the day immediately after the due date of furnishing of FORM GSTR-1 for the previous ~~tax period~~ month to the due date of furnishing of FORM GSTR-1 for the ~~month~~ tax period;*
- (ii) *the details of invoices furnished by a non-resident taxable person in FORM GSTR-5 and details of invoices furnished by an Input Service Distributor in his return in FORM GSTR-6 and details of outward supplies furnished by his supplier, required to furnish return for every quarter under proviso to sub-*



section (1) of section 39, in FORM GSTR-1 or using the IFF, as the case may be,-

*(A) in case of a registered person required to furnish return for every month as per sub-section (1) of section 39:*

- (a) for the first month of the quarter, between the day immediately after the due date of furnishing of FORM GSTR-1 for the preceding quarter to the due date of furnishing details using the IFF for the first month of the quarter;*
- (b) for the second month of the quarter, between the day immediately after the due date of furnishing details using the IFF for the first month of the quarter to the due date of furnishing details using the IFF for the second month of the quarter;*
- (c) for the third month of the quarter, between the day immediately after the due date of furnishing of details using the IFF for the second month of the quarter to the due date of furnishing of FORM GSTR-1 for the quarter;*

*(B) in case of a registered person required to furnish return for every quarter as per proviso to sub-section (1) of section 39, between the day immediately after the due date of furnishing of FORM GSTR-1 for the previous quarter to the due date of furnishing of FORM GSTR-1 for the quarter;*

- (iia) the additional details or amendments in details of outward supplies furnished by his supplier in FORM GSTR-1A filed between the day immediately after the due date of furnishing of FORM GSTR-1 for the previous tax period to the due date of furnishing of FORM GSTR-1 for the current tax period;*
  - (iii) the details of the integrated tax paid on the import of goods or goods brought in the domestic Tariff Area from Special Economic Zone unit or a Special Economic Zone developer on a bill of entry in the ~~month~~ tax period; and*
  - (iv) such other details of any previous tax period, which had been kept pending by the registered person on the IMS, but have been accepted or rejected on the IMS, after filing of return in FORM GSTR-3B for the immediately preceding tax period.*
- (8) The Statement in FORM GSTR-2B for every month or every quarter, as the case may be, shall be made available to the registered person,-*
- (i) for the first and second month of a quarter, in case of a registered person required to furnish return for every month as per sub-section (1) of section 39, a day after the due date of furnishing of details of outward supplies for*

*the said month, in the IFF by a registered person required to furnish return for every quarter under proviso to sub-section (1) of section 39 or in FORM GSTR-1 by a registered person, other than those required to furnish return for every quarter under proviso to sub-section (1) of section 39, whichever is later;*

*(ii) in the third month of the quarter, a day after the due date of furnishing of details of outward supplies for the said month, in FORM GSTR-1 by a registered person required to furnish return for every quarter under proviso to sub-section (1) of section 39:-*

*Provided that if FORM GSTR-3B of the previous tax period has not been filed by the registered person upto the date mentioned in clause (i) or (ii), as the case may be, FORM GSTR-2B shall be made available to the said person, only after filing of FORM GSTR-3B of the previous tax period.*

*(9) If any amendment is made by the registered person on the IMS, in respect of the action taken for any of the details, after the statement in FORM GSTR-2B has been made available to the said person for a tax period on the common portal, a revised FORM GSTR-2B shall be made available to the said person on his request made electronically on the common portal, before filing of return in FORM GSTR-3B for the said tax period.*

**2.5** The Law Committee also recommended the following consequential amendment in Rule 88D of CGST Rules:

*“Rule 88D. Manner of dealing with difference in input tax credit available ~~in auto-generated~~ statement containing the details of input tax credit and that availed in return.-  
...”*

**2.6** The Law Committee recommended consequential amendment in FORM GSTR-2B, which is enclosed as **Annexure A** to this agenda.

**3.** Accordingly, the agenda is placed before the GST Council for deliberation and approval.

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## FORM GSTR-2B

**Auto-drafted ITC Statement**

(From FORM GSTR-1/IFF/1A, GSTR-5, GSTR-6 and Import data received from ICEGATE)

Financial Year	
Month	

1. GSTIN	
2(a). Legal name of the registered person	
2(b). Trade name, if any	
2(c). Date of generation	

**3. ITC Available Summary**

(Amount in ₹ for all tables)

S.no.	Heading	GSTR-3B table	Integrated Tax (₹)	Central Tax (₹)	State/UT tax (₹)	Cess (₹)	Advisory
<b>Credit which may be availed under FORM GSTR-3B</b>							
<b>Part A</b>	<b>ITC Available - Credit may be claimed in relevant headings in GSTR-3B</b>						
I	<b>All other ITC - Supplies from registered persons other than reverse charge</b>	<b>4(A)(5)</b>					Net input tax credit may be availed under Table 4(A)(5) of FORM GSTR-3B.
Details	B2B – Invoices						
	B2B - Debit notes						

S.no.	Heading	GSTR-3B table	Integrated Tax (₹)	Central Tax (₹)	State/UT tax (₹)	Cess (₹)	Advisory
II	ECO – Documents						
	B2B - Invoices (Amendment)						
	B2B - Debit notes (Amendment)						
	ECO - Documents (Amendment)						
	<b>Inward Supplies from ISD</b>	<b>4(A)(4)</b>					Net input tax credit may be availed under Table 4(A)(4) of FORM GSTR-3B.
Details	ISD – Invoices						
	ISD - Invoices (Amendment)						
III	<b>Inward Supplies liable for reverse charge</b>	<b>3.1(d) 4(A)(3)</b>					These supplies shall be declared in Table 3.1(d) of FORM GSTR-3B for payment of tax. Net input tax credit may be availed under Table 4A(3) of FORM GSTR-3B on payment

S.no.	Heading	GSTR-3B table	Integrated Tax (₹)	Centr al Tax (₹)	State/U T tax (₹)	Cess (₹)	Advisory
							of tax.
Detail s	B2B - Invoices						
	B2B - Debit notes						
	B2B - Invoices (Amendment)						
	B2B - Debit notes (Amendment)						
IV	Import of Goods	4(A)(1)					Net input tax credit may be availed under Table 4(A)(1) of FORM GSTR-3B.
Detail s	IMPG - Import of goods from overseas						
	IMPG (Amendment)						
	IMGSEZ - Import of goods from SEZ						
	IMGSEZ (Amendment)						
Part B	ITC Available – Credit Notes should be net-off against relevant available headings in GSTR-3B						
I	Others	4(A)					Credit Notes shall be net-off against relevant ITC available tables [Table 4A(3,4,5)]. Liability against

S.no.	Heading	GSTR-3B table	Integrated Tax (₹)	Central Tax (₹)	State/UT tax (₹)	Cess (₹)	Advisory
							Credit Notes (Reverse Charge) shall be net-off in Table 3.1(d).
Details	B2B - Credit notes	4(A)(5)					
	B2B - Credit notes (Amendment)	4(A)(5)					
	B2B - Credit notes (Reverse charge)	3.1(d) 4(A)(3)					
	B2B - Credit notes (Reverse charge) (Amendment)	3.1(d) 4(A)(3)					
	ISD - Credit notes	4(A)(4)					
	ISD - Credit notes (Amendment)	4(A)(4)					

#### 4. ITC Not Available Summary

(Amount in ₹ in all sections)

S.no.	Heading	GSTR-3B Table	Integrated Tax (₹)	Central Tax (₹)	State/UT tax (₹)	Cess (₹)	Advisory
<b>Credit which may not be availed under FORM GSTR-3B</b>							
<b>Part A</b>	<b>ITC Not Available</b>						
I	<b>All other ITC - Supplies from registered persons other than reverse charge</b>	<b>4(D)(2)</b>					Such credit shall not be taken and has to be reported in table 4(D)(2) of FORM GSTR-3B.
Details	B2B - Invoices						
	B2B - Debit notes						
	ECO - Documents						

S.n o.	Heading	GST R-3B Table	Integrated Tax (₹)	Central Tax (₹)	State /UT tax (₹)	Cess (₹)	Advisory
II	B2B - Invoices (Amendment)						
	B2B - Debit notes (Amendment)						
	ECO - Documents (Amendment)						
	Inward Supplies from ISD	4(D)(2)					Such credit shall not be taken and has to be reported in table 4(D)(2) of FORM GSTR-3B
Details	ISD - Invoices						
	ISD - Invoices (Amendment)						
III	Inward Supplies liable for reverse charge	3.1(d) 4(D)(2)					These supplies shall be declared in Table 3.1(d) of FORM GSTR-3B for payment of tax. However, credit will not be available on the same and has to be reported in table 4(D)(2) of FORM GSTR-3B.
Details	B2B - Invoices						
	B2B - Debit notes						
	B2B - Invoices (Amendment)						
	B2B - Debit notes (Amendment)						
Part B	ITC Not Available – Credit notes should be net-off against relevant ITC available headings in GSTR-3B						
I	Others	4(A)					Credit Notes should be net-off against relevant ITC available tables [Table 4A(3,4,5)].
Details	B2B - Credit notes	4(A)(5)					
	B2B - Credit notes (Amendment)	4(A)(5)					
	B2B - Credit notes (Reverse charge)	4(A)(3)					

S.no.	Heading	GST R-3B Table	Integrated Tax (₹)	Central Tax (₹)	State /UT tax (₹)	Cess (₹)	Advisory
	B2B - Credit notes (Reverse charge) (Amendment)	4(A)(3)					
	ISD - Credit notes	4(A)(4)					
	ISD - Credit notes (Amendment)	4(A)(4)					

#### 5. ITC Reversal Summary (Rule 37A)

(Amount in ₹ in all sections)

S.no.	Heading	GST R-3B Table	Integrated Tax (₹)	Central Tax (₹)	State /UT tax (₹)	Cess (₹)	Advisory
<b>Credit which may be reversed under FORM GSTR-3B</b>							
<b>Part A ITC Reversed - Others</b>							
I	<b>ITC Reversal on account of Rule 37A</b>	<b>4(B)(2)</b>					Such credit shall be reversed and has to be reported in table 4(B)(2) of FORM GSTR-3B.
Details	B2B - Invoices						
	B2B - Debit notes						
	B2B - Invoices (Amendment)						
	B2B - Debit notes (Amendment)						

#### 6. ITC Rejected Summary (Documents/records rejected in IMS)

(Amount in ₹ in all sections)



S.no.	Heading	GST R-3B Table	Integrated Tax (₹)	Central Tax (₹)	State /UT tax (₹)	Cess (₹)	Advisory
Documents rejected on IMS Dashboard							
Part A	ITC Rejected - Others						
I	All other ITC - Supplies from registered persons other than reverse charge	NA					The Input Tax Credit rejected in IMS is not eligible to be availed.
Details	B2B – Invoices						
	B2B - Debit notes						
	B2B - Invoices (Amendment)						
	B2B - Debit notes (Amendment)						
	ECO – Documents						
	ECO - Documents (Amendment)						
Part B	Rejected Records - Credit notes						
I	Others	NA					These Credit Notes are not eligible for net-off against relevant ITC available tables [Table 4A (5)].
Details	B2B - Credit notes						
	B2B - Credit notes (Amendment)						

Instructions:

1. Terms Used :-
  - a. ITC – Input tax credit
  - b. B2B – Business to Business
  - c. ISD – Input service distributor
  - d. IMPG – Import of goods
  - e. IMPGSEZ – Import of goods from SEZ
  - f. ECO – E-Commerce Operator

## 2. Important Advisory:

- a) FORM GSTR-2B is a statement which has been generated on the basis of the information furnished by your suppliers or by ECOs in their respective FORMS GSTR-1/IFF, 1A, 5 and 6. ~~It is a static statement and will be made available once a month. The documents filed by the Supplier in any FORMS GSTR-1/IFF, 5 and 6 would reflect in the next open FORM GSTR-2B of the recipient irrespective of supplier's date of filing. Taxpayers are advised to refer FORM GSTR-2B for availing credit in FORM GSTR-3B. However, in case of additional details, they may refer to their respective FORM GSTR-2A (which is updated on near real time basis) for more details.~~ A draft GSTR 2B shall be made available on 14<sup>th</sup> of every month succeeding the month for monthly filers and on 14<sup>th</sup> of the month succeeding the quarter for quarterly filers, provided that GSTR-3B for the previous tax period is filed by the taxpayer.
- b) The Taxpayer can accept, reject or keep any record pending in IMS even after generation of draft GSTR 2B till the filling of GSTR 3B. After taking any action a revised GSTR 2B can be generated by clicking on compute GSTR 2B button.
- c) Only those records will be part of FORM GSTR 2B, which are either Accepted or Deemed accepted on IMS dashboard. Records rejected on IMS dashboard will appear under Table 6 (ITC Rejected). The records which are kept pending by the taxpayer shall remain in IMS and will become part of GSTR 2B on acceptance of the same.
- d) Taxpayers are advised to refer to FORM GSTR-2B for availing credit in FORM GSTR-3B. However, in case of additional details, they may refer to their respective FORM GSTR-2A (which is updated on near real time basis) for more details.
- ~~b) e)~~ e) In addition, the supplies declared or amended in FORM GSTR-1A shall be made available in the next open FORM GSTR-2B.
- ~~e) f)~~ f) Input tax credit shall be indicated to be non-available in the following scenarios: -

- i. Invoice or debit note for supply of goods or services or both where the recipient is not entitled to input tax credit as per the provisions of sub-section (4) of Section 16 of CGST Act, 2017.
- ii. Invoice or debit note where the Supplier (GSTIN) and place of supply are in the same State while recipient is in another State.

However, there may be other scenarios for which input tax credit may not be available to the taxpayers and the same has not been generated by the system. Taxpayers should self-assess and reverse such credit in their FORM GSTR-3B.

- 3. It may be noted that FORM GSTR-2B will consist of all the GSTR-1/1A/IFFs, 5s and 6s being filed by your respective supplier or by ECOs. Generally, this date will be between

filing date of GSTR-1(Monthly/Quarterly)/IFF for previous month (M-1) to filing date of GSTR-1(Monthly/Quarterly)/IFF for the current month (M). For example, GSTR-2B for the month of February will consist of all the documents filed by suppliers in their GSTR-1/~~IFF, 5 and 6~~ from 00:00 hours on 12<sup>th</sup> February to 23:59 hours on 11<sup>th</sup> March. It may be noted that for import of goods, the data is being updated on real time basis, therefore, imports made in the month (month for which GSTR-2B is being generated for) shall be made available. The dates for which the relevant data has been extracted is available under the “View Advisory” tab on the online portal.

4. It also contains information on imports of goods from the ICEGATE system including data on imports from Special Economic Zones Units / Developers.
5. It may be noted that reverse charge credit on import of services is not part of this statement and will be continued to be entered by taxpayers in Table 4(A)(2) of FORM GSTR-3B.
6. Table 3 captures the summary of ITC available as on the date of generation of GSTR-2B. It is divided into following two parts:
  - A. Part A captures the summary of credit that may be availed in relevant tables of FORM GSTR-3B.
  - B. Part B captures the summary of credit that shall be net-off from relevant table of FORM GSTR-3B.
7. Table 4 captures the summary of ITC not available as on the date of generation of GSTR-2B. Credit available in this table shall not be availed as credit in FORM GSTR-3B but to be reported as ineligible ITC in Table 4(D)(2) of FORM GSTR-3B. However, the liability to pay tax on reverse charge basis and the liability to net-off credit on receipt of credit notes continues for such supplies.
8. Table 5 captures the summary of ITC to be reversed under Rule 37A on or before 30th November following the end of financial year in which the ITC in respect of such invoice or debit note has been availed for which supplier has not furnished FORM GSTR-3B. Credit auto populated in this table shall be reversed FORM GSTR-3B but to be reported as ITC reversed in Table 4(B)(2) of FORM GSTR-3B. Details of ITC reversal will be made available only in GSTR 2B of September return period of subsequent financial year.
9. Table 6 captures the summary of ITC rejected as on the date of generation of GSTR-2B. It is divided into following two parts:
  - A. Part A captures the summary of Input tax credit which is rejected by taxpayer on IMS Dashboard and hence same is not eligible to avail in FORM GSTR-3B.
  - B. Part B captures the summary of credit notes which are rejected by taxpayer on IMS Dashboard and hence same are not eligible to consider in FORM GSTR-3B.
- 9:10. Taxpayers are advised to ensure that the data generated in FORM GSTR-2B is reconciled with their own records and books of accounts. Taxpayers shall ensure that
  - a. No credit shall be taken twice for any document under any circumstances.
  - b. Credit shall be reversed wherever necessary.
  - c. Tax on reverse charge basis shall be paid in cash.
- ~~10:~~ 11. Details of invoices, credit notes, debit notes, ISD invoices, ISD credit and debit notes, bill of entries etc. will also be made available online and through download facility.
- ~~11:~~ 12. There may be scenarios where a percentage of the applicable rate of tax rate may be notified by the Government. A separate column will be provided for invoices / documents where such rate is applicable.

13. In case of rejection of following type of records, tax amount of such rejected records will be added back as liability in next GSTR 3B/ GSTR 5 of your supplier:

- Credit notes
- Upward amendment of credit notes
- Downward amendment of credit notes (where original CN was also rejected)
- Downward amendment of Invoices and debit notes (where original Invoice/ DN was accepted)

~~12~~14. Table wise instructions:

<b><u>Table No. and Heading</u></b>	<b><u>Instructions</u></b>
<b><u>ITC Available Summary</u></b>	
Table 3 Part A Section I  All other ITC - Supplies from registered persons other than reverse charge	i. This section consists of the details of supplies (other than those on which tax is to be paid on reverse charge basis), which have been declared and filed by your suppliers or by ECOs in their FORM GSTR-1/IFF, GSTR-1A and GSTR- 5 <b>and accepted or deemed accepted by the recipient in IMS.</b> ii. This table displays only the supplies on which input tax credit is available. iii. Negative credit, if any may arise due to amendment in B2B - Invoices and B2B - Debit notes. Such credit shall be net-off in Table 4A(5) of FORM GSTR-3B.
Table 3 Part A Section II  Inward Supplies from ISD	i. This section consists of the details of supplies, which have been declared and filed by an input service distributor in their FORM GSTR-6. ii. This table displays only the supplies on which ITC is available. iii. Negative credit, if any, may arise due to amendment in ISD Amendments – Invoices. Such credit shall be net-off in table 4A(4) of FORM GSTR-3B.
Table 3 Part A Section III  Inward Supplies liable for reverse charge	i. This section consists of the details of supplies on which tax is to be paid on reverse charge basis, which have been declared and filed by your suppliers in their FORM GSTR-1/IFF and GSTR-1A. ii. This table provides only the supplies on which ITC is available. iii. These supplies shall be declared in Table 3.1(d) of FORM GSTR-3B for payment of tax. Credit may be availed under Table 4(A)(3) of FORM GSTR-3B on payment of tax. iv. Negative credit, if any, may arise due to amendment in B2B - Invoices (Reverse Charge) and B2B - Debit notes (Reverse Charge). Such credit shall be net-off in

	Table 4(A)(3) of FORM GSTR-3B.	
Table 3 Part A Section IV Import of Goods	i.	This section provides the details of IGST paid by you on import of goods from overseas and SEZ units / developers on bill of entry and amendment thereof. These details are updated on near real time basis from the ICEGATE system.
	ii.	This table shall consist of data on the imports made by you (GSTIN) in the month for which GSTR-2B is being generated for, <b>and accepted or deemed accepted by you in IMS.</b>
	iii.	The ICEGATE reference date is the date from which the recipient is eligible to take input tax credit.
	iv.	The table also provides if the Bill of entry was amended.
	v.	Information is provided in the tables based on data received from ICEGATE.
Table 3 Part B Section I Others	i.	This section consists of the details of credit notes received and amendment thereof which have been declared and filed by your suppliers in their FORM GSTR-1/IFF, GSTR-1A and GSTR-5/ <b>GSTR-6 and accepted or deemed accepted by the recipient in IMS, wherever applicable.</b>
	ii.	These credit notes shall be net-off from relevant ITC available Tables [Table 4A(3,4,5)] of FORM GSTR-3B. Liability against Credit Notes (Reverse Charge) shall be net-off in Table 3.1(d).
<b>ITC Not Available Summary</b>		
Table 4 Part A Section I All other ITC - Supplies from registered persons other than reverse charge	i.	This section consists of the details of supplies (other than those on which tax is to be paid on reverse charge basis), which have been declared and filed by your suppliers or by ECOs in their FORM GSTR-1/IFF, GSTR-1A and GSTR-5.
	ii.	This table provides only the supplies on which ITC is not available.
	iii.	Such credit shall not be taken in FORM GSTR-3B. However, such credit shall be reported as ineligible ITC in Table 4D(2) of form GSTR-3B.
Table 4 Part A Section II Inward Supplies from ISD	i.	This section consists of details of the supplies, which have been declared and filed by an input service distributor in their FORM GSTR-6.
	ii.	This table provides only the supplies on which ITC is not available.
	iii.	Such credit shall not be taken in FORM GSTR-3B. However, such credit shall be reported as ineligible

	ITC in Table 4D(2) of form GSTR-3B.
Table 4 Part A Section III Inward Supplies liable for reverse charge	<ul style="list-style-type: none"> <li>i. This section consists of the details of supplies liable for reverse charge, which have been declared and filed by your suppliers in their FORM GSTR-1/IFF and GSTR-1A.</li> <li>ii. This table provides only the supplies on which ITC is not available.</li> <li>iii. These supplies shall be declared in Table 3.1(d) of FORM GSTR-3B for payment of tax. However, credit will not be available on such supplies.</li> <li>iv. Such credit shall be reported as ineligible ITC in Table 4D(2) of form GSTR-3B.</li> </ul>
Table 4 Part B Section I Others	<ul style="list-style-type: none"> <li>i. This section consists details of the credit notes received and amendment thereof which have been declared and filed by your suppliers in their FORM GSTR-1/IFF, GSTR-1A and GSTR-5.</li> <li>ii. This table provides only the credit notes on which ITC is not available.</li> <li>iii. Such credit notes shall be net-off from relevant ITC available tables [Table 4A(3,4,5)] of form GSTR-3B.</li> </ul>
<b>ITC Reversal Summary (Rule 37A)</b>	
Table 5 Part A Section I ITC Reversal on account of Rule 37A	<ul style="list-style-type: none"> <li>i. Table 5 captures the summary of ITC to be reversed under Rule 37A on or before 30th November following the end of financial year in which the ITC in respect of such invoice or debit note has been availed for which supplier has not furnished FORM GSTR-3B.</li> <li>ii. Credit auto populated in this table shall be reversed FORM GSTR-3B but to be reported as ITC reversed in Table 4(B)(2) of FORM GSTR-3B.</li> </ul>
<b>ITC Rejected Summary (Documents/records rejected in IMS)</b>	
Table 6 Part A Section I All other ITC - Supplies from registered persons other than reverse charge	<ul style="list-style-type: none"> <li>i. This section consists of the details of supplies and amendment thereof (other than those on which tax is to be paid on reverse charge basis), which have been declared and filed by your suppliers or by ECOs in their FORM GSTR-1/IFF, GSTR-1A, GSTR-5 and rejected by you in IMS.</li> <li>ii. ITC related to these records is not eligible to be availed or net-off in FORM GSTR-3B.</li> </ul>
Table 6 Part B Section I Others	<ul style="list-style-type: none"> <li>i. This section consists of the details of credit notes received and amendment thereof which have been declared and filed by your suppliers in their FORM GSTR-1/IFF, GSTR-1A, GSTR-5 and rejected by</li> </ul>

	<p>you in IMS.</p> <p>ii. ITC related to these credit notes and amendment thereof is not eligible to be availed or net-off in FORM GSTR-3B.</p>
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**Agenda Item 3(xv): Concept note for implementing different categories of GST registration based on Risk Assessment and aligning the registration process with passing on of Input Tax Credit.**

Representations have been received from trade and industry highlighting the difficulties faced by taxpayers in obtaining new GST registrations. They have pointed out that the current GST registration process is complex, often leading to unnecessary queries being raised and the registration application being denied on flimsy grounds causing harassment to genuine taxpayers. On the other hand, it has been observed that unscrupulous persons exploit the GST registration process by using fabricated or fake identities to obtain multiple GST registrations. These fake registrations are then used to pass on fraudulent Input Tax Credit (ITC), resulting in significant revenue loss to the Government.

**1.2** In light of these dual challenges under GST, it may be desirable to revisit and refine the existing GST registration process. This may entail further streamlining and easing the process of registration for genuine and smaller taxpayers while at the same time tightening the controls for registration and passing on of input tax credit by risky applicants. By addressing these issues, the GST registration procedure can be made more efficient and secure.

**2. Present GST Registration Framework**

A person is required to obtain GST registration in the State or Union Territory from where they make taxable supplies of goods or services, if their aggregate turnover in a financial year exceeds the prescribed threshold limit. The threshold limit is Rs. 40 lakhs for the supply of goods (Rs. 20 lakhs for special category States) and Rs. 20 lakhs for the supply of services (Rs. 10 lakhs for special category States).

**2.1 Process of filing of application for GST registration:**

An application for GST registration must be submitted online through the GST portal, and no physical visit to the tax office is required.

**i. If the applicant opts for Aadhaar authentication:**

- a. Authentication must be completed within 15 days of application submission. Upon successful authentication, if the application and documents are satisfactory, registration is granted within 7 days. If no decision is made within 7 days, the application is deemed accepted, and the registration certificate is issued automatically.
- b. If deficiencies are found in the application, the officer must issue a show cause notice within 7 days. The applicant has 7 days to respond, and the officer must make a decision within 7 days of receiving the response.
- c. **Biometric Aadhar authentication:**  
Further, even in cases where Aadhar is authenticated, an applicant may be identified on the common portal based on data analytics and risk parameters for biometric Aadhaar authentication. In such cases, the applicant is required to appear in person in one of the GST Suvidha Kendras in the concerned State/UT for biometric authentication of Aadhar and also for document verification. This process is currently operational in 17 States/Union Territories and will be extended to other States/UTs in due course.
- d. In certain cases, either identified on the common portal based on data analytics and risk parameters or on being identified by the proper officer, the registration may be granted



only after physical verification of the principal place of business. In such cases, registration will be required to be processed within 30 days.

ii. **If Aadhaar authentication is not opted:**

If Aadhaar authentication is not opted by the applicant or the authentication of applicant fails, registration is granted within 30 days after physical verification. If no decision is made within 30 days, the registration is deemed granted automatically. Also, in such cases, the applicants have to visit GST Suvidha Kendras for verification of his documents.

**3. Proposed Framework for registration under GST:**

To further smoothen and streamline the GST registration process, it is proposed to categorize GST registrations by linking the same with the eligibility of the taxpayer to pass on Input Tax Credit (ITC). The following categories of businesses may be considered:

**a. New/Small Businesses:**

This category may include the businesses that either do not wish to pass on ITC or want to pass on only a limited amount of ITC, within a specified limit (say ₹X lakhs per month). A new registration under this category may be allowed with a very simple and timebound registration process involving minimum verification. In such cases, registration may be granted within **three** working days after successful OTP based Aadhaar authentication without requiring applicants to visit GST offices for biometric authentication and without carrying out physical verification of principal place of business by tax officers. However, taxpayer who is granted registration under this category may not be allowed to pass on credit more than the specified limit in a month.

**b. Deemed trusted Businesses:**

In this category, the business which fulfil a specified criteria may be considered as risk free or deemed trusted businesses. The criteria to be specified for this purpose may be based on the history of the taxpayer in respect of compliances related to GST or Income tax or other statutes and will need to be finalized after the detailed examination of data in respect of various parameters made available by GSTN. Some of the parameters which can be considered for specifying the said criteria could be as follows:

- Business Constitution: Classified as Public Sector Undertakings (PSUs), Government entities, Local Bodies, or Private Limited Companies.
- GST Payment: Paid over and above specified limit (say **₹Y lakh**) in cash in respect of existing GSTINs under the same PAN during the last financial year.
- Income Tax Payment: Income tax paid in any of the last three years exceeding a specified limit (say **₹Z lakh**).
- Refund Sanctioned: Received refunds of accumulated ITC exceeding a specified limit (say **₹Q lakh**) against zero-rated supplies or the inverted duty structure.

Businesses in the deemed trusted category may be allowed a simplified registration process without the need to visit tax offices. Registration may be granted within **three** working days without biometric Aadhaar authentication or physical verification at the time of GST registration. They may also be allowed to pass on ITC without any limit.

**c. Emerging business:**

- i. This category may include businesses that wish to pass on more than a specified limit (say ₹X lakhs) of ITC in a month and do not fall under the deemed trusted category. For such businesses, the registration process may be made more stringent by adding a non-refundable application fee, a fixed deposit/security at the time of registration, or/and requirement of an assurance/NOC from Deemed trusted businesses in addition to the existing registration requirements like biometric Aadhaar authentication and physical verification of the premises before granting GST registration.
- ii. Under this category, they would be permitted to pass on more than a specified limit (₹X lakhs) of ITC each month, but they would be required to deposit a specified percentage (to be decided in due course) of the amount of input tax credit exceeding the specified limit (X lakhs) required to be passed on through GSTR-1/1A, in electronic cash ledger before filing of GSTR-1/1A and which may be kept blocked in electronic cash ledger only for the purpose of payment of tax through GSTR-3B of the said tax period. This will ensure that such additional ITC exceeding specified limit, is passed on by such tax payers only with payment of certain cash amount, which will reduce the risk to revenue caused by such passing on of input tax credit.

**4. Options for change in category of businesses:**

- a. If new/small businesses wish to avail themselves of the facility to pass on ITC exceeding ₹X lakhs on a monthly basis, two options can be considered:
  - either to use the facility applicable to emerging businesses, with a slightly higher deposit of a specified percentage (to be decided in due course) compared to emerging businesses, or
  - to apply for a change in category of registration from new/small business to emerging businesses.
- b. Besides, emerging businesses may also be allowed to request for change in category from emerging to deemed trusted businesses. For this purpose, a mechanism of detailed verification, both physical as well as financial, may be devised so that the jurisdictional tax officers can verify the credentials of such tax payers in detail and on their satisfaction, the registration category of such taxpayers may be allowed to be changed to deemed trusted businesses.
- c. Besides, there may be some system-based mechanism to change the category automatically from emerging to deemed trusted businesses or from deemed trusted to emerging, based on some pre-defined criteria.

5. The Law Committee deliberated on the issue in its meeting held on 07.12.2024 and observed that as per GSTN's data in respect of applications filed by new taxpayers for GST registration, more than 98% of applicants for new registration under GST either do not pass on input tax credit or pass on ITC within the limit of Rs. 5 lakhs per month. Therefore, if the proposed framework of registration is implemented with a threshold limit of ITC of Rs. 5 lakhs per month, more than 98% of the applications for GST registration will be facilitated through a very simplified process of registration in which registration may be granted on the portal within three working days from the date of successful submission of application.

5.1 In such cases, neither the applicant will require to visit tax offices nor tax officers will be required to conduct any physical verification of the business premises. This approach will not only ensure ease of doing business but also help streamlining and smoothening the registration under GST.

It will also reduce the burden on jurisdictional tax officers, allowing them to prioritize high-risk applications. In addition, it will prevent potential revenue leakage by requiring high-risk taxpayers to deposit a specified amount into their electronic cash ledger, which must be paid before they are permitted to pass on input tax credit beyond a certain limit. This ensures greater control on high-risk taxpayers and minimizes the possibility of tax evasion or misuse of the credit system.

**6. The Law Committee agreed in-principle with the concept and recommended that to begin with, the proposed system of registration can be implemented for the category of New/ Small Businesses and gradually, it may be implemented for other category of businesses. Law Committee also recommended that the concept note may be placed before the GST Council for in-principle approval. The detailed guidelines and parameters as well as requirement of amendment in GST Act and Rules, as well as the processes on GSTN system, may be deliberated by the Law Committee in due course after receiving in-principle approval of the Council.**

**7. The agenda note is placed before the GST Council for deliberation and approval.**

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**Agenda Item 4: Issues recommendations by the Fitment Committee for the consideration of the GST Council:**

1. This agenda note deals with changes in GST rate for supply of goods and services. The proposed changes in GST rates emanate from the recommendations made by the Fitment Committee as detailed below.
2. Briefly stated, representations/recommendations have been received from various stake holders including Ministries and other offices of Centre and States, seeking changes in GST rate and certain clarifications regarding applicability of GST on supply of certain goods/services.
3. The Fitment Committee met on 18.10.2024, 12.11.2024, 03.12.2024 and 10.12.2024 and had detailed discussions on representations received from various stake holders seeking changes in GST/IGST rates or seeking clarification on supply of goods/services. After examination, the Fitment Committee has recommended changes in GST rates or issue of clarification, in relation to certain goods and services. Further, the Fitment Committee has recommended no change in respect of requests received for certain goods and services. On certain issues, Fitment Committee was of the view that further examination would be required before making any recommendation to the GST Council (points deferred). On one issue, no recommendation was made by the Fitment Committee and it was viewed that decision may be taken by the GST Council.
4. Accordingly, Fitment Agenda for consideration of the GST Council is summarized as below:
  - a) Recommendations made by the Fitment Committee for making changes in GST rates or for issuing clarifications in relation to goods (13 issues) - Annexure-I.
  - b) Issues where no change has been proposed by the Fitment Committee in relation to goods (4 issues) - Annexure- II.
  - c) Recommendations made by the Fitment Committee for making changes in GST rates or for issuing clarifications in relation to services (15 issues) - Annexure- IV.
  - d) Issues where no change has been proposed by the Fitment Committee in relation to services (3 issues) - Annexure-V.
  - e) Issues which have been proposed by the Fitment Committee for deferring in relation to services (2 issues) - Annexure-VI.
  - f) Issue on which Fitment Committee has not made any recommendations and decision may be taken by GST Council (1 issue) - Annexure-VII

**(a) Recommendations made by the Fitment Committee for making changes in GST rates or for issuing clarifications in relation to goods**

**Annexure-I**

S. No.	Description of Items	Current rate	Requested rate	Comments
1.	Clarification on tax rate on ready to heat popcorn			<ul style="list-style-type: none"> <li>• Ready to heat/ ready to cook kernels of corn which are mixed with flavours or spices and oil are classifiable under HS 2008 which cover prepared or preserved edible parts of plants and attract 12%.</li> <li>• HS 1904 covers prepared foods obtained by the swelling or roasting of cereals or cereal products. Ready to eat popcorn when obtained by swelling of cereal i.e. Maize (corn), which is not mixed with any flavouring agent, colouring agent, spices or other additives would be classifiable under HSN 19041090.</li> <li>• Currently, all goods under 1904 attract 18% GST except puffed rice commonly known as muri, flattened or beaten rice commonly known as chira, parched rice commonly known as khoi, parched paddy or rice coated with sugar or gur, commonly known as murki, pre-packaged and labelled which attracts 5% GST.</li> <li>• Ready to eat popcorn is sold with many variations – salted, plain, caramel etc</li> <li>• The current issue is regarding tax rate on ready to eat popcorn which is mixed with salt and spices.</li> <li>• Fitment Committee recommended to-               <ul style="list-style-type: none"> <li>(i) issue a clarification that ready to eat popcorn which is mixed with salt and spices are classifiable under HS 2106 90 99. However, when the popcorn is mixed with sugar thereby changing its character to sugar confectionary (eg caramel popcorn), it would be classifiable under HS 1704 90 90 attracting 18% GST.</li> <li>(ii) clarify that ready to eat popcorn mixed with salt and</li> </ul> </li> </ul>

S. No.	Description of Items	Current rate	Requested rate	Comments						
				<p>spices classifiable under HS 2106 90 99 attracts 5% GST if other than pre-packaged and 12% GST if sold as packaged and labelled, as it has the essential character of namkeens.</p> <ul style="list-style-type: none"><li>The Fitment Committee also recommended to regularize the issues for the past on as is basis.</li></ul>						
2.	Systems, sub-systems, equipment, parts, sub-parts, tools, test equipment, software meant assembly/manufacture of LRSAM system  (HS- As applicable)	As applicable	Exemption from IGST	<ul style="list-style-type: none"><li>Currently, exemption from basic customs duty (BCD) and IGST is available on imports of long-range Surface to Air Missile system (LRSAM) (<i>Sl. No. 21(II) of Notification No. 19/2019-Customs</i>)</li><li>Ministry of Defence has made a request for amendment of this entry to include systems, sub-systems, equipment, parts, sub-parts, tools, test equipment, software meant assembly/manufacture of LRSAM system in place of long-range Surface to Air Missile system (LRSAM).</li><li>Fitment Committee recommended to amend the existing entry to extend IGST exemption to include systems, sub-systems, equipment, parts, sub-parts, tools, test equipment, software meant for LRSAM system <b>in place of</b> long-range Surface to Air Missile system (LRSAM).</li></ul>						
3.	Sale of old and used Electric Vehicles  (Chapter 87)	12%	5%	<ul style="list-style-type: none"><li>Currently, notification No. 08/2018-Central Tax (Rate) dated 25.01.2018 prescribes the GST rates for old used vehicles <u>on the value that represents margin of the supplier</u>, on supply of such goods.</li><li>The rates are as follows:<table><tr><th>Sl No</th><th>Description</th><th>GST rate</th></tr><tr><td>1</td><td>Old and used, petrol Liquefied petroleum gases (LPG) or compressed natural gas (CNG)</td><td>18%</td></tr></table></li></ul>	Sl No	Description	GST rate	1	Old and used, petrol Liquefied petroleum gases (LPG) or compressed natural gas (CNG)	18%
Sl No	Description	GST rate								
1	Old and used, petrol Liquefied petroleum gases (LPG) or compressed natural gas (CNG)	18%								

S. No.	Description of Items	Current rate	Requested rate	Comments			
					driven motor vehicles of engine capacity of 1200 cc or more and of length of 4000 mm or more		
				2	Old and used, diesel driven motor vehicles of engine capacity of 1500 cc or more and of length of 4000 mm	18%	
				3	Old and used motor vehicles of engine capacity exceeding 1500 cc, popularly known as Sports Utility Vehicles (SUVs) including utility vehicles	18%	
				4	All old and used vehicles other than those mentioned from S. No. 1 to S. No. 2	12%	
				<p><i>Explanation –For the purposes of this notification, -</i></p> <p><i>(i) in case of a registered person who has claimed depreciation under section 32 of the</i></p> <p><i>Income-Tax Act,1961(43 of 1961) on the said goods, the value that represents the margin</i></p> <p><i>of the supplier shall be the difference between the consideration received for supply of</i></p> <p><i>such goods and the depreciated value of such goods on the date of supply, and where the</i></p> <p><i>margin of such supply is negative; it shall be ignored; and</i></p> <p><i>(ii) in any other case, the value that represents the margin of supplier shall be, the difference</i></p> <p><i>between the selling price and the purchase price and where such margin is negative, it shall</i></p> <p><i>be ignored</i></p>			

S. No.	Description of Items	Current rate	Requested rate	Comments
				<ul style="list-style-type: none"> <li>By virtue of Sl. No. 4, old and used EVs attract 12% GST.</li> <li>A concessional rate of 5% has been provided to EVs for promotion of the sunrise sector.</li> <li>Input parts and services which are used for repair or maintenance of all second-hand vehicles attract 18% GST.</li> <li>Since the duty rate is applicable only on the value that represents margin of the supplier, the tax incidence is already on the lower side.</li> <li>Fitment Committee recommended that S. No.4 of this notification may be amended to increase the rate from 12% to 18% for all the other vehicles, including EVs.</li> </ul>
4.	Fly ash based Autoclaved Aerated Concrete Blocks (HS 6815)	12%	Clarification classification and tax rate on AAC blocks containing at least 50% fly ash as raw material constituent	<ul style="list-style-type: none"> <li>Fly ash bricks, fly ash aggregates and fly ash blocks classifiable under HS 6815 attract 12% GST vide s no. 176B of Schedule II of notification no. 1/2017-Central Tax (Rate) dated 28.6.2017. Articles of cement, of concrete or of artificial stone, whether or not reinforced classifiable under HS 6810 attract 18% GST vide s no. 181 of Schedule III of notification no. 1/2017-Central Tax (Rate) dated 28.6.2017.</li> <li>Autoclaved aerated concrete (AAC) is a technology increasingly being used in building construction.</li> <li>Fly ash is a solid waste produced in thermal power plants which is a toxic waste for the environment if left untreated. The manufacturing of fly ash- based ACC blocks require cement, sand, fly ash, lime and expansion agent/ aerating agent (aluminium powder).</li> <li>Vide SO763(E) dated 14.09.1999, Ministry of Environment &amp; Forests has notified that for the manufacturing of fly ash bricks, blocks, tiles etc, fly ash equivalent to minimum 50% of total input materials is</li> </ul>



S. No.	Description of Items	Current rate	Requested rate	Comments
				<p>required to be used. In this case, the AAC blocks are manufactured by utilizing more than 50% fly ash content and hence cannot be termed as non-fly ash-based product.</p> <ul style="list-style-type: none"> <li>Fitment Committee recommended to clarify that ACC blocks containing more than 50% fly ash content will fall under HS 6815 and attract 12% GST.</li> </ul>
5.	<b>Dried pepper of the genus Piper</b> (HS 0904)	5%	<p>Clarification regarding:</p> <p>(i) classification and GST rate on dried pepper of genus piper</p> <p>(ii) whether dried pepper is an agricultural produce and supply from plantations is exempt from GST</p>	<ul style="list-style-type: none"> <li>HS 0904 covers Pepper of the genus Piper; dried or crushed or ground fruits of the genus Capsicum or of the genus Pimenta.</li> <li>From the Explanatory Notes it is seen that all varieties of pepper of the genus Piper, whether green (fresh), white or black is covered under HS 0904 and supply of pepper attracts 5% GST.</li> <li>Regarding supply by an agriculturist, vide Section 23 (1) (b) of the CGST Act, an agriculturist, to the extent of supply of produce out of cultivation of land is not liable to take registration.</li> <li>Regarding the query whether dried pepper is an agricultural produce, the term agricultural produce has been defined in Notification 11/2017-Central tax (Rate) dated 28.6.2017</li> <li>Any supply of pepper, whether fresh or dried, by persons other than agriculturists attract 5% GST.</li> <li>Fitment Committee recommended to clarify that pepper of genus piper, whether green (fresh), white or black, is covered under HS 0904 and attract 5% GST.</li> <li>Regarding supply of dried pepper by an agriculturist, Fitment Committee has recommended to clarify that an agriculturist supplying dried pepper is not liable to be registered under Section 23 (1) of the CGST Act and is exempt.</li> </ul>

S. No.	Description of Items	Current rate	Requested rate	Comments
6.	Raisins	5%	Nil/ 5% pre-packaged and labelled	<ul style="list-style-type: none"> <li>Currently raisins attract 5 % GST.</li> <li>The request was for prescribing Nil rate if other than pre-packaged and labelled and 5% to apply only on pre-packaged and labelled.</li> <li>The issue was raised as doubts were raised whether agriculturist were liable to pay 5% GST.</li> <li>The GoM on Rate Rationalisation in its Interim Report had reviewed the exemption on unbranded food cereals, flour, honey, etc and other similar items and recommended that the exclusion condition for such exemptions may be modified by replacing the term 'branded' with the deterministic condition of being 'pre-packaged and labelled' (for retail sale in accordance with the Legal Metrology Act and Rules thereunder). This recommendation was accepted by the GST Council in its 47<sup>th</sup> meeting.</li> <li>As per Section 23(1), farmers/ agriculturists are not liable to get registered under GST. Hence, farmers already enjoy relief from GST.</li> <li>Fitment Committee was of the view that no change as requested was required as farmers/ agriculturists are not liable to pay tax.</li> <li>Accordingly, Fitment Committee recommended to issue a clarification along the lines as recommended on supply of pepper by agriculturist.</li> </ul>
7.	Clarification on what constitutes agricultural farm produce	-	-	<ul style="list-style-type: none"> <li>The GST rates are linked with the provisions of retail sale under the Legal Metrology Act for the purpose of defining 'pre-packaged and labelled' commodities.</li> <li>As per amendment to Rule 3 of the Packaged Commodities Rules w.e.f. 1.1.2018, the provisions applicable to packages intended for retail sale do not apply to <u>agricultural farm produce</u> sold in bags above</li> </ul>

S. No.	Description of Items	Current rate	Requested rate	Comments
				<p>50 kilograms.</p> <ul style="list-style-type: none"> <li>The GST Council in its 53<sup>rd</sup> meeting recommended that the proviso to the GST rate notification be suitably amended such that the supply of agricultural farm product in packages containing quantity of more than 25 kg or 25 litre shall not be considered as a supply made within the expression 'prepackaged and labelled'.</li> <li>Fitment Committee recommended to amend the definition of 'pre-packaged and labelled' to cover all commodities that are intended for retail sale and containing not more than 25 kg or 25 litre, which are 'pre-packed' as defined under the Legal Metrology Act, or a label affixed thereto, is required to bear the declarations under the provisions of the Act and rules.</li> </ul>
8.	Supplies to merchant exporter by domestic supplier	Compensation cess as applicable	0.1% Compensation Cess	<ul style="list-style-type: none"> <li>In its 22<sup>nd</sup> meeting, while considering the proposals of the Committee on Exports to help resolve the blockage of working capital faced by merchant exporters, the GST Council had recommended that a reduced tax of 0.1% be levied on supplies to merchant exporters.</li> <li>This was taking into consideration the fact that in States like West Bengal in the earlier scheme of Form H under VAT, no tax was paid when goods were sold to merchant exporter but full tax became payable if the goods were not eventually exported.</li> <li>Notification no. 40/2017- Central Tax (Rate) and 41/2017- Integrated Tax (Rate) both dated 23.10.2017 provides concessional rate of GST subject to the fulfillment of specified conditions</li> <li>Fitment Committee recommended that a concessional rate of compensation cess may also be prescribed for supplies made to merchant exporter for the remaining period that the compensation cess is in operation.</li> </ul>

S. No.	Description of Items	Current rate	Requested rate	Comments
9.	Supply of Fortified Rice Kernels for ultimate use in PDS/ welfare schemes (HS 1904)	18%	5%	<ul style="list-style-type: none"> <li>Fortified rice kernel is appropriately classifiable under 1904 and attracts 18% GST.</li> <li>Based on recommendations of GST Council, in its 45th Meeting, held on 17.09.2021, the supply of Fortified Rice Kernel (Premix) for ICDS or similar scheme duly approved by the Central Government or any State Government shall attract a concessional GST rate of 5%, subject to the specified conditions in the manner as prescribed in the notification No. 39/2017 – Central Tax (Rate), dated 18.10.2017. The same has been duly notified with effect from 1st October, 2021, vide notification No. 11/2021 – Central Tax (Rate), dated 30.09.2021.</li> <li>Fitment Committee recommended to reduce the GST rate on supply of all fortified rice kernels from 18% to 5% to avoid giving an end-use based exemption.</li> </ul>
10.	Supply of food preparations for distribution under a government program (HS 19 or 21)		Clarification that the inputs for the food preparation is eligible for the concessional rate under Notification No. 39/2017-Central Tax (Rate)	<ul style="list-style-type: none"> <li>Notification 39/2017-Central Tax (Rate) dated 18.10.2017 prescribes a concessional rate of 5% GST for supply of food preparations put up in unit containers and intended for free distribution to economically weaker sections of the society under a programme duly approved by the Central Government or any state Government subject to obtaining a certificate from the nodal authority that such goods have been distributed free under the scheme.</li> <li>Currently, the wording of the notification does not allow the inputs of these food preparations to be covered under the concessional rate.</li> <li>The Fitment Committee recommended to extend the</li> </ul>

S. No.	Description of Items	Current rate	Requested rate	Comments
				concessional rate to the inputs of these food preparations also subject to the same conditions as specified in Notification No. 39/2017 – Central Tax (Rate) dated 18.10.2017.
11.	Clarification regarding effective date of amendment in Entry 52B Notification No. 3/2023-Compensation Cess (Rate) regarding ground clearance of SUVs			<ul style="list-style-type: none"> <li>Prior to the 50<sup>th</sup> GST Council meeting, vide Sl No. 52B in notification 1/2017- Compensation Cess (Rate) dated 28.6.2017, motor vehicles of engine capacity exceeding 1500 cc, <i>popularly known as SUVs</i>, including utility vehicles attract 22% CC.</li> <li>SUV was also defined as including a motor vehicle of length exceeding 4000 mm and having ground clearance of 170mm and above.</li> <li>Following the 50th GST Council meeting, vide Notification No. 3/2023-Compensation Cess (Rate) dated 26th July 2023, the entry was substituted to provide that cess @ 22% will be applicable to <i>all motor vehicles known as utility vehicles</i> by whatever name called, with engine capacity exceeding 1500cc, length exceeding 4000 mm and ground clearance of 170 mm &amp; above. Further, a new explanation was added that ground clearance means ground clearance in unladen condition.</li> <li>It has been represented that there are different views in some jurisdictions regarding the effective date of amended entry 52B.</li> <li>Fitment Committee recommended to clarify that the amendment will apply on or after 26.07.2023</li> </ul>
12.	<b>CAR- T cell therapy</b> <b>HS 30</b>	12%	Nil	<ul style="list-style-type: none"> <li>Gene-modified cell therapy is being developed in the country to improve survival in advanced blood cancers. These are customized for each individual patient by collecting T cells from the patient, re-engineering them in the laboratory to produce proteins on their surface</li> </ul>

S. No.	Description of Items	Current rate	Requested rate	Comments
				<p>called chimeric antigen receptors, or CARs.</p> <ul style="list-style-type: none"> <li>Considering the prohibitive cost, the Fitment Committee recommended to reduce the GST rate on gene therapy from 12% to nil to alleviate the burden of patients.</li> </ul>
13.	<p>Temporary import of equipment and consumable samples by Inspection Team of International Atomic Energy Agency (IAEA)</p> <p>(HS as applicable)</p>	As applicable	IGST exemption	<ul style="list-style-type: none"> <li>The International Atomic Energy Agency (IAEA) sends Safeguards Inspectors to countries with nuclear plants in the course of their duties, including to India for the facilities under IAEA safeguards. Presently, the Inspectors are being charged duty for temporary import of equipment.</li> <li>Fitment Committee recommended IGST exemption to the inspection team of IAEA as is available to the inspection team of Organisation for Prevention of Chemical Weapons (OPCW) vide notification no. 121/2003-Customs dated 1.8.2003 as amended by notification no. 43/2017-Cus dated 30.6.2017 on imports of all equipment and consumable samples and subject to the following conditions: <p>(a) the importer shall produce a certificate along with duly certified list of equipment and consumable samples from the Joint Secretary or the Deputy Secretary, Ministry of External Affairs to the effect that such equipment and samples are required for carrying out verification/ inspections as per terms of IAEA; and</p> <p>(b) the Joint Secretary or the Deputy Secretary, MEA shall furnish an undertaking on letter head to the Deputy Commissioner of Customs or the Assistant Commissioner of Customs, as the case may be, to the effect that such equipment shall be exported within six</p> </li> </ul>

S. No.	Description of Items	Current rate	Requested rate	Comments
				months of their import or within such extended period as may be allowed by the Commissioner of Customs, in this behalf and that consumable samples are required for the intended purpose and shall be accounted for.

**(b) Issues where no change has been proposed by the Fitment Committee in relation to goods**

**Annexure-II**

S. No	Description of Items	Current rate	Requested rate	Comments
1.	Agriculture machinery used for cleaning, sorting or grading, seed, grain or dried leguminous vegetables, machinery used in milling industry or for the working of cereals or dried leguminous vegetables other than farm type machinery and parts thereof  (HS 8433, 8437)	18%	Nil/ 5%	<ul style="list-style-type: none"> <li>• Prior to 2022, these products attracted GST rate of 12%. The request to reduce the GST rate was examined in the 37th GST Council Meeting but it was not recommended.</li> <li>• Based on the the interim report of the GoM on Rate Rationalization, the rate was increased from 12% to 18% on these goods to correct the inverted duty structure following the recommendation of the GST Council in its 47<sup>th</sup> Meeting.</li> <li>• Reduction in GST from existing 18% to Nil/ 5% may lead to inverted duty structure and cascading of input taxes.</li> <li>• Fitment Committee recommended to maintain status quo.</li> </ul>



S. No	Description of Items	Current rate	Requested rate	Comments
2.	Extruded or expanded products, savoury or salted	N.A.	Regularization of issue for the past period	<ul style="list-style-type: none"> <li>On the basis of the recommendation of the GST Council in its 48th meeting vide Circular No. 189/01/2023-GST, dated 13.01.2023, it has been clarified that the snack pellets (such as 'fryums'), which are manufactured through the process of extrusion, are appropriately classifiable under tariff item 19059030 and thereby attract GST at the rate of 18% vide S. No. 16 of Schedule-III of notification No. 1/2017-Central Tax (Rate), dated the 28th June, 2017.</li> <li>Thereafter, on the basis of the recommendation of the GST Council in the 50th meeting held w.e.f. 27th July, 2023, 5% rate has been prescribed on supply of un-fried or un-cooked snack pellets, by whatever name called, manufactured through process of extrusion, falling under CTH 1905, vide S. No. 99B of Schedule-I of notification No. 1/2017-Central Tax (Rate), dated the 28th June, 2017.</li> <li>In addition, vide Circular No. 200/12/2023-GST, dated 01.08.2023, the issue for past period up to 27th July, 2023, has been regularized on "as is" basis in view of the prevailing genuine doubts in case of un-fried or uncooked snack pellets.</li> <li>Namkeens, bhujia, mixture, chabena and similar edible preparations in ready-for-consumption form are classifiable under HS 2106 90, and attract GST at the rate of 12% (when sold as pre-packaged and labelled) vide S. No. 46 of Schedule-II of notification No. 1/2017-Central Tax (Rate), dated the 28th June, 2017, and 5% (when sold as other than pre-packaged and labelled) vide S. No. 101A of Schedule-I of</li> </ul>

S. No	Description of Items	Current rate	Requested rate	Comments
				<p>notification No. 1/2017-Central Tax (Rate), dated the 28th June, 2017.</p> <ul style="list-style-type: none"> <li>The general rate on “Extruded or expanded products, savoury or salted” under tariff item 1905 90 30 was 18% except un-fried or un-cooked snack pellets, by whatever name called, manufactured through process of extrusion, falling under CTH 1905 which attracts 5%.</li> <li>The issue before the 54<sup>th</sup> GST Council was whether supply of extruded snack pellets in ready- to-eat form, is covered under the entry covering namkeens.</li> <li>To obviate disputes that was arising on the fact that there is no definition of namkeens, Council approved Fitment Committee recommendation to keep the GST rate of extruded or expanded products, savoury or salted (other than un-fried or un-cooked snack pellets, by whatever name called, manufactured through process of extrusion), falling under HS 1905 90 30 to 12% at par with namkeens, bhujia, mixture, chabena (pre-packaged and labelled) and similar edible preparations in ready for consumption form, classifiable under HS 2106 90.</li> <li>Fitment Committee has also recommended to clarify that for the past period 18% rate is applicable, as was clarified by the GST Council in the 48th meeting held on 17<sup>th</sup> December 2022, and that the 12% rate is applicable only prospectively.</li> <li>However, during the Council meeting, Fitment Committee was directed to re-examine the issue for the past period.</li> <li>After careful reconsideration of the issue, Fitment Committee did not recommend regularization of the</li> </ul>

S. No	Description of Items	Current rate	Requested rate	Comments
				issue for the past period.
3.	Rice Bran Oil	5%	Reduction in GST	<ul style="list-style-type: none"> <li>All edible oils attract a concessional rate of 5% as recommended by the GST Council.</li> <li>Reduction in GST may deepen the existing duty inversion.</li> <li>Fitment Committee recommended to maintain status quo.</li> </ul>
4.	Components and Parts used in manufacture of electric vehicles (Chapter 85)	28%/18 %	5%	<ul style="list-style-type: none"> <li>In the 54<sup>th</sup> GST Council Meeting Fitment committee had placed the proposal not recommending reduction in GST from 28% to 5% on the following items for use in manufacture of EV:</li> <li>Li-ion cell [8507 60 00] for use in Li-ion battery pack of EV</li> <li>Battery pack for EV [8507 60 00]</li> <li>Electric Motor of E-drive Assembly [8501 10 19, 8501 32 10, 8501 33 10]</li> <li>High-voltage wiring harness [8544 30 00]</li> <li>Traction motor [8501 53 30]</li> <li>Battery Management System [8507 90 90]</li> <li>Motor Control Unit [9032 89 90]</li> <li>DC to DC Converter [8504 40 90]</li> <li>Power Distribution Unit [8503 71 00]</li> <li>Chiller Unit [8415 90 00]</li> <li>eVCU Vehicle Control Unit [9032 89 90]</li> <li>Reduction Gear Box [8708 40 00]</li> <li>The GST Council, in its 54<sup>th</sup> meeting had directed the Fitment Committee to reexamine the issue upon receipt of proposal from State of Andhra Pradesh.</li> <li>AP has requested for blanket reduction in GST on EV</li> </ul>

S. No	Description of Items	Current rate	Requested rate	Comments
				<p>Components/Parts.</p> <ul style="list-style-type: none"> <li>• Thereafter industry Association sought reduction of GST on four parts and aggregates used for manufacture of EVs</li> <li>• The request for reduction of tax rate on all EV Components/Parts was discussed. However, there are no dedicated EV parts and most parts would be multi use goods.</li> <li>• The list of four parts and aggregates used for manufacture of EVs was also examined. However, these are also of dual use.</li> <li>• Fitment also observed that the EV manufacturers are already getting inverted duty refund.</li> <li>• Therefore, Fitment Committee recommended to maintain status quo.</li> </ul>

**(c) Recommendations made by the Fitment Committee for making changes in GST rates or for issuing clarifications in relation to services**

**Annexure IV**

Sl. No.	Proposal	Details of request	Discussions in Fitment Committee and its recommendations
1.	<p>(i) To clarify that the delivery services provided by the delivery partners through Electronic Commerce Operator (ECO) are not taxable due to providers being below the threshold of Rs. 20 lakhs. OR</p> <p>(ii) Bring delivery services made in respect of those supplies made through ECOs under section 9(5) of CGST Act, 2017 with prospective effect and these delivery services may be taxed at 5%</p>	<ul style="list-style-type: none"> <li>Restaurant services provided through ECO were brought under section 9(5) of CGST Act and 5(5) of IGST Act w.e.f. January 01, 2022. However, such ECOs also enable provision of delivery services by registered as well as unregistered service providers.</li> <li>Where the delivery service providers are registered, in terms of section 52 of the CGST Act, ECOs comply with TCS at 1%. However, Notification 65/2017 -CT exempts unregistered service providers from TCS where the aggregate turnover does not exceed INR 20 lakhs.</li> <li>In some cases, in spite of independent delivery contracts with the customers, tax authorities are taking a view that it is not the delivery service providers (who though are rendering services in their own capacity), but the ECOs who are deemed to be rendering delivery services and alleging non-payment of GST at the rate of 18%</li> </ul>	<ul style="list-style-type: none"> <li>Restaurant services provided through ECO were brought under section 9(5) of CGST Act and 5(5) of IGST Act w.e.f. 01<sup>st</sup> January, 2022. However, demands have been raised to the tune of Rs 747 crores, by DGGI as there is no clarity regarding payment of tax on the service of delivery of food or any other article for human consumption or drink from the restaurant, eating joints etc. to the recipient of restaurant service, when the restaurant services is supplied through an ECO.</li> </ul> <p><u>Past discussions in the GST Council</u></p> <ul style="list-style-type: none"> <li>This agenda was taken to the <b>54<sup>th</sup> GST Council meeting</b> held on 09.09.2024. The Fitment Committee's recommendation before the 54<sup>th</sup> GST Council was to reject the requests on the grounds that ECOs are themselves delivery service providers and liable to pay GST at the rate of 18 per cent on the same. PDPs, under no circumstance, could have been held to be the suppliers of the delivery service. This view was based on certain facts, as under: <ul style="list-style-type: none"> <li>a) The onus for pick-up and delivery is placed on the Platform Delivery Partner (PDP), the payment is not done on a one to one basis to the PDPs by ECOs. The payout to PDP is based on a pay-out scheme which is designed by the ECO.</li> </ul> </li> </ul>

Sl. No.	Proposal	Details of request	Discussions in Fitment Committee and its recommendations
		<p>on the delivery service fee charged from end customers. Restaurant services are subjected to a 5% GST and approach of taxing delivery charges itself is incorrect, seeking 18% of restaurant services (i.e., food) is against the policy decision on rate of GST on food. This is counterproductive to the ECOs who enable small delivery service providers to be onboarded and earn their livelihoods. This interpretation is revenue driven and does not follow the contracting framework.</p> <ul style="list-style-type: none"> <li>In the GST minutes of <b>45<sup>th</sup> GST Council meeting</b>, this issue was discussed and an option to enable 9(5) for delivery services was deliberated. Relevant extract of the minutes is as under:  <i>“22. It may also be noted that currently aggregators are not paying any GST on delivery services stating that their delivery partners (mostly unregistered) are giving directly to their customers. The assumption is that since most of the delivery partners will individually be less than Rs. 20 lacs therefore, there is no</i> </li> </ul>	<p>b) The PDP has option to deny/cancel the order but for such acts, PDP is to be penalized as per the penal provisions drafted and controlled exclusively by the ECO.</p> <p>c) The end customers do not have the choice of selecting the delivery partners.</p> <ul style="list-style-type: none"> <li>The GST Council, however, deferred the matter for further consideration by the Fitment Committee.</li> <li>The matter has subsequently been re-examined, and it is viewed that delivery services, are necessarily required for making supply through ECO. Therefore, delivery is included in the supply of restaurant services, supplied through an ECO, as notified under Section 9(5) of the CGST Act, 2017. This has been elaborated in the following paragraphs.</li> <li>Initially, a proposal to make ECOs such as Swiggy and Zomato liable to pay GST on restaurant service supplied through them was presented before the <b>45<sup>th</sup> meeting</b> of the GST Council held in September, 2021.</li> <li>The Annexure to the agenda presented before the 45<sup>th</sup> GST Council, in addition to proposing to bring restaurant services under 9(5), also contained a proposal to bring delivery services under section 9(5) so that ECOs are made liable to pay tax on the same. The relevant extract from the annexure to the agenda is as under:</li> </ul>

Sl. No.	Proposal	Details of request	Discussions in Fitment Committee and its recommendations
		<p><i>need of registration for them. It may be noted that the end customer does not have a choice of choosing the delivery partner, further, there is no invoice raised by the independent delivery partner to the end customer. The invoice, payment, refund and the entire lifecycle of the transaction is managed by E-Cos such as Swiggy and Zomato. <u>Therefore, it is recommended that the E-Cos may also be made aggregators for such delivery services.</u></i></p> <ul style="list-style-type: none"> <li>• A new tax rate of 5% with prospective effect for unregistered service providers (below the threshold) could be introduced for delivery services of restaurant services, in respect of supplies made through ECOs, under 9(5) with prospective effect. This is independent of our recommendation that section 9(5) should be done away with itself, to support the small service providers.</li> </ul>	<p>22. It may also be noted that currently aggregators are not paying any GST on delivery services stating that their delivery partners (mostly unregistered) are giving directly to their customers. The assumption is that since most of the delivery partners will individually be less than Rs. 20 lacs therefore, there is no need of registration for them. It may be noted that the end customer does not have a choice of choosing the delivery partner, further, there is no invoice raised by the independent delivery partner to the end customer. The invoice, payment, refund and the entire lifecycle of the transaction is managed by E-Cos such as Swiggy and Zomato. <b>Therefore, it is recommended that the E-Cos may also be made aggregators for such delivery services.</b></p> <p><b>(Emphasis supplied)</b></p> <ul style="list-style-type: none"> <li>• The agenda to bring restaurant service supplied through ECO under section 9(5) was approved by the GST Council. The Council's recommendation was implemented vide notification No. 17/2021-Central Tax (Rate) dated 18.11.2021 wherein <i>supply of restaurant service other than the services supplied by restaurant, eating joints etc. located at specified premises</i> was inserted in Notification No. 17/2017-Central Tax dated 28-June-2017, with effect from 01.01.2022.</li> </ul> <p><u>Definition of restaurant service</u></p> <ul style="list-style-type: none"> <li>• The definition of '<b>restaurant service</b>' was introduced in notification No. 11/2017-CTR dated 28.06.2017 w.e.f. 30.09.2019. (xxxii) "<i>Restaurant service</i>" means</li> </ul>

Sl. No.	Proposal	Details of request	Discussions in Fitment Committee and its recommendations
			<p><i>supply, by way of or as part of any service, of goods, being food or any other article for human consumption or any drink, provided by a restaurant, eating joint including mess, canteen, whether <b>for consumption on or away from the premises</b> where such food or any other article for human consumption or drink is supplied.</i></p> <ul style="list-style-type: none"> <li>• The definition allows for consumption of the goods (food, drink etc. for human consumption) both on or away from the premises of the restaurant. In other words, the definition of restaurant service itself provides for a situation wherein food is delivered from the premises of the restaurant to wherever it is finally consumed. This aspect was also highlighted in the clarification issued for services by cloud kitchens in <b>Circular No. 164/20/2021-GST dated 6-10-2021</b>, the relevant extract of which reads as follows:</li> </ul> <p><i>The explanatory notes to the classification of service state that ‘restaurant service’ includes services provided by Restaurants, Cafes and similar eating facilities including takeaway services, room services <b>and door delivery of food</b>. Therefore, it is clear that takeaway services and door delivery services for consumption of food are also considered as restaurant service and, accordingly, <b>service by an entity, by way of cooking and supply of food, even if it is exclusively by way of takeaway or door delivery or through or from any restaurant would be covered by restaurant service.</b></i></p>



Sl. No.	Proposal	Details of request	Discussions in Fitment Committee and its recommendations
			<p><u>Restaurant service under section 9(5) of CGST Act, 2017</u></p> <ul style="list-style-type: none"> <li>• For the purpose of restaurant service being delivered through an ECO, as notified under section 9(5) vide notification No. 17/2017-CT(Rate) dated 28.07.2017, the service of delivery from the premises of the supplier of the restaurant service to the recipient of restaurant service is necessarily required for making the supply of restaurant service through the said electronic commerce operator. The supply of restaurant service through an ECO cannot be effectuated without the food, drink or any other articles for human consumption being delivered from the restaurant to the end consumer. The entry at Sl. No. (iv) of notification No. 17/2017-CT(Rate) pertaining to restaurant service supplied through ECO would be rendered ineffective without delivery of food from the restaurant to the consumer. Therefore, it appears that service of delivery is included within the expression '<i>restaurant service</i>' in the context of supply of restaurant service through an electronic commerce operator, as notified under notification No. 17/2017-CT(R) dated 28.06.2017.</li> <li>• In the case of restaurant service supplied through an ECO, the nature of supply rendered through the ECO is unique as it combines various elements such as goods (i.e., food or any other article for human consumption or any drink), and services such as preparing the food according to the specifications of the customers and delivering to their doorstep. The customer perceives all of it put together as '<i>restaurant service</i>'.</li> </ul>

Sl. No.	Proposal	Details of request	Discussions in Fitment Committee and its recommendations
			<ul style="list-style-type: none"> <li>• Therefore, inserting an explanation to the entry Sl. No. (iv) in notification No. 17/2017-CT(R) dated 28.06.2017, to the effect that the restaurant service under section 9(5), includes the service of delivery, by any person, of food or any other article for human consumption or drink from the restaurant, eating joints etc. to the recipient of restaurant service, would bring clarity for the purpose of payment of tax. This would ensure that there is certainty in respect of the tax liability and also as to who is the person responsible to paying the tax to the Government. (here in this case, the responsibility would rest on the ECO under Section 9(5)).</li> <li>• Further, insertion of the above explanation will make the ECOs liable to pay GST at the rate of 5% (without ITC) on the delivery charges collected by them from 01.01.2022 onwards.</li> <li>• <b>After deliberations, Fitment Committee recommended that a suitable Explanation may be inserted after Sl. No. (iv), in notification No. 17/2017-CTR dated 28.06.2017.</b></li> </ul>
2.	To clarify the GST treatment of penal charges in light of the recent shift in RBI guidelines dated 18.08.2023 from "penal interest" to "penal charges".	<ul style="list-style-type: none"> <li>• The issue was earlier clarified vide Circular No. 102/21/2019 -GST dated 28.06.2019 clarifying that additional/ penal interest recovered on delay in payment of EMI loan repayments satisfies the definition of "interest" covered under exemption notification No. 12/2017-CTR dated 28.06.2017 and is not liable to GST.</li> </ul>	<ul style="list-style-type: none"> <li>• RBI has issued various guidelines to Regulated Entities (REs) such as banks and NBFCs to ensure reasonableness and transparency in disclosure of penal interest or penal charges.</li> <li>• The intent of levying penal interest / charges is essentially to inculcate a sense of credit discipline and such charges are not meant to be used as a revenue enhancement tool.</li> <li>• RBI has issued Circular dated 18.08.2023</li> </ul>

Sl. No.	Proposal	Details of request	Discussions in Fitment Committee and its recommendations
		<ul style="list-style-type: none"> <li>RBI has recently issued Circular dated 18.08.2023 clarifying that               <ol style="list-style-type: none"> <li>The intent of levying penal interest/ charges is essentially to inculcate a sense of credit discipline and such charges are not meant to be used as a revenue enhancement tool over and above the contracted rate of interest.</li> <li>Default in repayment by the borrower is also a type of non-compliance of material terms and conditions of loan repayment contract by the borrower and penalty, if charged, for such default may only be levied in the form of penal charges.</li> <li>Penalty, if charged for non-compliance of material terms and conditions of loan contract by the borrower, shall not be compounded as interest on interest and shall be treated as penal charge.</li> </ol> </li> <li>However, in respect of GST, the substance of the transaction remains unchanged and the penal</li> </ul>	<p>clarifying, <i>inter-alia</i>, that:</p> <ol style="list-style-type: none"> <li>Penal charges should serve as a tool for enforcing credit discipline, not as a revenue enhancement mechanism.</li> <li>Regulated Entities (REs) are instructed to discontinue the use of "penal interest" (interest levied over and above the contracted rate) for defaults or non-compliance with loan terms.</li> <li>Instead of penal interest, REs should levy "penal charges" for non-compliance with material terms and conditions of loan agreements.</li> <li>Penal charges should not be capitalized, meaning no additional interest should be charged on these penal charges.</li> <li>The quantum and basis for penal charges must be transparently disclosed to borrowers at the loan's inception and in all loan documents.</li> </ol> <ul style="list-style-type: none"> <li>These instructions have come into effect from 01.01.2024 and shall not apply to credit cards, external commercial borrowings, trade credits and structured obligations which are covered under product specific directions.</li> <li>Vide Circular No. 178/10/2022-GST dated 03.08.2022, it has been clarified that certain payments are not a consideration for tolerating an act or situation. Rather, they are amounts recovered for not tolerating an act or situation and <u>to deter such acts</u>. It has</li> </ul>

Sl. No.	Proposal	Details of request	Discussions in Fitment Committee and its recommendations
		<p>interest /charge continues to be recovered by financial institutions primarily on account of failure to pay EMIs as per the agreed term loan.</p> <ul style="list-style-type: none"> <li>Alternatively, as per the RBI circular, the trigger for the penal charge is non-compliance of material terms and conditions of the loan terms by the borrower. Based on the same, penalty of any nature would qualify to be in the nature of liquidated damages recovered for a breach of agreed contract and not liable to GST as clarified in Circular 178/10/2022-GST dated 03.08.2022.</li> </ul>	<p>been further stated that such amounts are for preventing breach of contract or non-performance and are thus, mere 'events' in a contract. It has been further stated that the essence of a contract is its '<i>performance</i>' and not its '<i>breach</i>', meaning thereby that parties enter into a contract with the intention of complying with the terms and conditions thereof, and not with the intent of violating them.</p> <ul style="list-style-type: none"> <li>Penal charges levied by regulated entities (REs), as per the RBI instructions, in replacement of penal interest levied earlier, appear to fall squarely within the ambit of the above clarification. This is because the penal charges are levied for the violation of any of the terms and conditions of the contract, including, but not restricted to, late payment of EMI. The said penal charges do not appear to fall under the definition of consideration since there is no supply in return.</li> <li>As regards the view that the penal charges constitute a consideration for the supply of agreeing to the obligation of tolerating an act, as listed in entry 5(e) of Schedule II of the CGST Act, 2017, it is submitted that the supply, if any, of agreeing to the obligation of tolerating an act, in return for a consideration, must flow from the contractual terms between the supplier and the recipient. This is the case where a supplier enters into a contract with a recipient with the active intention to tolerate an act in return for a consideration. However, in the case of lending contracts, it cannot be said that either the lender or the borrower enters into the lending contract with the intention of defaulting. This is especially</li> </ul>

Sl. No.	Proposal	Details of request	Discussions in Fitment Committee and its recommendations
			<p>true for EMI based lending contracts because the EMI amounts are determined assuming that there will not be any delay in repayment of principal or interest.</p> <ul style="list-style-type: none"> <li>The above principles have been upheld in a catena of judgments holding that GST or Service Tax is not leviable on liquidated damages or other charges levied for breach of contract. Examples are <i>South Eastern Coalfields Ltd. v. Commissioner of Central Excise &amp; Service Tax [2021 (55) G.S.T.L. 549 (Tri. - Del.)]</i>, <i>Bajaj Finance Ltd. v. Commissioner of Central Excise &amp; GST [2023 SCC OnLine CESTAT 445]</i>, and <i>Maharashtra State Power Generation Company Ltd. [Order No. MAH/AAAR/SS-RJ/09/2018-19, Date: 11.09.2018]</i>.</li> <li>Therefore, no GST is payable on the penal charges levied by regulated entities in compliance with provisions of the RBI direction dated 18-Aug-2023.</li> <li><b>After deliberations, Fitment Committee recommended that the matter may be suitably clarified through a Circular.</b></li> </ul>
3.	To exclude the sponsorship services rendered by a body corporate to another body corporate from reverse charge mechanism and bring it under forward charge mechanism.	<ul style="list-style-type: none"> <li>Currently sponsorship service provided to any body corporate or partnership firm is under RCM. The recipient of such service is liable to pay the tax @ 18%. Section 17(3) of the CGST Act, 2017 provides that the value of exempt supply under section 17(2) shall include supplies on which the recipient is liable to</li> </ul>	<ul style="list-style-type: none"> <li>Currently, sponsorship services are classified under SAC 998397 - <i>Sponsorship services and brand promotion service</i> and attract 18% GST as per entry 21(ii) of notification No. 11/2017-CTR dated 28.06.2017 [Heading 9983 - <i>Other professional, technical and business services</i>]. With respect to the payment of tax, this service has been notified under RCM (Sl. No. 4 of notification No. 13/2017-CTR dated 28.06.2017).</li> </ul>

Sl. No.	Proposal	Details of request	Discussions in Fitment Committee and its recommendations
		<p>pay tax on RCM basis.</p> <ul style="list-style-type: none"> <li>To conduct sporting events sports event promoters avail many input services through vendors and service providers and pays GST to them under forward charge. Due to applicability of RCM for sponsorship services, sports event promoters have to reverse the GST paid on input services which are attributable to sponsorship service (the outward supply). This is resulting in increase of costs by approx. 18% (over and above GST payable on input services availed).</li> <li>The Ministry of Sports and Youth Affairs has submitted that hardships are being faced by the sports events promoters due to applicability of the provision of Reverse Charge Mechanism on Sponsorship Services, under the GST law.</li> <li>Sports events promoters conceive and execute their sporting events which are primarily dependent on corporate groups and brands to financially back their events in the form of sponsorships. Sports event</li> </ul>	<p><u>Discussion in past GST Council meetings:</u></p> <ul style="list-style-type: none"> <li>The request to tax the sponsorship services provided by body corporate under forward charge and to exempt individual sponsorship service providers (including players) from obtaining registration under CGST/SGST Act was discussed in the GST Council in its <b>16<sup>th</sup> meeting held on 11<sup>th</sup> June, 2017</b>. The GST Council recommended to exempt individuals providing sponsorship service from registration under the GST regime (Notification No. 5/2017-CT dated 19.06.2017) and to continue with the status quo in respect of mode of taxation of sponsorship services, i.e., to continue RCM mechanism for sponsorship services by other than individuals.</li> <li>The following requests in respect of sponsorship services under RCM were placed before the <b>28<sup>th</sup> meeting of GST Council held on 21<sup>st</sup> July, 2018</b>: <ul style="list-style-type: none"> <li>Request that the value of such supplies where recipient is liable to pay tax on RCM basis be excluded from the provisions of section 17(3) of CGST Act Or</li> <li>That an option may be given to supplier to pay tax on forward charge basis as in the case of GTA, so that supplier can avail ITC and minimize cascading effect.</li> </ul> </li> </ul> <p>The GST Council did not recommend any change as per the Fitment Committee recommendation that the practice was well established from Service Tax era.</p>

Sl. No.	Proposal	Details of request	Discussions in Fitment Committee and its recommendations
		<p>promoters are forced to reverse the GST paid on the input services which are attributable to the sponsorship services (output service). This reversal results in increase of costs and the ITC chain gets fragmented.</p> <ul style="list-style-type: none"> <li>Accordingly, the Ministry of Sports and Youth Affairs has requested that the plea of sports events promoters to levy GST on sponsorship service on a forward charge basis, where sponsorship service is rendered from a GST registered body corporate to a body corporate, may be considered sympathetically.</li> </ul>	<ul style="list-style-type: none"> <li>The request to allow body corporates to pay GST on forward charge basis in case of receipt of sponsorship service was also placed before the <b>47<sup>th</sup> GST Council meeting held on 28-29<sup>th</sup> June, 2022</b> and the GST Council did not recommend any change. It was noted that sponsorship service is provided even by many non-commercial establishments, institution etc. A separate dispensation merely for body corporate is not desirable.</li> </ul> <p><u>Analysis:</u></p> <ul style="list-style-type: none"> <li>It is seen that sponsorship services have increased manifold owing to the growth of various sporting and other events.</li> <li>The scenario has changed from where sponsorship was mostly being provided by smaller entities or individuals who would be difficult to track and collect GST from. As bigger entities have engaged in providing sponsorship services, it is in line with the principles of GST to allow the flow of credit.</li> <li>The intent behind putting sponsorship services under reverse charge was to shift the compliance burden from the service provider to the service recipient. However, the events, sports and entertainment sectors have now become much more organized. Consequently, a view can be taken to shift the compliance burden back on a certain class of sponsorship service providers, e.g. body corporates, who are already complying with various laws of the land. Many are also already registered under GST for</li> </ul>

Sl. No.	Proposal	Details of request	Discussions in Fitment Committee and its recommendations
			<p>discharging outward tax liability on supplies other than sponsorship services. Moreover, registered body corporates undertaking sponsorship services, unlike other non-commercial establishments, are likely to have utilized input services for the provision of these services, on which the input tax paid is currently required to be reversed.</p> <ul style="list-style-type: none"> <li>• A separate dispensation for body corporates, in respect of treatment under reverse charge, has already been provided for in certain cases, including: <ul style="list-style-type: none"> <li>a. Services supplied by individual Direct Selling Agents (DSAs), <u>other than a body corporate, partnership or limited liability partnership firm</u>, to bank or non-banking financial company (NBFCs) are under reverse charge.</li> <li>b. Security services provided to a registered person by any person, <u>other than a body corporate</u>, are under reverse charge.</li> </ul> </li> <li>• <b>After deliberations, Fitment Committee recommended that sponsorship services provided by body corporates may be brought under forward charge.</b></li> </ul>
4.	To clarify whether exemption under entry 34 of notification No. 12/2017-CTR dated 28.06.2017 is available to payment aggregators for transactions, up to	<ul style="list-style-type: none"> <li>• In 2016, the Government exempted the settlement services for transactions below Rs 2,000/-, transacted through credit card, debit card, charge card or other payment cards, from the levy of service tax. This was to ensure that the merchants</li> </ul>	<ul style="list-style-type: none"> <li>• The matter was deferred for reconsideration by the Fitment Committee in the <b>54<sup>th</sup> GST Council Meeting</b> held on 09.09.2024.</li> <li>• Payment Aggregators (PAs) are entities that facilitate e-commerce sites and merchants to accept various <u>payment instruments</u> from the customers for completion of their payment obligations</li> </ul>



Sl. No.	Proposal	Details of request	Discussions in Fitment Committee and its recommendations
	Rs. 2000/-, transacted through credit card, debit card, charge card or other payment cards.	<p>are not burdened with the additional cost of GST on smaller value transactions done through credit card, debit card or other payment card services. The said exemption was carried forward into the GST regime.</p> <ul style="list-style-type: none"> <li>Entry 34 of notification No. 12/2017-CTR dated 28.06.2017 reads as below:  <i>“Services by an acquiring bank, to any person in relation to settlement of an amount up to two thousand rupees in a single transaction transacted through credit card, debit card, charge card or other payment card service.</i>   <i>Explanation. — For the purposes of this entry, “acquiring bank” means any banking company, financial institution including non-banking financial company or any other person,</i> </li> </ul>	<p>without the need for merchants to create a separate payment integration system of their own. PAs facilitate merchants to connect with acquirers. <b>In the process, they receive payments from customers, pool and transfer them on to the merchants after a time period.</b> [RBI Guidelines on Regulation of Payment Aggregators and Payment Gateways dated 17.03.2020]</p> <p><u>Analysis</u></p> <ul style="list-style-type: none"> <li>As per the definition of acquiring bank for the purpose of the exemption entry (Sl. No. 34 of notification No. 12/2017-CTR dated 28.06.2017), <i>“acquiring bank” means any banking company, financial institution including non-banking financial company or any other person, who makes the payment to any person who accepts such card”.</i></li> <li>In the recent case of Lotus Pay Solutions Pvt. Ltd. &amp; Ors. Vs UOI &amp; Ors. 2022 SCC Online Del 2939, certain clauses of the <i>RBI Guidelines on Regulation of Payment Aggregators and Payment Gateways dated 17.03.2020</i> have been challenged and the same have been upheld by the Hon’ble Delhi High Court in the said judgment. The main challenges raised were against clause 3, 4 and 8 of the said guidelines. The High Court of Delhi has in this case held that PAs fall within the ambit of the definition of payment system. It has been observed that:  <i>“the PAs, thus, not only provide, an integration system but also handle the</i> </li> </ul>

Sl. No.	Proposal	Details of request	Discussions in Fitment Committee and its recommendations
		<p><i>who makes the payment to any person who accepts such card”.</i></p> <ul style="list-style-type: none"> <li>• Acquiring bank has been defined broadly to cover all/ any entities that are involved in digital payment transactions and settles the payment to the end merchant who accepts card payments.</li> <li>• Payment Aggregators (PA) who are now directly regulated under extant RBI guidelines play a critical role as they are involved in handling of funds and interface with the merchants directly to ensure that the card payments accepted by the merchants are duly settled to such merchants. PAs onboard merchants across geographical locations, operating models, size, etc. on the digital payment ecosystem.</li> </ul>	<p><i>funds of the customer. The definition of PA, according to us, would include this work function. A close perusal of the definition of payment system would show, that it is meant to include a system, that enables, firstly, payment to be effected between a payer and a beneficiary and secondly, concerns clearing, payment or settlement service or all of them, but does not include a stock exchange”</i></p> <ul style="list-style-type: none"> <li>• <b>Clause 8 of the RBI Guidelines on Regulation of Payment Aggregators and Payment Gateways dated 17.03.2020</b> is regarding Settlement and Escrow Account Management. It prescribes that non-bank PAs shall maintain the amount collected by them in an escrow account with any scheduled commercial bank and for the purpose of maintenance of escrow account, operations of PAs shall be deemed to be ‘designated payment systems’ under section 23A of the PSSA, 2007. Further, amounts deducted from the customer’s account shall be remitted to the escrow account maintaining bank within a specified period after the transaction happens. <u>There are specific rules for final settlement of the money by the PAs with the merchant.</u> Further, permitted credits and debits from the escrow account have also been set out by RBI in its guidelines. The entity, i.e., the Payment Aggregator, and the escrow account banker shall be responsible for compliance with RBI instructions from time to time.</li> <li>• Therefore, it can be seen from the definition of ‘acquiring bank’ at Explanation to Sl. No. 34 of notification No. 12/2017-CTR dated 28.06.2017, that</li> </ul>

Sl. No.	Proposal	Details of request	Discussions in Fitment Committee and its recommendations
			<p>the entity referred to is one <b>who makes a payment to any person who accepts such card</b>. From a reading of the RBI Guidelines dated 2020, and the definition of ‘acquiring bank’, we can see that RBI regulated payment aggregators satisfy the definition of ‘acquiring bank’ since they are the ones making payment to any person who accepts such cards.</p> <ul style="list-style-type: none"> <li>• Further, inputs from RBI have been taken on the matter and RBI has also informed that PAs may be covered under the ambit of “acquiring bank” as defined under Notification No. 12/2017-CT(Rate) dated June 28, 2017 since PAs are any other person who settle funds to any person who accepts such card.</li> <li>• Therefore, PAs appear to be eligible for exemption under entry 34 of the notification No. 12/2017-CTR dated 28.06.2017, since they appear to fall within the ambit of acquiring bank, as defined in the said entry.</li> <li>• In addition to the above, another relevant issue is that whether it is possible for Payment Aggregators to avail the exemption under Sl. No. 34 of Notification No. 12/2017-CT(R) for charges on account of fintech services, other than settlement, such as Payment Gateway (PG) services. RBI Guidelines, 2020 distinctly define Payment Aggregator (PA) and Payment Gateway (PG), and reads as below: <ul style="list-style-type: none"> <li>i. <i>PAs are entities that facilitate e-commerce sites and merchants to accept various payment instruments from the customers for completion of</i></li> </ul> </li> </ul>

Sl. No.	Proposal	Details of request	Discussions in Fitment Committee and its recommendations
			<p><i>their payment obligations without the need for merchants to create a separate payment integration system of their own. PAs facilitate merchants to connect with acquirers. In the process, they <b>receive payments from customers, pool and transfer them on to the merchants after a time period.</b></i></p> <p><i>ii. <b>PGs</b> are entities that provide technology infrastructure to route and facilitate processing of an online payment transaction <b>without any involvement in handling of funds.</b></i></p> <p>From the definitions given in the RBI guidelines, it is clear that there is a clear distinction between a PA function, which is about receipt and payment of money, and a PG function, which is merely a technological function for online payment transactions without any involvement in handling of funds.</p> <ul style="list-style-type: none"> <li>• Therefore, the exemption under Sl. No. 34 is limited to settlement function only which involves handling of money. PG services, which do not involve any handling of money, are not covered within the ambit of the said exemption.</li> <li>• <b>After deliberations, Fitment Committee recommended that the matter may be clarified through a Circular clarifying that RBI regulated Payment Aggregators are eligible for exemption under entry 34 of the notification No. 12/2017-CTR dated 28.06.2017 and that the exemption</b></li> </ul>

Sl. No.	Proposal	Details of request	Discussions in Fitment Committee and its recommendations
			<b>under Sl. No. 34 is limited to settlement function only which involves handling of money and not for payment gateway functions.</b>
5.	Clarifying the taxability, or otherwise, of research carried out for the wider public good and the differences between research and consulting activities.	<ul style="list-style-type: none"> <li>On the recommendation made by the GST Council in its 54<sup>th</sup> meeting held on 09.09.2024, the following services have been exempted vide Notification No. 08/2024-Central Tax (Rate):  <i>Heading 9981 - Research and development services against consideration received in the form of grants supplied by –</i> <i>(a) a Government Entity; or</i> <i>(b) a research association, university, college or other institution, notified under clauses (ii) or (iii) of subsection (1) of section 35 of the Income Tax Act, 1961</i>  <i>Provided that the research association, university, college or other institution, notified under clauses (ii) or (iii) of subsection (1) of section 35 of the Income Tax Act, 1961 is so notified at the time of supply of the research and development service.</i></li> <li>During the discussion on the subject during the 54<sup>th</sup> Council Meeting, it was</li> </ul>	<ul style="list-style-type: none"> <li>Vide Notification No. 08/2024-Central Tax (Rate) dated 08.10.2024, research and development services against consideration received in the form of grants supplied by – <i>(a) a Government Entity; or</i> <i>(b) a research association, university, college or other institution, notified under clauses (ii) or (iii) of subsection (1) of section 35 of the Income Tax Act, 1961</i> have been exempted.</li> </ul> <p>The issue was addressed in light of the SCNs issued by DGGI to certain educational institutions or research institutions which were performing R&amp;D services against Government and private grants. However, there were certain interpretational issues with respect to the taxability, or otherwise, of research services performed against grants received from the Government or Government entities like DRDO, CSIR, SERB etc. These issues now stand resolved with the issuance of Notification No. 08/2024-CT(Rate).</p> <ul style="list-style-type: none"> <li><b>Accordingly, the Fitment Committee recommended is that the payment of GST on research and development services carried out by Government entities against grants received from the Government or Government entities may be regularized for the period 01.07.2017 to 10.10.2024.</b></li> <li>The Fitment Committee also examined the issue of clarifying the taxability, or</li> </ul>

Sl. No.	Proposal	Details of request	Discussions in Fitment Committee and its recommendations
		<p>further recommended that the Fitment Committee may deliberate on clarifying the taxability or otherwise of research carried out for the wider public good and the differences between research and consulting activities.</p>	<p>otherwise, of research carried out for the wider public good and the differences between research and consulting activities, and recommended that the issue may be clarified, with suitable illustrations, on the following lines:</p> <p>a) For a service to be considered R&amp;D, and to be eligible for the exemption available to research and development services under heading 9981, it has to satisfy the following two conditions:</p> <p>i. The activity should be aimed at generating new knowledge. Any use of already available knowledge which does not entail an attempt to expand the existing stock of knowledge should be excluded from the ambit of research and development; and</p> <p>ii. The outcome of the activity should be uncertain and not determinable at the outset, as is the case with consulting projects.</p> <p>b) In cases where an entity, whether Government or private, is sponsoring or funding research the benefits of which are neither accruing nor are expected to accrue, either directly or indirectly, to any specific entity to the exclusion of others, a nexus between the consideration (i.e. funding) and the supply (i.e. the research undertaken) would normally not exist. In such cases, the outcome of research, would be in the nature of a 'public good', and such research activities carried out against any kind of</p>

Sl. No.	Proposal	Details of request	Discussions in Fitment Committee and its recommendations
			<p>grants or funding would not constitute a supply in return for a consideration.</p> <ul style="list-style-type: none"> <li>• <b>After deliberations, Fitment Committee further recommended that the matter may be suitably clarified through a Circular. It further recommended that the clarification on taxability, or otherwise, of research carried out for the wider public good may be issued separately.</b></li> </ul>
6.	To clarify the applicability of GST on transactions of the Motor Vehicle Accident Fund, established under the Motor Vehicles Act, 1988 and to consider exemption from GST requirements for the Fund at the earliest.	<ul style="list-style-type: none"> <li>• The Ministry of Road Transport and Highways (hereinafter ‘the Ministry’), Government of India has created the Motor Vehicle Accident Fund (hereinafter ‘the Fund’), in accordance with section 164B of the Motor Vehicles (MV) Act, 1988, and the Central Motor Vehicles (Motor Vehicle Accident Fund) Rules, 2022.</li> <li>• To administer this Fund, a Motor Vehicle Accident Fund Trust (hereinafter ‘the Trust’) has been established vide a trust deed executed and registered on 13.01.2022.</li> <li>• The Trust shall utilize the Fund for the following purposes: <ul style="list-style-type: none"> <li>a) providing compensation in the case of hit and run motor accidents in</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Currently, there are no blanket exemptions for government trusts administering funds for public purposes. Supply of goods and services, if any by the said trust would be taxable as per the provisions of the CGST Act, 2017.</li> <li>• Sub-section (2) of section 164B of the Motor Vehicles Act, 1988, states that the Fund shall be constituted <u>for the purpose of providing compulsory insurance cover</u> to all road users in the territory of India.</li> <li>• Therefore, the service being provided by the Fund is essentially one of insurance. This can take the form of providing compensation in the case of hit and run motor accidents, reimbursement of treatments costs of victims of accidents caused by vehicles or providing cashless facility for treatment of such victims.</li> <li>• Notwithstanding the modality of disbursement of the funds, the service remains essentially that of insurance, i.e. an arrangement by which the fund undertakes to provide a guarantee of compensation for specified loss or damage to victims of motor vehicle</li> </ul>

Sl. No.	Proposal	Details of request	Discussions in Fitment Committee and its recommendations
		<p>accordance with section 161 of MV Act, 1988, read with the Compensation to Victims of Hit and Run Motor Accidents Scheme, 2022;</p> <p>b) providing cashless treatment to victims of road accident in accordance with section 162 of MV Act, 1988;</p> <p>c) providing compensation to such other persons as may be specified.</p> <ul style="list-style-type: none"> <li>To this end, the Fund comprises of the following accounts which are to be administered by General Insurance (GI) Council under the supervision of the Trust: <ul style="list-style-type: none"> <li>a) Account for Insured Vehicles;</li> <li>b) Account for Uninsured Vehicles or Hit and Run Motor Accidents;</li> <li>c) Hit and Run Compensation Account</li> </ul> </li> <li>The trustees agreed to seek the following contributions from general insurance companies in the Trust meetings during FY 2023-24:</li> </ul>	<p>accidents in return for pre-defined contributions by general insurance companies and others.</p> <ul style="list-style-type: none"> <li>It may also be noted that the contributions being made by the general insurance companies are from the premiums collected by them on third-party motor vehicle insurance policies brought by the general public. Third party insurance is mandatory for motor vehicle by virtue of Section 146 of the Motor Vehicles Act, 1988. GST at the rate of 18 per cent is leviable on the premiums paid on all passenger vehicle policies. GST at the rate of 12 per cent is leviable on the premiums paid on all goods transport vehicle policies.</li> <li>Therefore, it is seen that the contributions being made by general insurance companies to the accounts of the Fund are from premiums on which GST has already been paid.</li> <li>Therefore, charging GST again on this amount, at the stage of transfer to the Motor Vehicle Accident Fund may amount to double taxation and will reduce the corpus available with the Fund to pay out to victims of motor vehicle accidents.</li> <li><b>After deliberations, the Fitment Committee recommended that services of insurance provided by the Motor Vehicle Trust Fund, established under the Motor Vehicles Act, 1988, by way of compensation or reimbursement of treatment expenses, including cashless</b></li> </ul>



Sl. No.	Proposal	Details of request	Discussions in Fitment Committee and its recommendations
		<p>a) <b>Account for insured vehicles:</b> 0.1 % of motor third party premium collected in FY 2022-23</p> <p>b) <b>Account for Uninsured Vehicles or Hit and Run Motor Accidents:</b> 0.1 % of motor third party premium collected in FY 2022-23</p> <p>c) <b>Hit and Run Compensation Account:</b> 0.1 % of motor third party premium collected in FY 2022-23</p> <ul style="list-style-type: none"> <li>• It may be appreciated that transactions of varying nature are required to be carried out in the respective accounts of the Fund. However, at present only compensation to the victims of Hit &amp; Run Motor Accident are being paid from the fund.</li> <li>• It is highlighted that the Fund is statutory in nature with the overarching purpose being benefit of the general public (i.e., not for profit making / commercial activities).</li> <li>• Considering that the Fund</li> </ul>	<p>treatment, for which the consideration is represented by the contributions, as agreed by the Motor Vehicle Accident Fund Trust, which are obtained from general insurance companies, may be exempted.</p>

Sl. No.	Proposal	Details of request	Discussions in Fitment Committee and its recommendations
		is being administered by a Government Trust, the Ministry of Road Transport and Highways has requested that the applicability of GST registration for the Fund may please be clarified at the earliest.	
7.	To restore the tax exemption for Training Partners (TPs) approved by the National Skill Development Corporation (NSDC).	<ul style="list-style-type: none"> <li>Services provided by the National Skill Development Corporation (NSDC) and the Training Partners (TPs) approved by NSDC have always been exempted from levy of Goods and Services Tax (GST). Such services were exempted in the earlier regime (service tax) as well.</li> <li>However, as per the Notification No 08/2024 – Central Tax (Rate) dated 8th October 2024, the previous comprehensive exemption given to the TPs approved by NSDC stands withdrawn.</li> <li>The exemption has now been restricted to the Training Bodies accredited with the Awarding Body recognized by NCVET.</li> <li>Since NSDC is the implementing agency for the skilling schemes of the</li> </ul>	<ul style="list-style-type: none"> <li>The exemptions to the following services have been carried forward from the service tax regime into the GST regime (Sl. No. 69 of the Notification No. 12/2017-CTR dated 28<sup>th</sup> June 2017):  <i>“Any services provided by,</i>   <ul style="list-style-type: none"> <li>(a) <i>the National Skill Development Corporation set up by the Government of India;</i></li> <li>(b) <i>a Sector Skill Council approved by the National Skill Development Corporation;</i></li> <li>(c) <i>an assessment agency approved by the Sector Skill Council or the National Skill Development Corporation;</i></li> <li>(d) <i>a training partner approved by the National Skill Development Corporation or the Sector Skill Council,</i></li> </ul>  <i>in relation to-</i>   <ul style="list-style-type: none"> <li>(i) <i>the National Skill Development Programme implemented by the National Skill Development Corporation;</i> <i>or</i></li> <li>(ii) <i>a vocational skill development course under the</i></li> </ul> </li> </ul>

Sl. No.	Proposal	Details of request	Discussions in Fitment Committee and its recommendations
		<p>Government of India, as well as other skill development programs, the withdrawal of the tax exemption to TP's approved by NSDC would adversely impact skilling ecosystem significantly.</p> <ul style="list-style-type: none"> <li>Accordingly, it has been requested to reinstate the exemption being provided to training partners approved by NSDC.</li> </ul>	<p><i>National Skill Certification and Monetary Reward Scheme; or</i></p> <p><i>(iii) any other Scheme implemented by the National Skill Development Corporation."</i></p> <ul style="list-style-type: none"> <li>Vide Notification No. SD-17/113/2017-E&amp;PW dated 5th December 2018, the National Council for Vocational Education and Training (NCVET) was established as an overarching regulator in the skilling ecosystem subsuming the erstwhile National Skill Development Agency (NSDA) and the National Council of Vocational Training (NCVT).</li> <li>The newly constituted body, i.e. NCVET, is a singular, centralized regulatory body, and is entrusted with the development, qualitative improvement and regulation of vocational education and training, for granting recognition to and monitoring the functioning of awarding bodies, assessment agencies, skill information providers, and training bodies.</li> <li>In view of the above changes, as per the request of MSDE, and as recommended by the GST Council in its 54<sup>th</sup> meeting held on 09.09.2024, the relevant entries of Notification No. 12/2017-CTR were recast, vide Notification No. 08/2024-CT(Rate) dated 08.10.2024, to synchronize the GST exemption structure on skill development and training with the new regulatory architecture under NCVET. At the same time, the GST Council also recommended that the exemption to NSDC may continue in its</li> </ul>

Sl. No.	Proposal	Details of request	Discussions in Fitment Committee and its recommendations
			<p>present form.</p> <ul style="list-style-type: none"> <li>Further, it was understood that under the revised framework set up under the NCVET notification, training partners/centres are accredited by awarding bodies recognized by NCVET. Therefore, the suggestion to retain the current exemption to training partners approved by NSDC was not accepted as it was felt that the same is already being covered by NCVET under the new framework.</li> <li>Accordingly, Sl. No. 69 of the Notification No. 12/2017-CTR dated 28<sup>th</sup> June 2017 was amended vide Notification No. 08/2024 dated 8<sup>th</sup> October 2024, and the recast entry is reproduced below:</li> </ul> <p><i>“Any services provided by –</i></p> <ul style="list-style-type: none"> <li><i>(a) the National Skill Development Corporation set up by the Government of India;</i></li> <li><i>(b) The National Council for Vocational Education and Training;</i></li> <li><i>(c) an Awarding Body recognized by the National Council for Vocational Education and Training;</i></li> <li><i>(d) an Assessment Agency recognized by the National Council for Vocational Education and Training;</i></li> <li><i>(e) a Training Body accredited with an Awarding Body that is recognized by the National Council for Vocational Education and Training</i></li> </ul>

Sl. No.	Proposal	Details of request	Discussions in Fitment Committee and its recommendations
			<p><i>in relation to-</i></p> <p>(i) <i>the National Skill Development Programme or any other scheme implemented by the National Skill Development Corporation; or</i></p> <p>(ii) <i>a vocational skill development course under the National Skill Certification and Monetary Reward Scheme; or</i></p> <p>(iii) <i>any National Skill Qualification Framework aligned qualification or skill in respect of which the National Council for Vocational Education and Training has approved a qualification package.”</i></p> <ul style="list-style-type: none"> <li>• Consequent to these amendments it has been informed by MSDE that with the changes carried out through Notification No. 08/2024 – Central Tax (Rate), the previous comprehensive exemption given to the Training Partners (TPs) approved by NSDC stands withdrawn. The exemption has now been restricted to the Training Bodies accredited with the Awarding Body recognized by NCVET.</li> <li>• It has been informed that since NSDC is the implementing agency for the skilling schemes of the Government of India, as well as other skill development programs, the withdrawal of the tax exemption to TPs approved by NSDC would adversely impact skilling ecosystem significantly.</li> </ul>

Sl. No.	Proposal	Details of request	Discussions in Fitment Committee and its recommendations
			<ul style="list-style-type: none"> <li>Accordingly, it is felt that we may re-instate the exemption being given to TPs approved by NSDC.</li> <li>After deliberations, Fitment Committee recommended that the exemption may be reinstated by way of inserting item (f) in Sl. No. 69 of Notification No. 12/2017-CT(R) dated as follows:  <i>“(f) a training partner approved by the National Skill Development Corporation”</i></li> <li>Fitment Committee further recommended that the interim period, from the date of implementation of Notification No. 08/2024-CT(Rate), i.e. 10.10.2024, till the date the above entry is reinstated, may be regularized on ‘as is where is’ basis.</li> </ul>
8.	To clarify whether GST is applicable on charges/ fees like FSI paid by builders to local authorities under Reverse Charge Mechanism (RCM).	<ul style="list-style-type: none"> <li>Floor Space Index (FSI) is defined as the maximum permitted floor area that a developer can build or construct on any given plot or piece of land area. In other words, it is a measure of the intensity of land utilization in a given area.</li> <li>As per the information received, Rajkot Municipal Corporation (RMC) has granted FSI of Rs. 543.24 Cr since inception of the GST Act. In a small city like Rajkot, local municipal corporation has collected a handsome amount towards</li> </ul>	<ul style="list-style-type: none"> <li>Issue was deferred by the 52nd GST Council held on 07.10.2023 and 54<sup>th</sup> GST Council held on 09.09.2024.</li> <li>Municipalities collect various charges including Additional/chargeable/premium FSI from builders/developers. Additional /chargeable/ premium FSI is the consideration paid by builders for obtaining additional FSI over and above the base FSI from the Local Authorities. Base FSI is the basic FSI permitted by the competent authority.</li> <li>Maximum permissible FSI is the FSI that includes base and chargeable FSI.</li> </ul>

Sl. No.	Proposal	Details of request	Discussions in Fitment Committee and its recommendations
		<p>grant of FSI within span of just six years. In the big metro city like Ahmedabad, Surat and Baroda, handsome amount is being collected towards grant of FSI.</p> <ul style="list-style-type: none"> <li>Promoters have viewed that transactions may be considered as neither a supply of goods nor a supply of service due to following reasons: <ul style="list-style-type: none"> <li>As per the notification No. 14/2017-Central Tax (Rate), activities or transactions undertaken by any local authority by way of any activity in relation to a function entrusted to a Municipality under article 243W of the Constitution shall be treated neither as a supply of goods nor a supply of service.</li> <li>As per Article 243W, certain responsibilities are conferred upon them including those listed in the XIIth Schedule. Sl. No. 1 &amp; 2 of Schedule XII of the Constitution of India deal with "Urban planning including town planning" and "Planning of land-use and construction of buildings" respectively. These functions are entrusted to Municipality</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>There is a clear quid pro quo between the services supplied by the Local Authority to business entity by way of services such as grant of FSI (including additional FSI), and the consideration paid by the builders for the same are taxable under RCM @18%. (<i>entry at Sr. No.5 of the notification No.13/2017-CTR dated 28.06.2017</i>).</li> <li>There appears to be no justification for exempting services supplied by Government /Local Authority to business entities as they are entitled to ITC.</li> <li>These services bestow a direct commercial benefit to the builders/developers as these services are purely of commercial nature and used by the business entities including builders and developers in the course of or furtherance of business.</li> <li>General exemption <i>under Sl. No. 6 of notification No. 12/2017-CT(R) dated 28.06.2017</i> on services supplied by the Central Government, State Government, Union Territory or any Local Authority is also limited to services supplied to a person other than a business entity.</li> <li>Further, vide <i>entry at Sr. No.5 of the notification No. 13/2017- CTR dated 28.06.2017</i> services supplied by the Central Government, State Government, Union Territory or any Local Authority to any business entity is under RCM.</li> <li>Vide <i>entry at Sr. No. 5B of the notification No. 13/2017- CTR dated 28.06.2017</i>, services supplied by any person by way of transfer of</li> </ul>

Sl. No.	Proposal	Details of request	Discussions in Fitment Committee and its recommendations
		<p>under Article 243W of the Constitution.</p> <ul style="list-style-type: none"> <li>o As per the representation, sale or grant of FSI against collection of fees is also part of the said two functions only. Therefore, GST is not payable on supply of FSI by Municipal Corporation to the registered person.</li> <li>• However, tax authorities have viewed that supply of FSI against collection of fees is not integral part of "town planning". Transaction of supply of FSI by the RMC to the taxpayer is merely a commercial activity. Performance or non-performance of "town planning work" has no nexus with activity per se the supply of FSI, which is entirely independent to each other. Supply of FSI to the business entity serves the only purpose of generating revenue for local authority.</li> <li>• In the notification No. 14/2017 ST (Rate), the phrase "Services by way of any activity in relation to a function entrusted to a Municipality under article 243W of the Constitution" does not mean "Commercial activities under consideration". Thus, the</li> </ul>	<p>developmental rights or FSI (including additional FSI) for construction of a project by a promoter is under RCM.</p> <ul style="list-style-type: none"> <li>• <b>After deliberations Fitment Committee recommended to clarify that GST is applicable on charges paid for FSI including additional FSI, by builders to local authorities under Reverse Charge Mechanism (RCM).</b></li> </ul>



Sl. No.	Proposal	Details of request	Discussions in Fitment Committee and its recommendations
		<p>said activity in form of the supply of FSI against charging fees by the RMC being an independent taxable supply of services, would not be qualified for and could not be treated as <i>"No Supply of Services"</i>.</p> <ul style="list-style-type: none"> <li>• Further, as per entry-16 (iii) in notification No. 11/2017 state tax (rate) read with entry-5 in notification No. 13/2017 state tax (rate), tax under RCM is payable by the taxpayer as recipient of services.</li> </ul>	
9.	To clarify that as long as the entire transportation of goods is undertaken by road and the person transporting the goods issues consignment note, the said service would be treated as Goods Transport Agency (GTA) service instead of courier services.	<ul style="list-style-type: none"> <li>• Tech-enabled companies operating in intra-city goods transport segment sector provide goods transportation service to customers from one location to another via 2, 3 and 4 wheeler vehicles.</li> <li>• Two wheelers are used for movement of consignments weighing upto 20kgs and light commercial vehicles (3 and 4 wheelers) are used for movement of goods from 20kgs to 2500kgs.</li> <li>• The companies issue consignment note and bill of supply to an unregistered person and invoice to a registered customer in respect of each trip in compliance with provisions of the CGST Act, 2017 for the goods transportation</li> </ul>	<ul style="list-style-type: none"> <li>• Issue was deferred by the 54<sup>th</sup> GST Council held on 09.09.2024 for a more comprehensive examination.</li> <li>• Transport of goods by various modes attracts the following GST rates: <ul style="list-style-type: none"> <li>○ Transport of goods by road by GTA (under forward charge) – 5% without ITC or 12% with full ITC</li> <li>○ Transport of goods by rail by Indian Railways – 5% with ITC of input services</li> <li>○ Transport of goods by a person other than Indian Railways – 12% with full ITC</li> <li>○ Transport of goods by vessel – 5% with ITC of input services and of vessels</li> <li>○ Transport of goods by air – 18% with full ITC</li> <li>○ Domestic Multi-modal transport – 12% with full ITC</li> </ul> </li> </ul>

Sl. No.	Proposal	Details of request	Discussions in Fitment Committee and its recommendations
		<p>services rendered as GTA.</p> <ul style="list-style-type: none"> <li>• These companies are also registered as common carrier under the Carriage by Road Act and issue 'goods receipt' in the form of consignment note.</li> <li>• The companies do not give any assurance/guarantee to customers for time bound delivery of goods but assumes liability to ensure safe delivery of goods to consignee.</li> <li>• In service tax period, it had been clarified that so long as the entire transportation of goods is by road and the person transporting the goods issues a consignment note, the service would be classified as GTA service. [Circular no. 104/04/2008-ST dated 06.08.2008 and Circular No. 186/5/2015-ST dated 05.10.2015 refers].</li> <li>• Similar clarification has been requested in GST period.</li> </ul>	<ul style="list-style-type: none"> <li>• In most cases, option of two GST rates is available for transport industry. This has been done keeping in mind the unique nature of the sector – very large number of small players &amp; major inputs being outside GST.</li> <li>• Courier service attracts GST @ 18% with full ITC.</li> <li>• It was found during investigations by the investigating agency in case of one such company that they have been misclassifying its services, primarily the ones provided via two-wheeler as GTA to avail benefit of exemption under Sr. No. 21A of notification No. 12/2017-CTR dated 28.06.2017 instead of correctly classifying the same as 'courier service'.</li> <li>• Sr. No. 21A of notification No. 12/2017-CTR dated 28.06.2017 exempts <i>"services provided by a goods transport agency to an unregistered person, including an unregistered casual taxable person"</i>.</li> <li>• The said company is providing delivery services to customers through help of their booking app and infra support from other service providers known as drivers.</li> <li>• None of the other players in the identical business is availing exemption on services provided by a two-wheeler and are paying GST at the rate of 18%.</li> <li>• Courier Services are defined as <i>"the service provided or to be provided to any"</i></li> </ul>

Sl. No.	Proposal	Details of request	Discussions in Fitment Committee and its recommendations
			<p><i>person, by a courier agency in relation to door-to-door transportation of time – sensitive documents, goods or articles.”</i></p> <ul style="list-style-type: none"> <li>• Courier Agency is defined as “any person engaged in the door-to-door transportation of time-sensitive documents, goods or articles utilizing the services of a person, either directly or indirectly, to carry or accompany such documents, goods or articles.” This definition continues under GST. [Explanation 2(u) of notification No. 12/2017-CTR dated 28.06.2017 refers.]</li> <li>• Goods Transport Agency has been defined as person providing services in relation to transport of goods by road and issues consignment note by whatever name called. [Explanation 4(xxxx) of notification No. 11/2017-CTR dated 28.06.2017 refers].</li> <li>• The delivery services through two-wheeler fulfil criteria of being door-to-door, instant and same day delivery. This is more akin to definition of courier services as compared to GTA service.</li> <li>• The explanatory notes to scheme of classification of service state that “<i>where a service is capable of differential treatment for any purpose based on its description, the most specific description shall be preferred over a more general description</i>”.</li> <li>• Further, other industry players offering similar delivery services through two wheelers are classifying their service as courier and paying GST @ 18% on the same</li> </ul>

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			<ul style="list-style-type: none"> <li>After deliberations, Fitment Committee recommended to clarify to the investigating agency that the door-to-door instant delivery service through two-wheeler network is more appropriately classifiable as courier service in terms of explanatory notes to the scheme of classification of services.</li> </ul>
10.	To issue clarification on levy of GST towards lease rentals payment made to National Highways Authority of India (NHAI)	<ul style="list-style-type: none"> <li>Oil Marketing Companies (OMC) have entered into lease agreement with NHAI for development of Way Side Amenities (WSA) on existing as well as upcoming expressways.</li> <li>These transactions are facilitated by an asset management company M/s National Highway Logistics Management Ltd. (NHLML), 100% subsidiary of NHAI, for a given fee.</li> <li>As per NHAI, since they are established by an act of parliament and under administrative control of MoRTH, they are a Government Entity as per definition in notification No. 12/2017- CTR.</li> <li>NHLML vide its order dated 18.04.2024 has informed the OMCs that lease rentals received by NHAI/NHLML are not liable to GST as the lease rentals belong to land</li> </ul>	<ul style="list-style-type: none"> <li>The wayside amenities provide facilities for rest and refreshment for highway commuters during their journey. There would be restaurant, food court, dhaba, fuel station, hotel etc. on national highways.</li> <li>NHAI leases land on national highway to OMCs for development of these way side amenities for existing as well as upcoming projects.</li> <li>As per current provisions renting or leasing of land is taxable @18% under 9972 unless exempted by specific exemption entry.</li> <li>Further, as per the <i>explanation at 4A (x) of the Notification No.11/2017-CTR dated 28.06.2017</i>, NHAI is a Governmental Entity.</li> <li>The said entry reads as below:  <i>“Government Entity” means an authority or a board or any other body including a society, trust, corporation, (i) set up by an Act of Parliament or State Legislature; or (ii) established by any Government, with 90 per cent. or more participation by way of equity or control, to carry out a function entrusted by the Central</i> </li> </ul>

Sl. No.	Proposal	Details of request	Discussions in Fitment Committee and its recommendations
		<p>owned by GoI.</p> <ul style="list-style-type: none"> <li>Thus, no invoices are raised by either NHAI or NHLML. NHAI is responsible for implementation, maintenance and development of roads, bridges, highways for and on behalf of Govt. of India.</li> <li>NHAI has cancelled all the GST registration considering that they fall under the definition of Government entity and no services are provided by them.</li> <li>Further, NHAI has no source of income and also not carrying out any business/commercial activities.</li> <li>Renting of Immovable Property is leviable to GST @18%.</li> <li>In case services are provided by Government (Central, State, UT), Local Authority to any registered person, the tax is payable under RCM as per notification No.13/2017.</li> <li>When services are provided by Govt. entity, the same are taxable under FCM.</li> <li>There is no exemption</li> </ul>	<p><i>Government, State Government, Union Territory or a local authority.”</i></p> <ul style="list-style-type: none"> <li>However, there is no such exemption available to Govt. Entities in the exemption notification for the services of leasing of land provided by them to any business entity.</li> <li>Even services of renting of immovable property supplied by the Central Government, State Government, Union territory or local authority to unregistered business entity are taxable under FCM while other services supplied by the Government or local authority to a business entity are taxable under RCM (entry at Sr. No.5 and 5A of the notification No. 13/2017).</li> <li>Further, the entry relied upon by NHAI (entry 9C of the Notification No.12/2017- CTR dated 28.06.2017) is not applicable in this case as it exempts services supplied by a Government Entity to Government, local authority or any person specified by Government or local authority against consideration received from Government, or local authority, in the form of grants.</li> <li>In the current case, there are no grants involved, so this entry is not applicable.</li> <li><b>After deliberations, Fitment Committee recommended to clarify to NHAI and OMCs that GST is applicable on renting of land to OMCs at applicable rate i.e., 18% and they are required to pay the same.</b></li> </ul>

Sl. No.	Proposal	Details of request	Discussions in Fitment Committee and its recommendations
		<p>available to services provided by Govt. Entities to Business entity.</p> <ul style="list-style-type: none"> <li>As per entry in Notification No.32/2017- CTR dated 13.10.2017, only services provided by Govt. Entity to Government is exempt and not services provided by NHAI/NHML to OMCs. The entry reads as below:  <i>“Supply of service by a Government Entity to Central Government, State Government, Union territory, local authority or any person specified by Central Government, State Government, Union territory or local authority against consideration received from Central Government, State Government, Union territory or local authority, in the form of grants is exempted.”</i></li> <li>In light of above, supply of services provided by way of renting of immovable property may go unnoticed for payment of GST.</li> <li>NHAI has informed all the concessionaries to deposit the lease rents on WSAs/other leased assets in dedicated account of NHAI.</li> <li>Clarification has been</li> </ul>	

Sl. No.	Proposal	Details of request	Discussions in Fitment Committee and its recommendations
		sought with regards to applicability of GST on lease rentals paid by OMCs to NHAI/NHLML to avoid any litigation.	
11.	To amend entry at Sr. No. 25A of notification No. 12/2017-CTR dated 28.06.2017 and to regularize the GST for the period from 10.10.2024 to the date of issue of amending notification.	<ul style="list-style-type: none"> <li>Entry at Sr. No. 25A was inserted vide notification No. 08/2024-CTR dated 08.10.2024 based on the recommendations of the GST Council in its 54<sup>th</sup> meeting held on 09.09.2024.</li> <li>The said entry reads as <i>“Supply of services by way of providing metering equipment on rent, testing for meters /transformers/ capacitors etc., releasing electricity connection, shifting of meters/service lines, issuing duplicate bills etc., which are incidental or ancillary to the supply of transmission and distribution of electricity provided by electricity transmission and distribution utilities to their consumers.”</i></li> <li>The said entry at Sr. No. 25A may be aligned with the other exemption entry in respect of transmission or distribution of electricity.</li> </ul>	<ul style="list-style-type: none"> <li>Entry at Sr. No. 25 of notification No. 12/2017-CTR dated 28.06.2017 reads as below: <i>“Transmission or distribution of electricity by an electricity transmission or distribution utility”</i>.</li> <li>Vide Sr. No. 4 of Circular No. 34/8/2018-GST, dated 1st March 2018, it was clarified that following services are taxable under GST w.e.f. 01.07.2017: <i>“The other services such as, - (i) Application fee for releasing connection of electricity; (ii) Rental Charges against metering equipment; (iii) Testing fee for meters/ transformers, capacitors etc.; (iv) Labour charges from customers for shifting of meters or shifting of service lines; (v) charges for duplicate bill; provided by DISCOMS to consumer are taxable.”</i></li> <li>The above said Sr. No 4 of Circular No. 34/8/2018-GST dated 1st March 2018 was struck down by the Hon’ble High Court of Gujarat in Torrent Power Ltd Vs UOI (5343 of 2018) case.</li> <li>The department has gone in appeal against the said order and the matter is pending before Hon’ble Supreme Court (SLP(C) No. 019431/2019).</li> <li>The issue was discussed in the 54<sup>th</sup> GST Council meeting held on 09.09.2024 and the following were recommended:</li> </ul>

Sl. No.	Proposal	Details of request	Discussions in Fitment Committee and its recommendations
			<ul style="list-style-type: none"> <li>✓ To exempt <b>supply of services by way of providing metering equipment on rent, testing for meters/ transformers/ capacitors etc., releasing electricity connection, shifting of meters/service lines, issuing duplicate bills etc., which are incidental or ancillary to the supply of transmission and distribution of electricity provided by electricity transmission and distribution utilities to their consumers prospectively</b> and to regularize past periods on 'as is where is' basis.</li> <li>✓ To withdraw the SLP (Special Leave (Civil Appeal No. 6278/2019) vide Diary No. 24733/2019 on 16.07.2019 filed by UOI in the Hon'ble Supreme Court in this matter.</li> <li>• Thereafter entry at Sr. No. 25A was inserted in the notification No. 12/2017-CTR dated 28.06.2017 and reads as below: <ul style="list-style-type: none"> <li>✓ <i>Supply of services by way of providing metering equipment on rent, testing for meters/transformers/capacitors etc., releasing electricity connection, shifting of meters/service lines, issuing duplicate bills etc., which are incidental or ancillary to the supply of transmission and distribution of electricity provided by electricity transmission and distribution utilities to their consumers.</i></li> </ul> </li> </ul>



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			<ul style="list-style-type: none"> <li>In the above entry words “transmission <u>and</u> distribution utilities” were mentioned. However, the original entry at Sr. No. 25 of the notification No.12/2017-CTR dated 28.06.2017 mentions “transmission <u>or</u> distribution utilities”.</li> <li>After deliberations, Fitment Committee recommended that the new entry at Sr. No. 25A may also be aligned with the entry Sr. No. 25 so as to maintain uniformity. <ul style="list-style-type: none"> <li>The entry at Sr. No. 25A may be amended as below:  <i>Supply of services by way of providing metering equipment on rent, testing for meters/transformers/capacitors etc., releasing electricity connection, shifting of meters/service lines, issuing duplicate bills etc., which are incidental or ancillary to the supply of transmission <u>or</u> distribution of electricity provided by electricity transmission <u>or</u> distribution utilities to their consumers.</i> </li> <li>Further, the intervening period i.e., 10.10.2024 (effective date of entry at Sr. No. 25A in notification No. 12/2017-CTR dated 28.06.2017) up to the date of issue of amending notification may be regularised on “as is where is basis”.</li> </ul> </li> </ul>
12.	To notify Delhi Development Authority (DDA) as a Local	<ul style="list-style-type: none"> <li>As per section 2(1)(d) of National Capital Territory of Delhi Laws (Special Provisions) Act, 2011, DDA</li> </ul>	<ul style="list-style-type: none"> <li>Issue was deferred in the 52nd GST Council meeting held on 07.10.2023 and 54<sup>th</sup> GST Council held on 09.09.2024.</li> </ul>

Sl. No.	Proposal	Details of request	Discussions in Fitment Committee and its recommendations
	Authority and to remove the reference of DDA from the answer to question #5 of the “FAQs on GST in Government Services Sector”.	<p>is “a local authority” established under the Delhi Development Act 1957.</p> <ul style="list-style-type: none"> <li>As per Hon’ble Supreme Court judgement dated 17.02.1981 in Union of India &amp; Ors. Vs. R.C.Jain &amp; Ors. (1981 AIR951), DDA has been recognised as a Local Authority.</li> <li>In arriving at this conclusion, the Hon’ble Supreme Court has relied upon section 3(31) of General Clauses Act 1897 which defines a local authority and “local authority” shall mean a municipal committee, district board, body of port commissioners or other authority legally entitled to or entrusted by the Government with the control or management of a municipal or local fund.</li> <li>Section 2(69)(c) of CGST Act 2017 defines “local authority” as a Municipal Committee, a Zilla Parishad, a District Board, and any other authority legally entitled to, or entrusted by the Central Government or any State Government with the control or management of a municipal or local fund.</li> <li>Thus, section 2(69)(c) of CGST Act 2017 and section</li> </ul>	<ul style="list-style-type: none"> <li>As per entry at Sr. No. 5 of notification No. 13/2017-CTR, services provided by local authority to a business entity are taxable under Reverse Charge Mechanism (RCM).</li> <li>Entry at Sr. No. 6 of notification No. 12/2017-CTR exempts services provided by local authority to individuals.</li> <li>DDA was inquired to inform whether DDA is legally entitled to or entrusted by the Government with the control or management of Municipal or Local Fund.</li> <li>DDA did not furnish a clear reply to the queries and again reiterated their request to remove the reference of DDA from relevant FAQs published on CBIC website.</li> <li>To further examine the matter, the tax treatment of developmental authorities/ housing boards/ urban improvement trusts in the states was called before making any concrete recommendations.</li> <li>From the submissions received from states, it is seen that in all these states varied practices are being followed. While some of the developmental authorities are registered as Local, others are registered as Governmental and Statutory bodies.</li> <li>For any authority to be treated as “Local Authority” they must fulfil the requirement of the definition of Local Authority as per Section 2 (69) of the CGST/SGST/UTGST Act. Local authority under CGST Act, 2017 has</li> </ul>

Sl. No.	Proposal	Details of request	Discussions in Fitment Committee and its recommendations
		<p>3(31) of the General Clauses Act, 1897 appears to be identical.</p> <ul style="list-style-type: none"> <li>• Answer to question#5 of the “FAQs on GST in Government Services Sector” issued by CBIC has listed DDA as not a local authority.</li> </ul>	<p>been defined as  <i>“2(69) —local authority means— (c) a Municipal Committee, a Zilla Parishad, a District Board, and any other authority legally entitled to, or entrusted by the Central Government or any State Government with the control or management of a municipal or local fund”</i></p> <ul style="list-style-type: none"> <li>• The matter was discussed in the Fitment Committee and it was recommended to clarify that as DDA does not meet the requirements of the Local Authority as per Section 2(69) of the GST Act, they cannot be treated as Local Authority under GST law.</li> <li>• It was also observed during the discussion that Local Fund or Municipal Fund is not defined under GST Act 2017.</li> <li>• It was further recommended by the Fitment Committee that Local fund may be defined in CGST Act. Maharashtra and West Bengal were requested to send draft formulation on the same.</li> <li>• After deliberations on the definitions shared by both West Bengal and Maharashtra, Fitment Committee recommended to forward the following draft formulation to Law Committee for making necessary changes in GST Act, 2017:</li> </ul> <p><i>“Local Fund” means any fund to the control or management of which an authority established for self-government for discharging civic functions situated in “Panchayat Area” is legally entitled &amp; includes the proceeds of any cess,</i></p>

Sl. No.	Proposal	Details of request	Discussions in Fitment Committee and its recommendations
			<p><i>rate, duty or tax which such authority is legally entitled to impose &amp; any property, vested in such authority.</i></p> <p><i>“Municipal Fund” means any fund to the control or management of which an authority established for self-government for discharging civic functions situated in “Metropolitan Area” or “Municipal Area” is legally entitled &amp; includes the proceeds of any cess, rate, duty or tax which such authority is legally entitled to impose &amp; any property, vested in such authority.”</i></p> <ul style="list-style-type: none"> <li>• <b>After deliberations, Fitment Committee recommended that the definition of local and municipal fund as submitted by Maharashtra may be referred to Law Committee. It was also recommended that it may be clarified that as DDA does not meet requirement of local authority as per section 2(69) of the CGST Act, 2017, it cannot be treated as local authority under GST law.</b></li> </ul>
13.	To clarify that GST is not applicable on facility management services provided to Municipal Corporation of Delhi (MCD) HQ.	<ul style="list-style-type: none"> <li>• The HQ building of MCD is being operated and maintained through a single facility management agency which undertakes all the activities like sanitation service, waste management, operation &amp; maintenance of all technical services etc. of the building complex.</li> <li>• Sr. No. 3A of notification No. 12/2017-CTR dated</li> </ul>	<ul style="list-style-type: none"> <li>• Sr. No. 3A of notification No. 12/2017-CTR dated 28.06.2017 exempts <i>composite supply of goods and services in which the value of supply of goods constitutes not more than 25% of the value of the said composite supply provided to the Central Government, State Government or Union territory or local authority by way of any activity in relation to any function entrusted to a Panchayat under article 243G of the Constitution or in relation to any function entrusted to a Municipality under article 243W of the Constitution.</i></li> </ul>

Sl. No.	Proposal	Details of request	Discussions in Fitment Committee and its recommendations
		<p>28.06.2017 exempts composite supply of goods and services in which the value of supply of goods constitutes not more than 25% of the value of the said composite supply provided to the Central Government, State Government or Union territory or local authority by way of any activity in relation to any function entrusted to a Panchayat under article 243G of the Constitution or in relation to any function entrusted to a Municipality under article 243W of the Constitution.</p> <ul style="list-style-type: none"> <li>Based on the aforesaid exemption MCD is not paying GST to the facility management agency considering that the facility management service is aiding the upkeep and operation of the MCD headquarters which is required to undertake all the activities of MCD most of which are in relation to the functions mentioned in the 12<sup>th</sup> Schedule of Article 243W of the Constitution.</li> <li>MCD HQ cannot be operated in absence of this facility management contract.</li> </ul>	<ul style="list-style-type: none"> <li>The exemption under entry at Sr. No. 3A of notification No. 12/2017-CT(R) dated 28.06.2017 has been given on composite supplies of goods and services provided to the Government, or local authority for performing functions listed in the 11th and 12th schedule of the constitution.</li> <li>MCD is a local authority as per Section 2(6)(c) of CGST Act, 2017 and performs function under 12<sup>th</sup> schedule. Services supplied to MCD for performing activities under 12<sup>th</sup> schedule are covered by the scope of exemption under entry at Sr. No. 3A of notification No. 12/2017-CTR dated 28.06.2017.</li> <li>However, in the instant case MCD is using the services of facility management agency for the upkeep of their office such as housekeeping, civil maintenance, furniture maintenance and horticulture and not related to performing functions entrusted under 12<sup>th</sup> schedule.</li> <li>Such services are not covered under the scope of entry at Sr. No. 3A. The request does not merit consideration.</li> <li><b>After deliberations, Fitment Committee recommended to clarify that GST is applicable on facility management services provided to Delhi (MCD) HQ for upkeep of its head quarter building at applicable rates and no exemption is available to them.</b></li> </ul>

Sl. No.	Proposal	Details of request	Discussions in Fitment Committee and its recommendations
		<ul style="list-style-type: none"> <li>• MCD has also referred to the following two advance rulings from Authority for Advance Ruling, Tamil Nadu and Maharashtra in support of their case.</li> <li>• The AAR, Tamil Nadu vide its order No. 31/ARA/2021 dated 10.08.2021 allowed the exemption to a facility management agency which was providing the facility management service to the Directorate of Medical Education of Tamil Nadu stating that any services rendered for up-keeping/effective maintenance of the hospital shall be treated as “in relation” to activities entrusted to a Panchayat or a Municipality under Article 243G/W of the Constitution and therefore exemption is available</li> <li>• The AAR, Maharashtra vide its order No. GST-ARA-58/2018/2019/B-132 dated 24/10.2018 allowed the exemption to a security agency which was providing</li> </ul>	

Sl. No.	Proposal	Details of request	Discussions in Fitment Committee and its recommendations
		the security service to the Pimpri Chinchwad Municipal Corporation (PCMC) stating that the services rendered as providing assistance to the security guards of PCMS is an activity in relation to various functions entrusted to a Municipality under Article 243W of the Constitution and therefore exemption is available.	
14.	To review the levy of GST on RCM basis on renting of commercial property by unregistered person to a registered person.	<ul style="list-style-type: none"> <li>• MNRE has submitted that the taxing leasing of commercial property under RCM can substantially impact the Renewable Energy Sector as the land and other properties needed for the deployment of renewable energy projects are taken on lease from individuals (including farmers). As input tax credit is not available for such renewable energy projects, (wherein land is taken on lease from private individuals and farmers) the GST applicable becomes an additional cost on the projects.</li> <li>• This increased cost will have a cascading effect and translate into higher prices of electricity supplied by the renewable energy projects.</li> </ul>	<ul style="list-style-type: none"> <li>• Service by way of renting of immovable property (i.e commercial) by a registered person is subject to GST@ 18% since July 2017.</li> <li>• However, the said service of renting of commercial property was exempt if the same was supplied by an unregistered person (on account of threshold for registration) to registered person.</li> <li>• It was observed that taxpayers were adopting nefarious means to avoid payment of tax by remaining below the threshold limit.</li> <li>• Hence the agenda to bring the renting of commercial property by unregistered person to registered person under reverse charge basis was taken to the 54th GST Council meeting held on 09.09.2024 and based on the recommendations of the Council, renting or leasing of commercial property by unregistered person to registered person was brought under reverse charge basis in order to plug the leakage of revenue. The said</li> </ul>

Sl. No.	Proposal	Details of request	Discussions in Fitment Committee and its recommendations
		<ul style="list-style-type: none"> <li>• MNRE has requested to comment on the applicability of the amendment carried on the renewable energy projects.</li> <li>• AITWA has submitted that since Goods Transport Agency (GTA) services are under RCM they do not claim ITC. With the new recommendation, many GTA transporters will be required to pay GST on rented commercial property used to run their operations under RCM, increasing their operation cost and financial burden.</li> <li>• NRAI has submitted that standalone restaurants are ineligible to avail GST input tax credit; the notification will have an adverse impact on the entire industry-both small and big restaurants alike.</li> <li>• Registered/Unregistered restaurant will be required to discharge GST liability (without ITC) even if the lessor of the commercial property is unregistered. This will create huge financial burden.</li> <li>• These GST payments on rent on RCM basis will not be available as an input credit, given the restaurant</li> </ul>	<p>recommendation was notified vide Notification No.09/2024-CTR dated 08.10.2024 to be effective from 10.10.2024.</p> <ul style="list-style-type: none"> <li>• At present, service by way of renting of residential dwelling to a registered person by any person is also taxable under Reverse Charge Basis. However, renting of residential dwelling for use as residence (except where the residential dwelling is rented to a registered person) is already exempt.</li> <li>• After the said notification dated 08.10.2024 was issued, various representations from different sectors have been received requesting to bring the service of renting of commercial property by unregistered person to registered person under Forward Charge Mechanism.</li> <li>• In that case if the supplier is not registered, due to threshold exemption, the supply of renting of service will also get exempted.</li> <li>• In this regard, it is stated that the ITC of GST paid by registered person on renting of commercial property under reverse charge is available provided the recipient of service is a registered person and eligible to avail ITC.</li> <li>• However, there may be cases where the recipient is liable to pay GST under reverse charge basis on the renting of commercial property and is not eligible for ITC (due to his outward supplies being chargeable to GST without any availability of ITC), or is supplying</li> </ul>



Sl. No.	Proposal	Details of request	Discussions in Fitment Committee and its recommendations
		<p>industry is not entitled to any input credit towards GST payments.</p> <ul style="list-style-type: none"> <li>• Further, it has been informed vide other references from trade including VIP references that most of the small and medium level merchants are running their businesses from rented shops. They are finding it increasingly difficult to absorb the cost as many of them are operating on thin margins.</li> <li>• Registered persons under the Composition Scheme or dealing with exempted goods cannot avail the ITC paid under RCM.</li> <li>• Further questions were raised in the Standing Committee on Finance by VIPs on this issue in which they have highlighted that traders who are under composition scheme are not entitled to ITC on the GST paid on the renting of commercial property being the composition taxpayer. This is affecting small traders hugely.</li> <li>• The request is to exclude stakeholders dealing with exempted products and stakeholders who have opted for composition</li> </ul>	<p>exempt service or taxpayers who have opted to pay tax under composition scheme.</p> <ul style="list-style-type: none"> <li>• In case of the GTA, they have an option to pay GST under Forward Charge basis @5% without ITC or 12% with full ITC. Hence GTAs can pay under Forward Charge and avail ITC.</li> <li>• As regards request of MNRE to comment on the applicability of the GST on the leasing of Commercial Property under RCM in case of their renewable energy projects, it is submitted the entry at Sr. No. 5AB introduced vide Notification No. 09/2024-CTR dated 08.10.2024 in case of renting of commercial property by unregistered person to registered person is applicable on all kinds of renting irrespective of whether it is for renewable or non-renewable projects. However, services by way of leasing of land by government/local authority to governmental authority or government entity is already exempt (entry at Sr. No. 16(i) of notification no. 11/2017-CTR dated 28.06.2017.</li> <li>• The composition levy is an alternative method of levy of tax designed for small taxpayers whose turnover is up to Rs. 1.5 Crore. The objective of composition scheme is to bring simplicity for the small manufacturers, traders or restaurant service providers. The eligible person opting to pay tax under this scheme can pay tax at a prescribed percentage of 1%/2%/5% without availing any ITC.</li> <li>• <b>After deliberations Fitment Committee recommended the following:</b></li> </ul>

Sl. No.	Proposal	Details of request	Discussions in Fitment Committee and its recommendations
		<p>scheme from applicability of GST on renting of commercial property under RCM basis.</p> <ul style="list-style-type: none"> <li>Commercial State Taxes, Tamil Nadu has sent representation from M/s Tvl. Tamilnadu Food grains Merchant's Association Limited, Madurai, wherein it has been cited, that after 18% GST has been levied for renting of commercial property, with effect from 10.10.2024, the small taxpayers whose aggregate turnover is below Rs.1.5 crore who have opted for composition scheme and those who are dealing in exempted goods will be much affected by this proposal. As there are large number of taxpayers who have opted for composition scheme in Tamilnadu they have requested to take up this issue in the ensuing GST Council meeting and withdraw this proposal to levy 18% GST on renting of buildings on reverse charge basis (RCM), with effect from 10.10.2024, as many taxpayers and manufacturers are not familiar with the provisions of payment of GST under RCM and small taxpayers will be very much affected by this taxation.</li> </ul>	<ul style="list-style-type: none"> <li>✓ The taxpayers registered under composition levy scheme may be excluded from the above entry at Sr. No. 5AB introduced vide Notification No. 09/2024-CTR dated 08.10.2024.</li> <li>✓ The period from date when the notification No. 09/2024-CTR dated 08.10.2024, in this case became effective (i.e 10.10.2024) till the date proposed notification is issued may be regularized on "<i>as is where is basis.</i>"</li> <li>✓ MNRE may be clarified that GST has to be paid by them at applicable rates on renting of commercial property from unregistered persons under RCM.</li> </ul>

Sl. No.	Proposal	Details of request	Discussions in Fitment Committee and its recommendations
		<ul style="list-style-type: none"> <li>• The trade association has also mentioned the following Frequently Asked Questions (FAQs) by the taxpayers:-</li> <li>i) Whether GST under RCM basis is attracted when the business is run by heirs to the individual owning the commercial property.</li> <li>ii) Whether GST on RCM basis is attracted for the partnership firm running business in the commercial property owned by one of the partners.</li> <li>iii) Whether school and college buildings built on vacant land should pay GST on RCM basis for the lease rent.</li> <li>iv) Whether factories built on leased vacant land should pay GST on RCM basis for the lease rent.</li> <li>v) To clarify how rent would be fixed on the prevailing market rate as rent for taxpayers who are doing business in the premises for many years may be paying lesser rent and a taxpayer who newly starts business may be paying higher rent situated in the same area, which may lead to disparity.</li> <li>vi) If the market rate for fixation of rent is not clarified</li> </ul>	

Sl. No.	Proposal	Details of request	Discussions in Fitment Committee and its recommendations
		<p>there is every possibility for proper officers to reopen before the end of limitation period and issue notices for levy of interest and penalty for the reason that rent reported is lesser than the prevailing market rate.</p> <p>vii) The proper officers should not be allowed to fix rent on prevailing market rate as it will be detrimental to the taxpayers.</p> <ul style="list-style-type: none"> <li>• In this regard, Tvl. Tamilnadu Vanigar Sangangalin Peravai have conducted demonstration on 03.12.2024 against the levy of 18% GST on renting of commercial property by any unregistered persons to any registered persons on RCM basis. Further, Tvl. Tamilnadu Vanigar Sangangalin Peramaippu have announced statewide demonstration on 11.12.2024 highlighting the same issue of levy of GST on renting services of commercial property on RCM basis, especially by the traders opting the composition scheme.</li> <li>• In view of the above, it is requested that the representation of the trade association regarding Frequently Asked</li> </ul>	

Sl. No.	Proposal	Details of request	Discussions in Fitment Committee and its recommendations
		Questions (FAQs) may be placed before the ensuing Fitment Committee meeting to be held on 10th December, 2024.	
15.	<p>a) To revise the definition of ‘specified premises’ which refers to declared tariff of any unit of accommodation above Rs 7500 per unit per day or equivalent, for the purpose of determining the GST rate on supply of restaurant service in specified premises.</p> <p>b) To clarify the period for which 18% is to be charged for restaurant located in specified premises.</p>	<ul style="list-style-type: none"> <li>The current practice of linking taxation of food services in restaurants to the room rates charged for accommodation has given rise to confusion.</li> <li>It is therefore requested that guidance may kindly be provided for the following issues: <ul style="list-style-type: none"> <li>a) Is the period for calculating GST@ 18 % for F &amp; B will continue for the whole year from the day of change in the room tariff or it will be for those days only when the tariff exceeds Rs.7500/-.</li> <li>b) Will the GST @ 18 % be reversed to 5 % in case the room tariff of that hotel falls below Rs. 7500?</li> <li>c) Is the GST rate change @ 18 % is going to be perpetual for the hotel?</li> </ul> </li> <li>It is a prevalent industry practice that sometimes a room is booked through online portal, however the booking stands cancelled (as the customer does not turn up) and no payments were made to the hotel by the customer (like in the</li> </ul>	<ul style="list-style-type: none"> <li>Currently, entry 7(ii) of notification No. 11/2017-CTR dated 28.06.2017 prescribes the rate of 5% without ITC for restaurant service supplied other than at specified premises, where specified premises <i>means premises providing “hotel accommodation” services having <b>declared tariff</b> of any unit of accommodation above seven thousand five hundred rupees per unit per day or equivalent.</i></li> <li>Initially, ‘Declared tariff’ was defined in the context of accommodation services provided in hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes etc. Declared tariff was defined as the following:  <i>“declared tariff” includes charges for all amenities provided in the unit of accommodation (given on rent for stay) like furniture, air conditioner, refrigerators or any other amenities, but without excluding any discount offered on the published charges for such unit.</i></li> <li>Vide notification 46/2017-CTR dated 14.11.2017, declared tariff was linked with the restaurant service, wherein such supply would attract 5% GST without ITC if the same was supplied from a premise offering accommodation service where declared tariff was less than Rs 7500/-, and 18% otherwise.</li> </ul>

Sl. No.	Proposal	Details of request	Discussions in Fitment Committee and its recommendations
		<p>case of booking through credit card). In such cases no supply of services was actually made to the customer. A suitable Circular may kindly be issued clarifying that in the case of no supply of services by a hotel, merely booking of accommodation shall not impact the rate of GST for supply of services in the restaurant.</p> <ul style="list-style-type: none"> <li>This will save the hotel industry from the practice of OTA's and other platforms to accept booking at higher rate than the actual room tariffs on the booking portal without knowledge and consent of the hotel.</li> </ul>	<ul style="list-style-type: none"> <li>Vide notification 13/2018-CTR dated 26.07.2018, in respect of accommodation services, "declared tariff" was replaced with the terms "value of supply".</li> <li>The above decision was taken on the recommendations of the GST Council in its 28th meeting wherein the following arguments were considered, inter-alia, against the 'declared tariff' model for the purpose of determining rate of GST on accommodation services: <ul style="list-style-type: none"> <li>Declared tariff is a flawed metric since the industry uses dynamic pricing model based on demand. As the industry is seasonal, there are lot of discounts given on declared tariff. Standard practice followed across the globe in respect of the prices/ tariff of the room are Best Available Rate (BAR), Rack Rate, Dynamic Pricing etc. It would be impractical to determine the rate of taxes basis the declared tariff when the concept is not used for pricing in current times.</li> <li>Earlier, hoteliers were required to declare the tariff under local Luxury Tax Laws which is now subsumed under GST. Since, there is no concept of declared tariff in industry, hoteliers are required to undertake an additional exercise of declaring tariffs which practically is not possible in view of the dynamic pricing.</li> </ul> </li> <li>However, 'declared tariff' continued to be used in the context supply of restaurant service. However, the above arguments are equally valid for</li> </ul>

Sl. No.	Proposal	Details of request	Discussions in Fitment Committee and its recommendations
			<p>restaurants located in hotels. Moreover, it is felt that since declared tariff was originally introduced for taxability of accommodation services and has later been replaced with value of supply, there is no rationale for continuing with the same for the purpose of determination of rate of tax applicable on restaurant services.</p> <ul style="list-style-type: none"> <li>• Accordingly, in order to maintain uniformity and also to simplify the determination of GST rate on restaurant service at premises providing accommodation services, it is proposed that the definition of declared tariff maybe deleted and the definition of specified premises may be suitably amended.</li> <li>• In addition, an option may be given to a su</li> <li>• Further, in order to bring clarity on the period for which a restaurant located in specified premises, is to charge 18% with ITC, it is proposed to make the applicable rate contingent upon the value of supplies of units of accommodation made in the preceding financial year.</li> <li>• <b>In relation to the above proposals, after deliberations, the Fitment Committee recommended the following:</b> <ul style="list-style-type: none"> <li>○ <b>Deleting the definition of ‘declared tariff’ from the notification Nos. 11/2017-CTR and 12/2017-CTR both dated 28.06.2017.</b></li> <li>○ <b>Amending the definition of specified premise in notification No. 11/2017-CTR</b></li> </ul> </li> </ul>

Sl. No.	Proposal	Details of request	Discussions in Fitment Committee and its recommendations
			<p>suitably so that a supplier of restaurant service in a premises providing hotel accommodation shall be required to pay tax on restaurant service at the rate of 18%, for the entire financial year, if the value of supply of any unit of accommodation rented out during the preceding financial year is above Rs. 7500/- per unit per day.</p> <ul style="list-style-type: none"> <li>○ An option may be given to a supplier of restaurant service in a premises providing hotel accommodation to pay tax on restaurant service at the rate of 18% if the supplier so chooses, by giving a declaration to that effect on or before the beginning of the financial year or on obtaining registration.</li> <li>○ The above changes may be implemented with effect from 01.04.2025.</li> </ul> <ul style="list-style-type: none"> <li>• Further, as regards the availability/reversal of ITC for the taxpayer who would be going from 5% without ITC to 18% with ITC, we may provide a facility for such taxpayer to avail ITC on inputs and capital goods lying in stock on the date of the transitions. Similarly, as regards the reversal/payment of ITC for the taxpayer who would be going from 18% with ITC to 5% without ITC, we may require such taxpayer to reverse ITC on inputs and capital goods lying in stock on the transition date. However, bringing in the above dispensation for reversal or</li> </ul>



Sl. No.	Proposal	Details of request	Discussions in Fitment Committee and its recommendations
			<p>availment of ITC by restaurants moving between the two schemes may require changes in the law.</p> <ul style="list-style-type: none"> <li>• <b>Therefore, the Fitment Committee recommended that the matter may be referred to the Law Committee for studying the possibility of carrying out suitable amendments in the provisions.</b></li> </ul>

**(d) Issues where no change has been proposed by the Fitment Committee in relation to services**

**Annexure-V**

<b>Sl. No.</b>	<b>Proposal</b>	<b>Details of Request</b>	<b>Discussions in Fitment Committee and its recommendations</b>
1.	To exempt GST on Light dues collected by Directorate General of Lighthouses & Lightship (DGLL) during the period 01.07.2017 to 31.08.2022.	<ul style="list-style-type: none"> <li>• DGLL got registered under GST in December 2021. However, no GST could be collected and discharged by DGLL from the users due to lack of enabling provision under Lighthouse Act, 1927 for the period from July1, 2017 to August 31, 2022.</li> <li>• To implement the provision of GST on Light dues, the Lighthouse Act, 1927 was repealed and new Marine Aids to Navigation Act, 2021 (20 of 2021) was enacted having the provision of levy of GST on Light dues.</li> <li>• This new Act came into force on 31.03.2022. The earlier Lighthouse Act, 1927 had no provision for collection of service tax or GST on Light dues.</li> <li>• DGLL started collecting GST on Light dues from 01.09.2022 and started remitting to the government after implementation of Marine Aids to Navigation Act, 2021.</li> <li>• DGLL got a demand from GST Department for payment of GST on Light dues for period from July 1, 2017 to</li> </ul>	<ul style="list-style-type: none"> <li>• DGLL supplies services by way of providing and maintaining lighthouses for the benefit of ships voyaging to or from India or between ports in India which are in the nature of marine navigational services and collecting light-dues in respect of every ship arriving at or departing from any port in India.</li> <li>• Notices demanding Service Tax of Rs. 116 crores (approximately) for the period from 2012-2017 were issued by erstwhile DGCEI (now DGGI) against DGLL for non-payment of service tax on provision of marine navigational services to ship owners by DGLL.</li> <li>• Exemption from payment of service Tax and GST on the marine navigational services rendered by the Directorate General of Light Houses and Light Ships, Noida was sought.</li> <li>• For the period from 1.07.2012 to 30.06.2017, service tax wing has issued notification No. 01/2022-Service Tax dated 16.12.2022 waiving service tax liability for the period 2012-2017 under section 11C of Central Excise Act, 1944 which was also applicable to Finance Act, 1994.</li> <li>• With regards to GST, it was conveyed to both Ministry of Ports, Shipping &amp; Waterways and DGLL vide letter dated 22.04.2019 that DGLL should immediately take registration and pay GST (with interest for the past period).</li> <li>• DGLL was again informed in August, 2023</li> </ul>

Sl. No.	Proposal	Details of Request	Discussions in Fitment Committee and its recommendations
		<p>August 31, 2022 amounting to Rs. 282 crores.</p> <ul style="list-style-type: none"> <li>DGLL has shown inability to pay GST on Light dues for period from July 1, 2017 to August 31, 2022.</li> <li>It has been requested that one-time waiver from the levy of GST on Light dues collected during the period from 01.07.2017 to 31.08.2022 may be granted.</li> </ul>	<p>to comply with the provisions of the GST and pay GST at applicable rates.</p> <ul style="list-style-type: none"> <li>Thus, it can be seen that the Ministry of Ports, Shipping &amp; Waterways and DGLL were informed as early as in 2019 to obtain GST registration and pay their tax liability.</li> <li>It has been argued by DGLL that there were no legal provisions for levying any tax on Light dues prior to the enactment of the new legislation i.e., the Marine Aids to Navigation Act, 2021 and hence GST could not be levied on the lighthouse dues.</li> <li>To implement the provision of GST on Light dues, the Lighthouse Act, 1927 was repealed and the new Marine Aids to Navigation Act, 2021 was enacted in July, 2021. The Marine Aids to Navigation (Accounting and Financial Power) Rules, 2022 were notified in May 2022.</li> <li>In terms of the Government of India (Transaction of Business) Rules, 1967, business allotted to a department is required to be transacted in that Department and therefore any proposal having revenue implications has to be implemented through the concerned tax legislation and not through any other legislation, agreement or MOU etc. Hence, the argument of the Ministry is without merit.</li> <li>In the instant case, the activities undertaken by DGLL are liable for GST.</li> <li>DGLL had taken registration in December, 2021.</li> <li>DGLL had not collected any GST for the past period between 01.07.2017 to 31.08.2022 and</li> </ul>

Sl. No.	Proposal	Details of Request	Discussions in Fitment Committee and its recommendations
			<p>have started collection of GST on Light dues from 01.09.2022.</p> <ul style="list-style-type: none"> <li>• A SCN dated 31.07.2024 has been issued to DGLL demanding payment of GST of approximately Rs. 282 Crores with interest and penalty for period July 2017- March 2022.</li> <li>• Annual expenditure on establishment, operation and management of Marine Aids to Navigation is met out from the annual collection of Marine Aids to Navigation Dues. Therefore, as informed by DGLL there is no budgetary support involved from the “Public Budget” of Central Government.</li> <li>• <b>After deliberations, Fitment Committee recommended not to regularize or exempt retrospectively the GST on Light dues collected by DGLL during the period 01.07.2017 to 31.08.2022.</b></li> </ul>
2.	To examine the inclusion of services under the notification No. 17/2017-CTR dated 28.06.2017 under which four services have been notified on which GST is paid by Electronic Commerce Operator under section 9(5) of CGST Act, 2017.		<ul style="list-style-type: none"> <li>• The agenda was deferred in the 54th GST Council meeting held on 09.09.2024 and it was recommended that both law committee and fitment committee will jointly examine the issue.</li> <li>• As per section 9(5) of the CGST Act, 2017, the Government may, on the recommendations of the Council, by notification, specify categories of services the tax on intra-State supplies of which shall be paid by the electronic commerce operator if such services are supplied through it, and all the provisions of this Act shall apply to such electronic commerce operator as if he is the supplier liable for paying the tax in relation to the supply of such services.</li> <li>• Accordingly, the following services have been notified under section 9(5) by way of notification No. 17/2017-CTR dated</li> </ul>

Sl. No.	Proposal	Details of Request	Discussions in Fitment Committee and its recommendations
			<p>28.06.2017:</p> <ul style="list-style-type: none"> <li>○ Passenger transport services (5% GST)</li> <li>○ Hotel accommodation services (12%/18% GST depending upon the tariff)</li> <li>○ Restaurant services (5% GST)</li> <li>○ Housekeeping services (5% GST)</li> </ul> <ul style="list-style-type: none"> <li>• Revenue reported under section 9(5) from above four services is approx. Rs. 4000 crores for FY 2023-24. Out of which 52% is from food and restaurant industry (Rs. 2050 Crore) and 39% is from passenger transport segment (Rs. 1545 Crore).</li> <li>• Hotel accommodation contributes to approx. 6% of the revenue (Rs. 230 Crore) and housekeeping approx. 0.57% (Rs. 22 Crore).</li> <li>• Restaurant service, passenger transport service and hotel accommodation service contribute significant revenue under the ambit of section 9(5).</li> <li>• As regards housekeeping service, it is stated that services by way of housekeeping such as plumbing carpentering etc., were brought under the ambit of section 9(5) to ease the compliance burden on small service providers on recommendations of the 20th GST Council meeting held on 05.08.2017.</li> <li>• On recommendations GST Council in its 25<sup>th</sup> meeting held on 18.01.2018 the GST rate on housekeeping services such as plumbing carpentering etc., supplied through e-commerce operator was reduced from 18% to 5%.</li> </ul>

Sl. No.	Proposal	Details of Request	Discussions in Fitment Committee and its recommendations
			<ul style="list-style-type: none"> <li>The reason was that there was no GST on housekeeping services when they are provided by unregistered persons without involvement of an ECO. However, when the housekeeping service was provided by the unregistered person through ECO the rate was 18%.</li> <li>The GST Council in its 25<sup>th</sup> meeting while accepting that there cannot be parity between the two classes of service providers as “a small service provider is able to extend his reach and access to many more customers if he operates through ECO vis-a-vis a similar service provider who has no such online access to customer”, recommended that the differential may be narrowed down to 5% instead of 18%.</li> <li><b>After deliberations, Fitment Committee recommended to maintain status quo.</b></li> </ul>
3.	<p>(i) To exempt electric vehicle (EV) charging services at public charging stations.</p> <p><b>OR</b></p> <p>To clarify that the activity of charging EVs in a charging station essentially involves</p>	<ul style="list-style-type: none"> <li>The activity relating to charging of batteries of an EV at public charging station has two aspects (i) access to electricity and (ii) ancillary service charges for public charging station.</li> <li>Supply of electrical energy is exempt as per Sl. No. 104 of notification No. 2/2017-CTR dated 28.06.2017. Further, services of transmission and distribution of electricity is also exempt under Sl. No. 25 of notification No. 12/2017-CTR dated 28.06.2017.</li> <li>Therefore, supply of electricity for charging EV</li> </ul>	<ul style="list-style-type: none"> <li>The request to exempt EV charging service at public charging stations or to clarify that charging of EVs in a charging station essentially involves supply of electricity was deferred by the 54th GST Council dated 09.09.2024 for re-examination by the Fitment Committee on request of state of Andhra Pradesh.</li> <li>The request from Andhra Pradesh has been received.</li> <li>The request to reduce the rate of GST on EV charging and battery swapping service to 5% from the current rate of 18% and to exclude the cost of electricity from taxable value while charging GST on EV charging service was placed before the 47th GST Council held in June 2022. However, the Council did not accede to the request.</li> </ul>

Sl. No.	Proposal	Details of Request	Discussions in Fitment Committee and its recommendations
	supply of electricity and therefore should be chargeable at the same rate applicable to supply of electricity.	<p>batteries should be exempt from GST.</p> <ul style="list-style-type: none"> <li>• However, Karnataka Authority for Advance Ruling (AAR) has recently held that the activity of charging batteries at public charging stations is essentially a supply of service and the entire consideration is liable to GST as supply of service at the rate of 18%.</li> <li>• Karnataka AAR was indifferent to the fact that the intention of an EV user visiting the service station is to seek access to electricity available for charging EV battery.</li> <li>• While the supply of electricity is undisputedly exempt from GST, if at all, the ancillary services could be subject to GST. However, on account of ruling by Karnataka AAR, 18% GST is being applied to entire consideration being charged for facilities being provided at charging stations.</li> </ul>	<ul style="list-style-type: none"> <li>• Supply of electrical energy is exempt from GST vide entry at Sr. No. 104 of notification No. 02/2017-CTR dated 28.06.2017.</li> <li>• Service of distribution or transmission of electricity by an electricity transmission or distribution utility is also exempt from GST vide entry at Sr. No. 25 of notification No. 12/2017 – CTR dated 28.06.2019.</li> <li>• Further, Sr. No. 13 of notification No. 11/2017-CTR dated 28.06.2017 specifies rate of 18% on electricity, gas, water and other distribution services (Heading 9969). As per the Scheme of classification of services, this heading included only electricity transmission and distribution services.</li> <li>• Ministry of Power vide Circular No. 23/08/2018-R&amp;R dated 13.04.2018 has clarified that the charging of battery essentially involves utilization of electrical energy for its conversion to chemical energy, which gets stored in the battery. Thus, the charging of battery of an electric vehicle by a charging station involves a service requiring consumption of electricity by the charging station and earning revenue for this purpose from the owner of the vehicle.</li> </ul>
	(ii) To reduce GST rate on electric vehicle (EV) charging service from 18 % to 5% or exempt the same.	<ul style="list-style-type: none"> <li>• The 54th GST Council, recommended maintaining status quo on GST rates for parts used in EV manufacturing to avoid supply chain inversion and deferred the proposal to reduce the GST rate on EV charging services from 18% to 5% and clarified that charging</li> </ul>	<ul style="list-style-type: none"> <li>• It has further been clarified vide Circular No. 23/08/2018-R&amp;R dated 13.04.2018 that EV charging activity does not in any way include sale of electricity to any person as the electricity is consumed within premises owned by the charging station, which may be connected to the distribution system or otherwise for receiving electricity. The activity does not involve further distribution or transmission of electricity, the charging station does not perform any of the activities</li> </ul>

Sl. No.	Proposal	Details of Request	Discussions in Fitment Committee and its recommendations
		<p>activities do not constitute sale of electricity, hence no exemption from GST is warranted.</p> <ul style="list-style-type: none"> <li>Concerns were expressed regarding monitoring of end-use concessions for capital goods, emphasizing that the benefits of depreciation under the IT Act are already available.</li> <li>Proposed A.P. Electric Mobility Policy 2024 by State of Andhra Pradesh is aimed at fostering the adoption of Electric Vehicles and reduces dependency on fossil fuels.</li> <li>The tax rate on EV charging services provided at charging stations is 18% which is a significant burden on operators and ultimately affects the end user. The State's new EV policy initiative is incentive based and focuses on infrastructure development, including charging and hydrogen stations for recharging/refueling electric vehicles. The reduction in GST rates will be a significant step towards encouraging the adoption of EVs and promoting a sustainable environment.</li> <li>Therefore, GST rate on EV charging services may be reduced from 18% to 5% or exempted altogether.</li> </ul>	<p>namely transmission, distribution or trading of electricity, which require license.</p> <ul style="list-style-type: none"> <li>Thus, it can be seen that EV charging service does not qualify as supplier of electricity nor as service of distribution or transmission of electricity by an electricity transmission or distribution utility.</li> <li>Hence no exemption from GST is available as per existing provisions.</li> <li>As per explanatory notes to the Scheme of classification of services, it is seen that battery charging of motor vehicles is covered under SAC 998714. This service attracts GST @ 18%.</li> <li>It has also been ascertained that electricity for EV charging stations is being provided in most states at already subsidised rates.</li> <li><b>After deliberations, Fitment Committee recommended to maintain status quo.</b></li> </ul>



(e) **Issues deferred by the Fitment Committee for further examination in relation to services**

**Annexure-VI**

Sl. No.	Proposal	Detail of request	Discussions in Fitment Committee and its recommendations
1.	To clarify the applicability of GST on the upfront amount/ concession amount paid to NHAI by concessionaire for grant of rights under Toll Operate Transfer (TOT) Model and also on short term toll collection under EPC and HAM model.	<ul style="list-style-type: none"> <li>NHAI has been authorized for monetization of assets by introducing Toll Operate and Transfer (TOT) model for partnership with private sector for toll collection, operation and maintenance for a period of 15-30 years against an upfront lump sum concession fee quoted.</li> <li>Under TOT model, private players participate through a competitive bidding process and the bidder offering the highest bid is awarded the concession.</li> <li>The bidding amount is compared with Initial Estimated Cost Value (IECV) which is the reserved price, which represents the projected upfront toll revenue over the entire concession period, nothing but upfront realization of Present Value of the future tolls.</li> <li>The IECV is the discounted value (discounted at rate of three percent above bank rate) of the Free cash flow expected to be generated by the Project Road from the valuation date until end of concession period of 20-30 years as estimated by NHAI. The value of IECV is confidential and not made public.</li> <li>Methodology to determine IECV considers multiple factors like NHAI analyses past data to project</li> </ul>	<ul style="list-style-type: none"> <li>The agenda was deferred by the 54<sup>th</sup> GST Council held on 09.09.2024.</li> <li>Under CGST Act, 2017, supply of any goods and services or both, attracts GST unless that supply is specifically exempted from GST.</li> <li>Currently service by way of access to a road or a bridge on payment of toll charges is exempt from payment of GST (<i>Entry No. 23 of Notification No. 12/2017 – CT(R)</i>).</li> <li>Under TOT model, the National Highway Authority of India engages a concessionaire for operation, maintenance and management of already developed/ constructed highway projects. The concessionaire is entitled to demand and collect toll from vehicles and users of the highway for a period of 20-30 years.</li> <li>The concessionaire assumes full responsibility for road maintenance and toll collection during the concession period.</li> <li>The upfront amount paid by the concessionaire is the consideration paid by him for receiving exclusive right of way, access and license to the site including right to demand, collect and appropriate fee from vehicles and users along with the maintenance of the highways etc. by NHAI and regulation of third parties from the appointed day till expiry of</li> </ul>

Sl. No.	Proposal	Detail of request	Discussions in Fitment Committee and its recommendations
		<p>potential future toll collections over the 20-30 year concession period. Further, advanced forecasting models are applied to predict future traffic flow, accounting for expected increases in vehicle numbers and potential economic developments in the region that could affect road usage. This often includes inputs from regional economic plans or infrastructure projects that might influence traffic volumes. The physical condition of the highway and its infrastructure (e.g., bridges, toll plazas) is assessed to estimate future maintenance needs. This affects the financial model by adjusting projected maintenance and repair costs, thus impacting the net toll value.</p> <ul style="list-style-type: none"> <li>• As per NHAI's submissions, there is no remittance paid to NHAI in case of TOT and 100% of money received is deposited into Consolidated Fund of India on same day and not considered as Income in the books of NHAI.</li> <li>• As regards Operation &amp; Maintenance expenditure, it includes routine maintenance expenses for road surface upkeep, landscaping, toll booth operations and other necessary services to ensure the infrastructure remains safe and operational during the concession period.</li> <li>• The Concessionaries usually set up SPV responsible for O&amp;M</li> </ul>	<p>agreement.</p> <ul style="list-style-type: none"> <li>• <b>After deliberations, Fitment Committee recommended to defer the issue for more comprehensive examination.</b></li> </ul>

Sl. No.	Proposal	Detail of request	Discussions in Fitment Committee and its recommendations
		<p>activities ensuring compliance and transparency. The amount of expenditure actually incurred by SPV through their various sub-contractors towards O&amp;M can be ascertained through the accounts filed by SPV.</p> <ul style="list-style-type: none"> <li>• NHAI has also informed that Toll or user fee is reimbursement for the costs that are incurred in the construction, maintenance and operation of roads and bridges.</li> <li>• Further, NHAI has also informed that it is not possible to distinguish the toll charges and the fee charged by concessionaire for providing service of collection of toll.</li> <li>• Toll is a consideration charged to vehicles for providing/allowing access to a road or a bridge.</li> <li>• The concession amount is a lump sum of upfront payment of toll revenue which is in the nature of a Capital Receipt used to fund for creation of new assets.</li> <li>• Therefore, the same is not liable for GST as toll is exempted under Sr. No. 23 of the notification No. 12/2017-CTR dated 28.06.2017.</li> <li>• DGGI Bhubaneswar has issued a SCN of Rs 677.25 Crore on TOT concessions paid to NHAI.</li> <li>• NHAI has submitted that by applying GST on the concession amount paid by the concessionaire, effectively toll paid by users will become inclusive of GST.</li> <li>• NHAI has also informed that under</li> </ul>	

Sl. No.	Proposal	Detail of request	Discussions in Fitment Committee and its recommendations
		<p>EPC and HAM model, NHAI retains full control over toll collection after the completion of the project. Under this arrangement, toll collection is often outsourced to private agencies through competitive bidding to discover the highest toll collection potential, generally having a contract period of one year/six months/three months where toll will be operated by selected agencies.</p> <ul style="list-style-type: none"> <li>The toll collecting agency is responsible for remitting the toll revenue on weekly basis based on the rates notified which gets deposited in the consolidated fund of India. The tolling agency is not responsible for any other obligation like O&amp;M etc. In this process, O&amp;M is with EPC contractor/ HAM Concessionaire as per provisions of the contract / concessionaire agreement.</li> <li>Clarification has been sought on the GST exemption on this short form of toll collection.</li> </ul>	
2.	To clarify the taxability of services provided by NBFCs to banks in co-lending arrangements.	<ul style="list-style-type: none"> <li>The co-lending model was introduced by the Reserve Bank of India (RBI) with two primary objectives: <ol style="list-style-type: none"> <li>Addressing credit demands in crucial economic sectors like agriculture, MSMEs, and housing; and</li> <li>Making loans more affordable by leveraging banks' lower cost of funds and NBFCs' wider reach.</li> </ol> </li> <li>The Co-Lending Model has two</li> </ul>	<ul style="list-style-type: none"> <li>Co-lending is a Priority Sector Lending (PSL) arrangement where a bank and an NBFC lend together to a borrower on mutually agreed terms. The co-lending model is designed to combine the advantage of lower cost of capital of banks with the greater reach of NBFCs, in order to serve needy borrowers.</li> <li>In the co-lending model, banks and NBFCs tie up to provide credit to the borrowers whilst sharing the risks and rewards of lending.</li> </ul>

Sl. No.	Proposal	Detail of request	Discussions in Fitment Committee and its recommendations
		<p>main options:</p> <p><b>Option A: Co-origination of loans:</b></p> <ul style="list-style-type: none"> <li>○ Banks and NBFCs jointly contribute to loan exposure (typically 80:20 ratio).</li> <li>○ A single blended interest rate is offered to the borrower.</li> <li>○ NBFCs typically charge a higher interest rate due to higher borrowing costs.</li> </ul> <p><b>Option B: Post-Disbursal Takeover:</b></p> <ul style="list-style-type: none"> <li>○ Banks can take over 80% of the loan after disbursement by NBFC.</li> <li>○ NBFCs retain 20% of the loan.</li> <li>○ An escrow mechanism is set up to collect and distribute repayments.</li> </ul> <ul style="list-style-type: none"> <li>• It has been argued that the interest rate difference reflects NBFCs' higher funding costs and that there is no specific additional service being provided by NBFCs to the banks. This is a joint operation focused on providing credit and that the "<i>excess interest spread</i>" is essentially interest income, not a service charge.</li> <li>• Accordingly, a request has been received to issue a circular clarifying that the higher rate of interest charged by a NBFC or the excess rate of interest retained by NBFC in co-lending arrangements are purely in the nature of interest on loan and are not a consideration for any service, and thus are not subject to the levy of GST.</li> </ul>	<ul style="list-style-type: none"> <li>• There are two models of co-lending. These models are referred to as Co-Origination (CLM-1) and Co-Lending (CLM-2). These models are broadly covered under Circulars dated 21/09/2018 and 05/11/2020, respectively, issued by RBI. While the former arrangement entails joint contribution of credit at the facility level by both the lenders as also sharing of risks and rewards, the latter model, which has superseded the former, entails disbursement by the NBFC itself, with banks taking on their share of the loan on their books on a back-to-back basis. In the co-lending model, banks can also choose to either mandatorily take their share of individual loans originated by NBFCs or to retain the discretion to reject certain loans after due diligence.</li> <li>• During the examination of the issue, it was seen that there are several types of agreements between banks and NBFCs in co-lending arrangements. The Fitment Committee was of the view that the structures/practices in these agreements need to be examined in more detail before a decision can be taken in the matter.</li> <li>• <b>After deliberations, Fitment Committee recommended to defer the issue.</b></li> </ul>

**(f) Issues related to services on which Fitment Committee has not made any recommendations**

**Annexure VII**

<b>Sl. No.</b>	<b>Proposal</b>	<b>Details of request</b>	<b>Discussions in Fitment Committee and its recommendations</b>
1.	To exempt GST on the services provided by M/s Goethe Institutes/ Max Mueller Bhavans, funded by the German Federal Foreign Office, in India for the period from 01.07.2017 to 31.03.2023.	<ul style="list-style-type: none"> <li>• M/s Goethe Institutes/Max Mueller Bhawan have six institutes across India which provide linguistic and cultural training to young Indians preparing for their stay in Germany.</li> <li>• They have been registered under GST at Delhi, Mumbai, Chennai, Bangalore, Kolkata and Pune. From 1<sup>st</sup> April, 2023, Goethe Institutes have started collecting and paying GST.</li> <li>• Prior to 1<sup>st</sup> April, 2023, the Institutes did not collect GST from their students nor did they remit the same to Government as they were under the belief that their activities are exempt from GST.</li> <li>• They have requested that no proceedings may be initiated against them for past period i.e., upto 31<sup>st</sup> March, 2023 and GST on services provided by them may be exempted for the period from 01.07.2017 to 31.03.2023.</li> <li>• Approximate quantum of GST is Rs. 52 crore that is accumulated up to 31.03.2023.</li> <li>• MEA has informed that India is engaged in extensive discussions with the German side in recent months to upscale German language training in India, which would</li> </ul>	<ul style="list-style-type: none"> <li>• Entry at Sl. No. 66 of notification No. 12/2017-CTR exempts services provided by an educational institution to its students, faculty and staff.</li> <li>• Educational institution has been defined as an institution providing services by way of, - <ul style="list-style-type: none"> <li>○ Pre-school education and education up to higher secondary school or equivalent;</li> <li>○ Education as a part of a curriculum for obtaining a qualification recognized by any law for the time being in force;</li> <li>○ Education as a part of an approved vocational educational course.</li> </ul> </li> <li>• The services provided by Goethe Institutes are thus not eligible for exemption under entry at Sr. No. 66 of notification No. 12/2017-CTR dated 28.06.2017.</li> <li>• As Goethe Institutes cannot be categorized as educational institutions under provisions of GST, the services provided by them attracts GST at 18%.</li> <li>• Goethe Institutes have already started paying GST on their services after 1st April, 2023. Till March, 2024 the branches of Goethe Institutes have paid GST of approx. 15 crores.</li> <li>• Fitment Committee in the meeting dated 31.05.2024 recommended that the request may not be accepted.</li> <li>• 54<sup>th</sup> GST Council held on 09.09.2024 agreed to the recommendations of the Fitment Committee and did not accede to the request of M/s Goethe Institutes/Max Mueller Bhawan to exempt GST on services provided by them for past period</li> </ul>

Sl. No.	Proposal	Details of request	Discussions in Fitment Committee and its recommendations
		<p>be beneficial for our youth in helping them find employment opportunities in Germany and also in attracting German Investments in India.</p> <ul style="list-style-type: none"> <li>Ministry of External Affairs has also informed that Germany will require upto 5 million professionals/skilled workers in the next 10-15 years and German officials have informed that India is a preferred source country for such skilled professionals.</li> <li>It has also been informed that British Council and Alliance Française are GST compliant.</li> <li>Alliance Française is registered under Societies Registration Act, XXI of 1860 as a not-for-profit organization on 30.06.1956. It is legally and financially independent from the Foundation Alliance Française in Paris.</li> <li>Further, the British Council is a registered charity institute and received grant-in-aid from the Foreign Commonwealth and Development Office of the Government of UK, but is operationally independent from it.</li> </ul>	<p>from 01.07.2017 to 31.03.2023.</p> <ul style="list-style-type: none"> <li>Status of similarly placed cultural centres was also checked.</li> <li>British Council and Alliance française are registered under GST and paying GST on education services (SAC 9992) since 2017 onwards. They were also registered under Service Tax regime.</li> <li>Both British Council and Alliance française are not part of the respective embassies.</li> <li>British Council had paid GST of approximately Rs. 1.78 crores during FY 2017-18 to 2023-24 and Alliance française has paid GST of approximately Rs. 11.94 crores during FY 2017-18 to 2023-24.</li> <li>Ministry of External Affairs has requested to take the issue of retrospective exemption from GST to Council again. Quantum of GST involved is approx. Rs 52 crores as informed by the Ministry.</li> <li>Moreover, it is believed that this training conducted by the Goethe Institutes would be beneficial for Indian youth in helping them find employment opportunities in Germany and also in attracting German Investments in India.</li> <li><b>After deliberations, Fitment Committee did not make any recommendations on this issue and viewed that the issue may be discussed and decided by the GST Council only.</b></li> </ul>

### **Agenda Item 5: Closure of Group of Ministers (GoM) on Analysis of Revenue from GST**

In pursuance of the decision of the GST Council in its 31<sup>st</sup> meeting on 22<sup>nd</sup> December, 2018, a Group of Ministers (GoM) on Analysis of Revenue from GST was constituted vide OM dated 01.01.2019 to look into the issues related to trends, deviation and challenges of revenue collection under GST.

2. The **Terms of Reference** for the GoM were as follows:

- i. Analyse State-wise trends of revenue collection, both pre-GST and post GST
- ii. Analyse structural patterns emerging out of certain major sectors of economy affecting the revenue collection. including the services sector
- iii. Identify underlying reasons for deviations in revenue collection trends vis-a- vis original assumption arrived at during design and implementation of GST, in particular less than expected revenue collection of some of the major consuming States
- iv. Undertake data analytics using econometric and statistical tools on the above issues
- v. Suggest suitable measures/Policy intervention for course correction for revenue augmentation, particularly for the States suffering high revenue shortfall.

3. The following recommendations were made by the GoM in the 38<sup>th</sup> GST Council Meeting held on 18<sup>th</sup> December, 2019:

- i. States should be asked to suggest ways to improve the GST compliance;
- ii. A study should be conducted on rationalization of GST rates/ tariff and merger of GST slab;
- iii. GST collection from real state sector should be analyzed;
- iv. How States can be better equipped to harness the tax potential on supplies of services;
- v. A detailed study should be conducted on e-Commerce including deep discounts offered by them with a view to augmenting revenue;
- vi. A study should also be conducted to explore avenues for expanding the scope of the Cess being levied including increase in the Cess rate or bringing some new items under the levy of Cess.

4. Over the past seven years since the implementation of GST, revenue collection has stabilized due to enhanced compliance mechanisms and technological advancements. The recommendations of the GoM on Analysis of Revenue from GST are being addressed by the GoM on Rate Rationalization, GoM for Boosting the Real Estate Sector and the newly constituted GoM on Compensation Cess. Requisite mechanisms to address issues relating to compliance and enforcement are in place. The Law Committee regularly deliberates on ways to strengthen the compliance mechanism as would lead to revenue augmentation. Accordingly, it is submitted that many steps have been taken for augmenting revenue by improving compliance and the requirement of a separate GoM on Revenue Analysis may not exist anymore. It is recommended that the GoM on Analysis of Revenue from GST be closed.

The proposal for closure of the GoM on Analysis of Revenue from GST is placed before the GST Council for its consideration and approval.



**Agenda Item 6: Recommendations of the 22<sup>nd</sup> meeting of the IT Grievance Redressal Committee for approval/decision of the GST Council:**

The 22nd meeting of the IT Grievance Redressal Committee (ITGRC) was held on 19th September, 2024 at 03.00 PM in online mode to resolve the grievances of the taxpayers arising out of the technical problems faced by them on the GSTN portal in relation to GST Compliance filings.

The agenda for the 22nd ITGRC meeting covered the following issues:

1. Technical Issues requiring data fixes through back-end utilities
2. Any other agenda with the permission of the chair

**2. Recommendations of ITGRC on Data Fix issues:**

As per the SOP approved in the 45th GST Council meeting for technical issues requiring data fix of the processed incorrect data through backend utilities, GSTN presented 21 issues which required data fixes for the consideration of ITGRC during its 22nd meeting.

**2.1** ITGRC took note of the data fixes carried out by GSTN in 9 issues impacting 445 cases which were technical issues with no financial implication where correct data was known (Category-1 of the approved SOP).

**2.2** For the 7 technical issues impacting 64 cases pertaining to Category-2 (Technical issues where there were financial implications and the correct data was known), ITGRC took note of the data fixes carried out by GSTN in all 64 cases involving an amount of Rs. 53,04,883/- and directed GSTN to update the status of recovery of Rs. 41,03,025/- in 2 issues (Sr. No. 1 & 5) and about the report of the jurisdictional officer wherein the taxpayer was getting Turnover (TO) validation error while filing GSTR-4 (Sr.No. 7).

**2.3** 2 similar issues discussed & approved in previous ITGRC meeting, were also brought as agenda. ITGRC took note of the same and recommended waiver of late fee in case of late filing of GSTR-3B (Sr.No.8) and approved the reset of TRAN-1 Form by GSTN in case of M/s Uflex Limited (Sr.No.9).

**2.4** Status update of 3 issues reported in previous ITGRC meetings was presented by GSTN.

**2.4.1** ITGRC took note of the reset done by the system in case of data mismatch between Hbase and Ledger in 41,315 cases and re-filing of 6,803 returns in which amount of Rs 2,222.08 Cr has been recovered. Further, ITGRC directed GSTN to recheck and correct the figure of total cases and the pending cases for reset. For the liability in 15960 cases of cancelled taxpayers and 4470 cases of insufficient ITC Ledger balance, ITGRC recommended that the same be referred to the Law Committee to deliberate on the best way to take forward the process of recovery.

**2.4.2** In the issue pertaining to inadvertent crediting of taxpayer's account instead of Consumer Welfare Fund, ITGRC took note of the recoveries amounting to Rs.9,74,758/- done so far and directed GSTN to pursue the 7 pending cases of recovery and update ITGRC during the next meeting.

**2.4.3** With regard to the issue pertaining to duplicate transmission of Shipping Bills, ITGRC took note of Rs. 1.47 crore of recovery made and directed GSTN to follow up those cases in which an amount of Rs. 1.29 crore has yet to be recovered.

The recommendations of ITGRC as per attached Minutes of the 22nd meeting of ITGRC are placed for information of the GST Council as Annexure-A (attached).

The GST Council may approve the recommendations of the ITGRC and the data fixes carried out by GSTN as mentioned in Para 2 above.

**Minutes of the 22<sup>nd</sup> Meeting of the IT Grievance Redressal Committee (ITGRC) held on 19<sup>th</sup> September, 2024.**

The 22<sup>nd</sup> meeting of the IT Grievance Redressal Committee (ITGRC) was held in online mode through VC platform on 19<sup>th</sup> September 2024 at 03:00 pm. The list of officers who attended the meeting is attached as **Annexure-1**. The agenda and annexure to agenda circulated for the meeting is at **Annexure-2**.

2. Shri Shashank Priya, Member (GST), CBIC and Chairperson, ITGRC welcomed all the members of ITGRC and invited EVP, GSTN to proceed with the agenda.

3. Shri Alok Kumar, Executive Vice President (EVP), GSTN stated that the agenda for the meeting consisted of issues where data fixes have been carried out by GSTN as per the SOP developed and approved in the 45<sup>th</sup> meeting of the GST Council. There were 9 technical issues with no financial implications where correct data was known with certainty, 07 technical issues affecting locally with financial implications where data is known with certainty and 02 agendas on similar issues that were discussed/ approved in previous meetings of the ITGRC. He further added that status update on 3 previous ITGRC issues is also brought before the Committee for information.

4. EVP, GSTN then proceeded with the presentation (**Annexure-3**). First the technical issues having no financial implications were taken up.

**5 (a) Technical issues having no financial implications where correct data known:**

**5(a).1**

S. No.	Issue reported	No. of Cases Impacted	Module	Detailed Description	Status
1	ONGC Petro additions Limited ('OPaL' or 'We'), having GSTIN 24AAACO9200B3Z2 is registered Special Economic Zone (SEZ) unit located in Bharuch, Gujarat. The export ledger balance is negative to the amount of INR 1,11,42,985.35/-under IGST head. The taxpayer has made payment under Table 3.1(a) instead of table 3.1(b), therefore, the export ledger is showing negative	1	Refund	This is related to grievance raised by M/s OPaL (ONGC Petro additions Limited), a SEZ unit located in Gujrat. The export ledger of this taxpayer is deficit to the amount of Rs 1,11,42,985.35.  During FY 18, the taxpayer has reported the supplies made to a DTA unit located in Gujrat as SEZ supplies. As per the taxpayer, GST system was not accepting the DTA's GSTIN for IGST payment as both are in the same State. To disclose the correct liability under IGST, these supplies have been reported as "SEZ supply with payment" on GST portal while filing GSTR 1. The taxpayer has	Data Fix will be given in the export Ledger to offset the negative balance. Jurisdictional report is attached herewith:

	balance. The negative value (deficit) in the export ledger is not allowing further eligible invoices to get transmitted to ICEGATE.			made the payment in table 3.1(a) of GSTR 3B and the same has been verified by the technical team. As the supplies have been reported as 'SEZ' supply, it has created liability in Export ledger. The payment has been done in Table 3.1(a) and therefore, it is not reflecting in Export ledger and created the negative balance. The negative value (deficit) in the export ledger is not allowing further eligible invoices to get transmitted to ICEGATE. The only solution available in this case is to provide offset for the amount of Rs 1,11,42,985.35/- in the export ledger.	
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### **Discussion:**

EVP, GSTN explained that because of system limitation the taxpayer had incorrectly reported the SEZ-DTA supply (Normal supply) as SEZ-SEZ (Zero rated supply) as the system did not allow them to pay IGST on SEZ-DTA transaction as both units were in same State. He explained that the taxpayer has disclosed the correct liability under IGST in GSTR 3B, but they have been reported as SEZ supply with payment in GSTR 1. In the 21<sup>st</sup> Meeting of ITGRC GSTN was directed to seek clarification from the jurisdictional officer before issuance of Minutes of the meeting. He stated that the report has been received from the jurisdictional officer that this amount has been received and he submitted that this has been verified. In view of same, he requested that the data fix can be approved by the Committee.

Joint Secretary (GSTCS) enquired as to what would be the course of action in future for similar cases and also as to whether data fix will be the solution for the same.

EVP, GSTN explained that they are investigating the case of SEZ-DTA supplies and vice versa and that the technical team has been directed to list out all the scenarios where negative values are occurring in the export ledger on account of SEZ-DTA supplies or vice versa or any other possible scenario and that such cases will be brought before the ITGRC in the forthcoming meeting.

Chairperson, ITGRC commented that such supplies are regular in nature and enquired whether this is the only instance of its kind or large number of similar cases need to be taken care of.

EVP, GSTN explained that the present case is taken up based on ticket raised by the taxpayer.

**Decision:** ITGRC approved the data fix proposed by the GSTN.

**5(a).2**

S. No.	Issue reported	No. of Cases Impacted	Module	Detailed Description	Status
2	The export ledger is having negative balance due to mistakes committed by taxpayer in GSTR-1 and this negative balance disallows transfer of eligible export invoices to ICEGATE for IGST Refund. In this case, DTA-SEZ (not meant for authorized operation) supply is reported as Export supply instead of domestic supply in GSTR 1.	1	Refund	M/s Corrttech (GSTIN 24AAACI8838F1ZK) has misreported DTA-SEZ supplies (not meant for authorized operation) as zero-rated supplies for the period of December 2018, March 2019 and May 2019 in GSTR 1. It has created negative balance of Rs 16,67,197 in the export ledger. This negative balance has stopped further transmission of eligible export invoices to ICEGATE belonging to the period November 2022 to October 2023 and IGST refund of Rs 7,23,91,175.70 is stuck.	Data Fix will be given in the export Ledger to offset the negative balance of Rs 16,67,197. Report is received from Jurisdiction confirming the claim of the taxpayer.

**Discussion:**

EVP, GSTN stated that in this case the taxpayer has misreported DTA-SEZ supplies (not meant for authorized operations) as zero-rated supplies for the period of December 2018, March 2019 and May 2019 in GSTR 1. He added that in system, all DTA-SEZ supplies made are to be reported in Table 6 but the taxpayer has made payment in GSTR 3B considering it as domestic supply as it is meant for non-authorized operations, i.e. B2B in Table 3.1(a). He stated that this has created negative balance in the export ledger and this has stopped further transmission of eligible export invoices to ICEGATE. In the 21<sup>st</sup> Meeting of ITGRC GSTN was directed to seek clarification from the jurisdictional officer whether the payment was correctly made. He stated that the report has been received from the jurisdictional officer confirming the claim of the tax payer and he also added that that this data fix involves no financial implication. In view of same, he requested that the data fix to offset the negative balance of Rs. 16,67,197/- in the export ledger be approved by the committee.

**Decision:** ITGRC approved the data fix proposed by the GSTN

**5(a).3**

S. No.	Issue reported	No. of Cases Impacted	Module	Detailed Description	Status
3	Mismatch in the Annual Aggregate Turnover (AATO)	56+288 (Data Fix is in process, concept note approved) = 344 GSTINs	Returns	<p>Mismatch in the AATO of the taxpayers because few records are getting missed intermittently during the pick-up and processing from Hbase tables for AATO calculation. Thus, the accurate AATO could not be updated to the MySQL master tables.</p> <p>GST system processes data from GSTR 3B and CMP08 filings to calculate turnover (AATO) of the taxpayers. The records are stored in HBase tables in the backend. Every hour, a system process (periodic bolt) calculates the aggregate turnover and updates the MySQL master tables. However, some records are intermittently missed by this hourly process, leading to incomplete turnover data in the MySQL tables.</p>	The permanent fix of this issue has been incorporated in the CR 27001 "Changes in computation of aggregate turnover" given for AATO design change which will be picked up for development.

**Discussion:**

EVP, GSTN stated that in this case there is mismatch in the AATO of the taxpayers. He mentioned that the system processes data from GSTR 3B and CMP08 filings to calculate AATO of the taxpayers but exact AATO could not be updated to the MySQL master tables in 344 cases due to system glitch in the hourly process of calculation leading to incomplete turnover data in the MySQL tables. He informed that the matter was deferred by ITGRC in the 21<sup>st</sup> meeting with the query as to how the issue with the composition tax payer has come to light. He stated that it has been ascertained from the tickets filed by taxpayers that the turnover was not updated on account of which loan was not approved by the bank. He added approval may be accorded by ITGRC to all 344 similar cases. He stated that a permanent fix for the same is in process.

**Decision:** ITGRC took note of the data fix proposed by the GSTN.

**5(a).4**

S. No.	Issue reported	No. of Cases Impacted	Module	Detailed Description	Status

4	Taxpayer was unable to file GSTR-3B for month September 2017 because taxpayer has submitted entries for GSTR-4 return for quarter Jul-Sept and Oct - Dec 2017-18.	1	Returns	<p>The GSTIN 09BAEPA7929R1Z1 was in composition scheme for the period of July 2017-Dec 2017. When he was in composition scheme, he tried to file GSTR 4 return (Quarterly return for Composition scheme). However, the taxpayer saved and submitted the GSTR 4 return for the above periods but not filed the said returns. These entries were stored in the database and did not allow the taxpayer to file GSTR 3B for the month of Sep 2017.</p> <p>The taxpayer's application for withdrawal from Composition scheme was accepted w. e. f 01.07.2017. This acceptance has made the GSTR 4 entries in the database as invalid since the taxpayer was no longer in Composition scheme.</p> <p>After Section 37(4) &amp; Section 39(10) was amended vide Notification No. 18/2022, sequential filing of GSTR-3B was introduced on GST portal w.e.f. 1st Nov. 2022. This sequential filing check stops the taxpayer from filing returns if any of the previous returns are not filed. In this case, the details of GSTR 4 were present in the database and GST system considered that these GSTR 4 returns were not filed. Therefore, the taxpayer was not allowed to file GSTR 3B of September 2017.</p>	Data fix was given on 22.05.2024 to remove the entries of GSTR 4 so that the taxpayer is enabled to file GSTR 3B of Sep 2017 (ICR-26020).
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### **Discussion:**

EVP, GSTN stated that in this case the taxpayer was in composition scheme for the period of July 2017-Dec 2017 and he had tried to file the GSTR 4 return under the composition scheme. But the taxpayer only saved and submitted the GSTR 4 return for the above periods but had not filed the said returns. He stated that the taxpayer's application for withdrawal from Composition scheme was accepted from 01.07.2017. Subsequent to this sequential filing of GSTR-3B was introduced on GST

portal w.e.f. 1<sup>st</sup> Nov. 2022 and the system did not allow the taxpayer to file GSTR 3B for the month of September, 2017 as the GSTR 4 entries were stored in the database. Therefore, data fix was given on 22.05.2024 to remove the entries of GSTR 4 so that the taxpayer is enabled to file GSTR 3B of September, 2017

Chairperson, ITGRC stated that the taxpayer will be filing the GSTR 3B of September, 2017 after the due date and that this would involve interest and late fee. He enquired as to whether the agenda also includes a proposal for waiver of late fee.

EVP, GSTN informed that the taxpayer has not requested for that relief.

Joint Secretary (GSTCS) enquired as to whether this issue is limited to the period of September, 2017.

EVP, GSTN informed that on analysing the system it was seen that the tax payer has not filed certain other returns, and, in this respect, the jurisdictional officer has been informed to follow it up with the tax payer.

**Decision:** ITGRC took note of the data fix done by the GSTN.

#### 5(a).5

S. No.	Issue reported	No. of Cases Impacted	Module	Detailed Description	Status
5	Tax Deductors were not able to file Form GSTR-7 return. (29BLRE03895D1DX – Oct 2023 and 37HYDM02204G2DL – Sep 2023)	2	Returns (GSTR-7)	<p>Tax Deductors furnish the TDS details in Table 3 of GSTR 7. These details (records) are auto populated in GSTR 2X of the recipient which can be either accepted or rejected. If a record is accepted, the amount equivalent to the TDS amount will get reflected in the cash ledger of the recipient. If a record is rejected, the record will be sent back to Tax deductor and reflect in Table 4 of next month's GSTR 7 for amendment.</p> <p>In this case, the recipient has neither accepted nor rejected the records of that period GSTR 2X. Meanwhile, the Tax deductor has amended the same records in the next return which were accepted by the recipients in the next GSTR 2X. After some period, the taxpayer has rejected the records in earlier GSTR 2X.</p>	Data fix was completed (to change the status to 'deferred') on 27-June-2024 via ICR-26683. Analysis is under progress for permanent fix.

#### **Discussion:**

EVP, GSTN stated that in this case the tax deductors were not able to file Form GSTR-7 return. He stated that the TDS details are furnished in Table 3 of GSTR 7 and then they are auto populated in GSTR 2X of the deductee which can be either accepted or rejected. He mentioned that if a record is



accepted, then the amount equivalent to the TDS amount will get reflected in the cash ledger of the deductee. In this case the deductee has neither accepted nor rejected the records of the relevant period in GSTR 2X. He mentioned that the tax deductor meanwhile had amended the same records in the next return to correct the earlier incorrect entry which were accepted by the deductee in the next GSTR 2X. The deductee meanwhile rejected the original record as it was incorrect. EVP GSTN stated that because of this mis match the tax deductor were not able to file the next GSTR 7 Return. Therefore, data fix was done to change the original record to deferred status so as to enable the tax deductor to file the return.

Joint Secretary (GSTCS) enquired as to whether this is a design issue for which data fix has been done.

EVP, GSTN informed that this is a design issue and that analysis is in progress for a permanent fix.

**Decision:** ITGRC took note of the data fix done by the GSTN.

#### 5(a).6

S. No.	Issue reported	No. of Cases Impacted	Module	Detailed Description	Status
6	Table 7J of GSTR 9 Return is not displaying the modified value in Preview Draft (PDF/ Excel). The same data is also not reflecting in Table 12E of GSTR9C Return.	91	Returns (GSTR-9)	<p>In GSTR 9 Return, difference of Table 6O (Total ITC availed) and Table 7 I (Total ITC Reversed) is displayed in Table 7J(Net ITC Available for Utilization (6O - 7I) ). This value must be displayed on UI and the Preview Draft (PDF/ Excel) of GSTR9 return and Table 12E of GSTR9C Return. However, modified value is not displayed in both the returns.</p> <p>Taxpayers have modified the Json value which was created using GSTR9 offline tool. The changed values were not updated in the database. Due to this error, the modified values are not displaying in Table 7J of GSTR 9, but old values are getting displayed.</p> <p>The 7J data is further used in GSTR9C Return Form. Therefore, the same is not displayed in GSTR 9C.</p>	<p>The permanent fix was deployed on production via RQM: 25857, ECR 23365 on 2-Nov-2023.</p> <p>These are older cases prior to permanent fix for which data fix was completed on 4-June-2024 via ICR-26333.</p>

**Discussion:**

EVP, GSTN stated that in GSTR 9 Return, the difference of Table 6O i.e., Total ITC availed and Table 7I i.e., Total ITC Reversed is displayed in Table 7J and this value must also be displayed on the Preview Draft of GSTR9 return and Table 12E of GSTR 9C Return. He mentioned that in this case the Table 7J of GSTR 9 Return is not displaying the modified value and therefore, the old data is populated in Table 12E of GSTR 9C Return. The tax payers have modified the value using the offline tool provided by GSTN but these values are not getting updated in the database. He informed that this was resolved through a permanent fix and the system is running smoothly from 02.11.2023. However, these 91 cases are older cases prior to this permanent fix and therefore, data fix was done for these as on 4.06.2024.

**Decision:** ITGRC took note of the data fix done by the GSTN.

**5(a).7**

S. No.	Issue reported	No. of Cases Impacted	Module	Detailed Description	Status
7	Amount was deposited erroneously in cash ledger of Advance Ruling (AR) GSTIN, which doesn't not have refund/adjustment option.	2	Advance Ruling	<p>1. The issue is related to temp ID 272100000581AR3 which was created for filing of Advance Ruling (AR). The taxpayer (GSTIN 27LDNPS8265E1ZO) has raised a grievance saying that they have inadvertently deposited amount of Rs 1,80,600 in the AR GSTIN. As, there is no refund option in Advance Ruling Temp IDs, the cash ledger balance from Advance Ruling temp ID 272100000581AR3 is to be transferred to their GSTIN 27LDNPS8265E1ZO through data fix.</p> <p>2. Similar issue reported for AR temp ID 192200001233AR4. The taxpayer has raised a grievance saying that they have inadvertently deposited amount of Rs 6,49,660/- in the AR GSTIN. There is no refund option in AR GSTIN. The cash ledger balance was to be transferred from AR GSTIN 192200001233AR4 to another of her GSTIN 19AYNPD6734H1Z4 through data fix.</p>	Data fix is done to transfer the amount in cash ledger of AR GSTIN to Normal GSTIN of the taxpayers. For permanent fix, the taxpayer is disallowed to deposit amount not more than Rs 15000 in Advance Ruling registrations. CR No. 26150 and deployed in production in April 2024.

**Discussion:**

EVP, GSTN stated that in this case the two taxpayers erroneously deposited the amount in the cash ledger of Advance Ruling GSTIN and there is no provision for refund in Advance Ruling GSTIN. Therefore, a data fix was required to transfer this amount from the cash ledger of Advance Ruling GSTIN to the GSTIN of the taxpayers.

Chairperson, ITGRC noted that this amount has been transferred to the ledger of the taxpayer.

EVP, GSTN stated a permanent fix has also been done to disallow the taxpayer to deposit not more than Rs. 15,000 in Advance ruling registrations.

Joint Secretary (GSTCS) stated that similar cases were brought before the ITGRC earlier and this has necessitated the permanent fix.

**Decision:** ITGRC took note of the data fix done by the GSTN.

**5(a).8**

S. No.	Issue reported	No. of Cases Impacted	Module	Detailed Description	Status
8	Negative balance in export ledger due to amendment of SEZ invoice.	1	Refund	<p>M/s Louis Dreyfus (GSTIN 37AAACL7361E1ZK) has reported SEZ supply with Tax amount of INR 73,36,736/- in January'23-month GSTR-1 while the actual tax amount was only Rs 18,34,184/-. In Jan 23's GSTR-3B, the amount was correctly reported i.e., 18,34,184/-. The amendment for such invoices was done by the taxpayer in Feb'23-month GSTR-1. However, the SEZ amendment value is not captured in export ledger leading to negative balance of Rs 55,02,552/-.</p> <p>Reason: In the export ledger, the amendment of SEZ invoices are not captured and export ledger is not adjusted accordingly as there is a functionality gap in the GST system.</p>	The export ledger has to be given offset of Rs 55,02,552/- through the data fix. For permanent fix, RQM-19141 has been raised to update the existing functionality.

**Discussion:**

EVP, GSTN stated that in this case there was negative balance in the export ledger due to amendment of SEZ invoice. The taxpayer had filed the incorrect tax amount in GSTR 1 of January, 2023 but the amount was amended in the GSTR 1 of February, 2023 but this amended value is not getting captured in the export ledger due to a functionality gap in the system. This led to a negative balance in the export ledger and this is stopping further transmission of eligible export invoices to ICEGATE.

Chairperson, ITGRC enquired as to what is indicated by the amount in export ledger.

GSTN stated that the liability in GSTR1 is debited from the ledger and the payments made through GSTR 3B are credited. Therefore, the liability in GSTR1 and payments in GSTR 3B should match and only then the eligible export invoices will be transferred to ICEGATE. In this case, due to the mismatch in the export ledger, the export invoices are not getting transferred to ICEGATE. The negative balance is Rs. 55,02,552/- which has to be given offset in the export ledger by way of data fix and a permanent fix is in progress.

**Decision:** ITGRC took note of the data fix proposed by GSTN.

**5(a).9**

S. No.	Issue reported	No. of Cases Impacted	Module	Detailed Description	Status
9	Taxpayers were unable to file CMP-08 on crossing Rs. 50 lakhs threshold as they were considered under turnover limit of Rs. 50 lakhs instead of Rs. 1.5 cr. Below GSTINs are impacted: 1. 24ABLFA5553G1ZH 2. 08AGVPB7529G2Z0	2	Registration	<ul style="list-style-type: none"><li>• Taxpayers were not able to select any Registration Category as desired in table 6.1 of REG-01 Form while applying for New Registration under Composition Scheme because during that time the functionality of choosing the Category of Registration Person was not live in Production.</li><li>• The option for choosing the “Category of Registered Person” by Existing taxpayers was not considered post go live of change and no functionality has been given to taxpayers to update the same.</li><li>• Taxpayer is not able to file CMP 08 Returns due the NULL value of Registration Category, as his Turnover is defaulted to Rs. 50 Lakhs.</li><li>• Basis confirmation with returns and HSN code, the category of taxpayer was changed to 'Suppliers making supplies referred to in clause (b) of paragraph 6 of schedule ii'. (Composition supplier of restaurant service through ECO)</li></ul>	Data fix done and issue resolved. Change request has been raised.

**Discussion:**

EVP, GSTN stated that in this case the taxpayers were unable to file CMP-08 on crossing Rs. 50 lakhs threshold as they were getting considered under turnover limit of 50 lakhs instead of Rs. 1.5 crores. He stated that the taxpayers were not able to select the new category under Composition Scheme for new registration as this functionality was not available at that time. He also informed that the agenda note for providing a facility of amendment in CMP 02 has been forwarded to GST Policy Wing for placing it before the Law Committee. He stated that this data fix was required on account of this issue in system.

**Decision:** ITGRC took note of the data fix done by the GSTN.

**5 (b).** Thereafter, EVP, GSTN explained 07 cases where there were technical issues affecting locally with financial implications and where the correct data was known.

The details of the cases are mentioned as follows:

**5 (b).1**

<b>S. No.</b>	<b>Issue reported</b>	<b>No. of Cases Impacted</b>	<b>Module</b>	<b>Detailed Description</b>	<b>Status</b>
1	Due to technical issue, refund applications were created twice for 222 GST invoices by GST system for Risky exporters.	52 ARNs, 222 invoices	Refund	<p>For Risky exporters, ICEGATE transmits records to GST system and the Refund applications are created by GST system using such records.</p> <p>During the period 2022-23 when ICEGATE sent records of shipping bills with multiple invoices, the first customs invoice number got repeated for all the subsequent invoices of those shipping bills. This occurred for some Shipping bills and not for all. The records where customs invoices were repeated were rejected as duplicate by GST system and not considered for refund generation. Only one invoice in that shipping bill was considered for generation of refund application. This was informed to ICEGATE at that point of time</p> <p>Later, ICEGATE has resolved the Customs-invoice-number-repeating issue and sent all the SBs/invoices which were rejected</p>	Impacted ARNs – 52. (Officer rejected – 5 ARNs, Officer Sanctioned – 5 ARNs, Not processed – 42) 42 ARNs were purged in the system. Recovery is to be done for 5 ARN. A duplication check is now being introduced at the GST invoice level also to permanently fix this issue via RQM: 26620. The 5 ARNs are frozen in the system so that no appeal or remand back happens in the system against these ARNs

				earlier by GST system. This time, ICEGATE has sent all the details correctly on 30.04.2024. These invoices were re-processed on 15.05.2024. However, for 222 invoices which were already processed in 2022-23, the refund applications were created again by GST system on 15.05.2024.	
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### **Discussion:**

VP, GSTN stated that this issue is related to risky exporters refund. He stated that for risky exporters, GST system creates refund applications based on the ICEGATE records sent to GST system. During the period 2022-23 when ICEGATE sent records of shipping bills with multiple invoices, the first customs invoice number got repeated for all the subsequent invoices of those shipping bills but this happened only with some shipping bills. Therefore, wherever customs invoices were repeated, the refund applications were rejected as duplicate by GST system and only one invoice in that shipping bill was considered for generation of refund application. This was informed to ICEGATE by the tax payers and it has resolved the issue and sent all the shipping bills/invoices which were rejected earlier by GST system in April, 2024. In this regard, it was informed by a field officer that in one case, one invoice got processed twice. He stated that on detailed analysis, it was found that when the records were initially processed, the system had picked up the last invoice and rejected the other invoices while processing the refund. When these corrected records were re transmitted, 222 invoices were reprocessed and refund applications were created again for these 222 invoices.

Joint Secretary (GSTCS) enquired as to whether this impact is limited to 222 cases and 52 ARNS.

EVP, GSTN confirmed that the impact is limited to 222 cases and 52 ARNS, of which 42 were purged in the system and 5 were rejected by jurisdictional officers.

Chairperson, ITGRC stated that Rs. 40,08,025/- needs to be recovered for the 5 ARNs and he directed GSTN to inform the ITGRC in the next meeting about the status of these recoveries.

EVP, GSTN informed that they have already communicated the same to the field officers of the respective Commissionerates and that the 5 ARNs have been frozen in the system so that no appeal or remand back is allowed in the system against these ARNs He stated that the functionality for generating refund applications for Risky exporters was revamped and the duplicate check was modified to include GST invoices number also. Further, the processed invoices would be flagged in GST system and duplicate refund cannot be created for the same refund.

**Decision:** ITGRC took note of the data fix done by GSTN and directed GSTN to inform the ITGRC about the status of the recovery in the 5 ARNS in the next meeting.

5 (b).2

S. No.	Issue reported	No. of Cases Impacted	Module	Detailed Description	Status
2	Error in filing of GSTR-6 because Table-4 summary incorrectly calculating negative value at the time of filing April GSTR-6.	1 Taxpayer (Amazon Seller Services) has reported the issue involving 29,984 B2B invoices of value Rs. 174,41,45,551 (Table-3) and 3,258 CN of value Rs. 2,66,16,186 (Table-6B) in April GSTR-6.	Return	<p>i. Taxpayer uploaded B2B invoices to be distributed in Table-3, CN in Table-6B and ISD invoices in Table-5, using the GSP API on 13th May 2024 for April GSTR-6.</p> <p>ii. However, none of these invoices got populated in their respective tables of GSTR-6 though CN were available in Table-6B.</p> <p>iii. This led to negative net amount in Table-4 and taxpayer could not proceed to file GSTR-6.</p> <p>iv. The taxpayer was able to file GSTR-6 on 14th May (one day late) after many tries and interactions between MSP and Taxpayer.</p> <p>v. As a result, the ITC Credit got queued for May GSTR-2B of instead of April GSTR-2B.</p> <p>vi. Considering the above experience, taxpayer was advised to initiate the filing process earlier than the last day to avoid any late filing in subsequent periods</p>	Taxpayer is recurringly reporting same problem since last 3 return periods – they have been filing GSTR-6 after multiple attempts with different combinations for all these 3 periods. Ticket 202406130244299 was created by taxpayer for difficulty faced in May GSTR-6.

**Discussion:**

GSTN stated that the taxpayer is facing issue while filing GSTR-6 because Table 4 is not reflecting the correct number of invoices uploaded by the taxpayer. He stated that the taxpayer had around 32,000 invoices that needs to be ingested into the system but all of the invoices were not getting populated in the core platform of the system and on account of this, the calculation for Table 4 was also not getting reflected correctly. He also mentioned that this an ongoing issue for the tax payer and this is been happening for the last 3 returns and that the request for change in this regard is pending

with M/s Infosys. He stated that the exact cause for this is yet to be ascertained although other taxpayers are able to file with similarly large number of invoices.

Chairperson, ITGRC mentioned that since the taxpayer has filed the GSTR 6 late by one day and therefore, whether the proposal before ITGRC is to allow this late filing of the form without any late fee. Total ISD ITC amount involved in this data fix is IGST Rs. 95,65,34,373.50, CGST Rs. 34,11,46,023.21 and SGST Rs.34,11,46,023.21. In this case, late fee is not reverted as the same has not been requested by the taxpayer.

EVP, GSTN stated that the data fix was done and the proposal is for approval of the data fix along with permission to shift the ITC for April return period instead of May. He informed that the invoice value is around Rs. 174,41,45,551/- and Credit Notes of value amounting to Rs. 2,66,16,186/- in April, 2024 and therefore, the corresponding ITC needs to be transferred..

Officer from West Bengal informed the Committee that a similar issue had happened in their State in the month of September with respect to one tax payer and the taxpayer had raised a ticket for the same.

EVP, GSTN informed that the present meeting is only considering the issues for the period April - June, 2024.

Chairperson, ITGRC enquired as to whether a permanent fix is done for this problem as it is recurring. He directed that a permanent solution needs to be found at the earliest.

EVP, GSTN informed that usually this issue is resolved through refreshing the form but in case of this particular taxpayer it is not resolving the issue and that the technical team is working on a permanent solution.

**Decision:** ITGRC took note of the data fix done by the GSTN and recommended the waiver of late fee.

### 5 (b).3

S. No.	Issue reported	No. of Cases Impacted	Module	Detailed Description	Status
3	While processing a refund application, tax officer has issued a deficiency memo. After issuance of deficiency memo, ITC got credited twice in the electronic credit ledger (ECL) but was not reflecting on taxpayer's ECL.	1	Refund	The taxpayer M/s Valmatic Components ( <i>GSTIN 24ATVPP2352C1ZN</i> ) has filed refund application on 03-04-2024 vide ARN No. AA240424010471V.  After scrutiny of this application, Deficiency Memo in RFD-03 was issued on 19-04-2024 vide Reference No. ZD240424045128M.	Data Fix is done. For permanent fix, CR 23096 is issued.



				The claimed refund amount was credited twice in the taxpayer's electronic credit ledger entry register. However, the available credit balance amount in electronic credit ledger was not reflecting in taxpayer's ECL. Therefore, taxpayer was unable to file new refund application due to insufficient amount in ECL.	
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### **Discussion:**

EVP, GSTN stated that in case of this taxpayer, the tax officer has issued a deficiency memo while processing the refund application. The claimed refund amount was credited twice in the taxpayer's electronic credit ledger but the available credit balance in electronic credit ledger was not updated. Therefore, taxpayer was unable to file new refund application due to insufficient amount in ECL. He stated that data fix has been done to resolve the issue and for permanent fix change request has been raised and the same is being acted upon. The amount involved in this case was Rs. 9,98,000/-.

Chairperson, ITGRC enquired as to whether a permanent fix is required in this case as this could have been a glitch as usually the amount gets recredited to the account once deficiency memo is issued.

GSTN clarified that in this case, it was a glitch in the system, but they have proposed permanent fix as they are proposing to rework this entire category of refund.

Chairperson, ITGRC enquired as to whether there are any other similar cases where double credit has gone unnoticed.

GSTN clarified that a scan was done in the system for this entire category and only this particular case was found.

**Decision:** ITGRC took note of the data fix done by the GSTN.

### **5 (b).4**

S. No.	Issue reported	No. of Cases Impacted	Module	Detailed Description	Status
4	Refund of Late fee for delayed filing of GSTR10 return.	1	GSTR-10	As per the GST rules, GSTR10 should be filed within 90 days from Cancellation/Order Date. The taxpayer (GSTIN 24AAJHK7245L1ZV) was unable to file GSTR10 return after issuance of the order of cancellation due to technical issue. On analysis, it was found that taxpayer's registration was	Data fix was completed on 2-May-2024 via ICR-

				<p>cancelled on 6-Sep-2023 w. e. f 28-Feb-2019 but the status of registration was 'Active' on portal. This disabled the taxpayer from filing GSTR 10.</p> <p>The issue had occurred because of cache clearance. Due to this, GSTIN / UIN status was reflected as ACTIVE despite cancellation of the registration. Registration team has cleared the cache on 12-Dec-2023 and fixed the issue. Thereafter, the taxpayer has filed the GSTR 10 return on 13-Dec-2023.</p> <p>The due date for filing the GSTR10 return was 6-Dec-2023 (90 days from registration cancellation date) and the System has calculated late fee when the taxpayer filed the return.</p>	25643.
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### **Discussion:**

EVP, GSTN stated that in this case the taxpayer was unable to file GSTR 10 return after issuance of the order of cancellation due to some technical issue. He stated that on analysis, it was found that taxpayer's registration was cancelled but the status of registration was 'Active' on portal. On account of this the taxpayer was unable to file the GSTR 10. The data fix was done on 12<sup>th</sup> December, 2023 and thereafter, the taxpayer could file the return. But on account of delay in filing the return a late fee of Rs. 1400 was levied. This amount was credited to the cash ledger of the taxpayer. The proposal is for post facto approval for the data fix done and the waiver of late fee.

**Decision:** ITGRC took note of the data fix done by the GSTN and recommended the waiver of late fee.

### **5 (b).5**

S. No.	Issue reported	No. of Cases Impacted	Module	Detailed Description	Status
5	Taxpayer (GSTIN 33BDJPR3904D1 ZS) has requested for nullifying the negative balance in cash ledger.	1	GSTR-4	Many taxpayers have filed GSTR 4 with Zero liability (by not filling in any data in Table 6) inadvertently. The amount paid by the taxpayers in CMP 08 has been posted in 'Negative liability statement'. The taxpayers started using this amount for future liability. To prevent such taxpayers from using the said amount, a	Data fix was completed on 8-May-2024 via ICR-25689. A validation has been implemented in GSTR 4 that the taxpayer

				<p>negative entry is made in 'Negative liability statement' as per L. Cs decision. Wherever there is insufficient balance in 'Negative liability statement', a debit entry was posted in Cash ledger.</p> <p>However, 47th GST Council has decided to nullify the negative entry in the cash ledger and inform the tax officer for verification. Accordingly, GSTN carried out exercises to nullify the negative entry in the cash ledger. It was done only for taxpayers who were 'active' at that time.</p>	<p>must have to fill the value in Table 6 at the time of filing GSTR4 return. A communication is sent to a tax officer for verification as per the Council's decision.</p>
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### **Discussion:**

SVP, GSTN stated that in case of composition tax payers the details of payment made through CMP 08 are filled in the Table 5 of GSTR 4 and the taxpayer is to self-declare the values in Table 6 of the GSTR 4. In this amount posted in the Table 5 was more than the amount posted in Table 6 and this resulted in a negative balance in the cash ledger.

It was stated that earlier many taxpayers were filing GSTR 4 with Zero liability although these were actually not NIL returns and in such cases the amount paid by the taxpayers in CMP 08 had been posted in 'Negative liability statement'. Some of the taxpayers started using this amount for future liability. Therefore, to avoid such taxpayers from using the said amount, a negative entry was made in 'Negative liability statement' and wherever, there was insufficient balance in 'Negative liability statement', a debit entry was posted in Cash ledger as per the decision of the Law Committee. However, in the 47th GST Council meeting a decision was made to nullify the debit entry in cash ledger and inform the tax officer for verification.

GSTN stated that this exercise was done only in the case of active taxpayers and the present taxpayer was not active then and has therefore, raised a ticket to nullify the negative balance in the cash ledger.

Chairperson, ITGRC enquired as to whether these tables are auto populated. He also enquired why there is a rate wise segregation for composition taxpayer.

SVP, GSTN stated that Tables 5 and 6 are auto populated but that Table 6 is editable. It was informed that Table 6 shows rate wise segregation as different composition taxpayers have to pay tax at different rates.

Officer from West Bengal stated that in this case offset of cash ledger was not given as the taxpayer was not active at that time. He enquired whether the registration was suspended at that time.

EVP, GSTN informed that the taxpayer's registration was cancelled at that time and was later on revoked.

ADC(Systems) from Tamil Nadu stated that Table 6 of GSTR 4 should be auto populated. Once payment is made in CMP 08 under the 3<sup>rd</sup> table below Sl.No.2, the summary of self-assessed liability in respect of Inward supplies attracting reverse charges including import services, the same should be auto populated in Table 6 of GSTR 4 and table should not be editable.

SVP, GSTN stated in this case the proposal is for nullifying the negative balance and communication is being sent to the jurisdictional officer for verification.

Joint Secretary (GSTCS) stated that there needs to be an update on the recovery that is proposed to be done. She also enquired as to the validation done in this case and whether this involves any interest amount.

EVP, GSTN informed that the validation put in place is that Table 6 of GSTR 4 should reflect some value and cannot be kept at zero. He also added that no interest amount is involved in this case.

Chairperson, ITGRC stated that the proposal is agreed to but the ITGRC needs to be updated as to the status of the recovery done.

**Decision:** ITGRC took note of the data fix done by the GSTN and directed GSTN to update the ITGRC as to the status of the recovery.

#### 5 (b).6

S. No.	Issue reported	No. of Cases Impacted	Module	Detailed Description	Status
6	While filing GSTR3B some of users are getting the error "Issue while filing GSTR-3B - "Error! Payment amount should not exceed the outstanding".	7	GSTR3 B	<p>In the old GSTR-3B filing process, there were three steps: Submit, Offset, and File. Now, there are only two steps: Offset and File. Previously, the late fee was calculated during the Submit step and included in the same return period. Any late fee for delays between submission and actual filing was added to the next return period.</p> <p>If the total late fee for the current and previous month exceeded the cap of Rs. 5000, the excess amount was recorded as a negative entry in the liability ledger under the Late Fee section. This meant that taxpayers didn't pay any extra late fee. The late fee for both months was adjusted, and any amount over Rs. 5000 was posted as a negative balance.</p>	Data Fix done

### **Discussion:**

EVP, GSTN stated this issue was reported for a taxpayer who was registered under composition scheme and filed GSTR-4. In GSTR 4, the system allowed taxpayers to file their delayed returns with less/more than the actual late fee applicable for that period. Further, in case where the taxpayer paid partial late fees, the balance late fee was transferred to the next month. However, due to a technical glitch in the system, the late fees paid by the taxpayer in excess of Rs 5000/- was considered as a negative entry in the system; though it was correctly paid by the taxpayer.

When the taxpayer shifted from composition to regular scheme, the system did not allow them to file GSTR-3B as they had a negative entry in the late fee ledger and threw an error that payment should not exceed the outstanding liability.

Chairperson, ITGRC enquired whether this negative liability will be allowed to be utilised as credit for payment. He also enquired whether this is a single case.

VP, GSTN stated that this is not allowed and, in these cases, on account of the negative liability the taxpayers are unable to file the GSTR 3B. He informed that 7 such cases have been detected.

Joint Secretary (GSTCS) enquired whether this issue could also occur in the future.

VP, GSTN clarified that this issue will occur in cases where the taxpayer changes from composition to normal tax regime and in such cases, they might face issue in filing of GSTR 3B.

Chairperson, ITGRC enquired whether the taxpayers have been made to pay the additional late fee. GSTN informed that this has been recovered.

**Decision:** ITGRC took note of the data fix done by the GSTN

### **5 (b).7**

<b>S. No.</b>	<b>Issue reported</b>	<b>No. of Cases Impacted</b>	<b>Module</b>	<b>Detailed Description</b>	<b>Status</b>
7	Taxpayer (GSTIN-32ABCFR1426N1Z9) was getting Turnover (TO) validation error while filing GSTR-4 for FY 2022-23.	1	GSTR-4	<p>There is a validation in CMP 08 &amp; GSTR 4 regarding turnover of composition taxpayers. The turnover validation for 'Service Provider other than SMRCP' is not more than Rs. 50 lacs and for 'Goods dealer' it is not more than Rs. 1.5 cr. Due to technical issue; the Turnover validation was incorrectly set as Rs 1.5 Cr for all composition taxpayers.</p> <p>In this case, the taxpayer is a service provider, and his registration category is 'others'</p>	Data fix is completed on 5-Jul-2024 via ICR-26701. The jurisdictional officer has been informed to ensure the compliance by the taxpayer and asked to

				<p>(T.O limit of Rs. 50 lacs for composition). However, at the time of filing of CMP 08 returns on 13-Jan-2023 for the periods Apr-Jun 2022 (TO: Rs. 29,38,883) and Jul-Sep 2022 (TO: Rs. 46,70,798), the validation of T.O of Rs. 50 lakhs was not in place in the GST system due to technical issue. Hence, the taxpayer was allowed to file CMP08 returns though the Turnover crossed Rs. 50 lakhs. Taxpayer has filed NIL return for next two quarters.</p> <p>On 31-May-2023, the issue was fixed and TO validation of Rs. 50 lakhs was again enabled in the GST system. Now when taxpayer tried to file GSTR4 for FY 2022-23, GST system shows “Turnover validation error” and did not allow the Taxpayer to file GSTR 4.</p>	intimate GSTN about the outcome.
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### **Discussion:**

EVP, GSTN stated that there is a validation in CMP 08 and GSTR 4 for turnover of composition taxpayer which was incorrectly set as Rs 1.5 Cr for all composition taxpayers. In this case, the taxpayer is a service provider, and his turnover limit was Rs. 50 lakhs for composition. However, at the time of filing of CMP 08 returns for the periods Apr-Jun 2022 and Jul-Sep 2022, the validation of turnover of Rs. 50 lakhs was not in place in the GST system due to technical issue. He crossed the turnover limit in August, 2022 but the alert was not given and he was allowed to file CMP08 returns though the Turnover crossed Rs. 50 lakh. This issue was fixed and the turnover validation of Rs. 50 lakh was enabled in the system but when the taxpayer tried to file GSTR4 for FY 2022-23, GST system showed a turnover validation error and did not allow the Taxpayer to file Form GSTR 4. He stated that data fix has been done in this case and the jurisdictional officer has been informed to ensure the compliance by the taxpayer and asked to intimate GSTN about the outcome.

Chairperson, ITGRC enquired as to whether this was limited to this one issue.

EVP, GSTN clarified that a scan was done in the system for this entire category and only this particular case was found.

Chairperson, ITGRC stated that the proposal is agreed to but the ITGRC needs to be updated with the report from the jurisdictional officer.

**Decision:** ITGRC took note of the data fix done by the GSTN and directed GSTN to update the ITGRC about the report from the jurisdictional officer.

**Similar issues discussed & approved in previous ITGRC meetings:**

GSTN presented the issues which had been raised in the previous ITGRC but flagged and brought before ITGRC again for the information.

S. No.	Issue reported	No. of Cases Impacted	Module	Detailed Description	Status
8	Waiver of GSTR3B late fee.	1 (For similar issues, late fee waiver was approved in 18th ITGRC-Item No. 6b of MOM)	GSTR3B	<p>On February 20th, 2024, an incident occurred wherein some GSTR3B-related tables were not updated due to database lag (connection lost issue). The system checks for data in columns 4A(5), 4B(2), and 4D(1). If there is no entry in the respective DB table for the previous return period, the system prevents taxpayers from successfully saving their form for the current return period.</p> <p>Hence, the late fee for GSTR3B for the month of February 2024 needs to be waived as the taxpayer was not able to file his return on time due to a technical issue.</p>	Data Fix/Code Fix done

**Discussion:**

EVP, GSTN stated that the first issue was relating to waiver of the late fee because of data connection error which happened and the system was not populating data in columns 4A(5), 4B(2) and 4D(1). Because there was no entry in the database table, this did not allow GSTR-3B to be filed in time and resulted in a late fee. Late fee waiver was required for this because GSTN had done the data fix from the backend. This was one of the cases which were reported in 18<sup>th</sup> ITGRC Meeting.

**Decision:**

**ITGRC took note of the data fix done. ITGRC recommended the waiver of the late fee of Rs. 850/-.**

S. No.	Issue reported	No. of Cases Impact ed	Module	Detailed Description	Status
9	In compliance of Hon'ble Supreme Court order, GST Portal was opened from 01.10.2022 to 30.11.2022 for aggrieved taxpayer to file their TRAN form. During this window, this taxpayer filed a revised TRAN-1 amounting to Rs.16,05,928/-. The tax officer vide order dated 25.02.2023 approved the TRAN-1 credit of Rs. 16,05,928/-. Tax officer was supposed to credit entire amount to taxpayer's ECL. However, he credited only Rs. 16,05,928/- to the taxpayer's ECL.	1 (Similar issues were approved in 21 <sup>st</sup> , ITGRC meeting held on 1 <sup>st</sup> Aug, 2024)	Tran	<p>During the window for re-filing of TRAN M/s UFLEX LIMITED (09AAACF0109J1ZY) filed his TRAN-1 for Rs. 16,05,928/-. The tax officer initially approved this TRAN of Rs. 16,05,928/- and entered the same amount in the system. However, the functionality in the system was developed so that it automatically deducts the earlier claimed TRAN credit from the new claimed amount and net amount could be posted in taxpayer's ECL. However, in case of resulting of negative entry, no amount was credited to taxpayer's ECL. Through the Rectification order of TRAN, the tax officer again erroneously entered the original amount for Rs. 16,05,928/- only in the system and hence zero amount got posted to taxpayer's ECL again. As per current implementation of back office, no further rectification is allowed.</p> <p>Reason: As per current implementation of back office, rectification of TRAN order is only allowed once. The tax officer has erroneously entered wrong amount through the order and again through the rectification order in the system. Hence, the amount posted in</p>	Proposal: GSTN may reset the rectified order from backend and tax officer may put the correct values in back office so that the correct amount gets posted in taxpayer's ECL.



				taxpayer's ECL is zero.	
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### **Discussion:**

EVP, GSTN stated that this case was discussed in the previous ITGRC Meeting wherein during re-filing of Tran-1, the credit of transitional return had to be credited to the electronic credit ledger only after an order passed by the officer at the back office. In this case, the officer had made a mistake while issuing order. Only one rectification was allowed by the system and the officer made a mistake in the rectification also. So, the request is for resetting the same at the back end. In the previous ITGRC meeting a similar request had been accepted.

Chairman, ITGRC enquired whether the officer who made mistake was from same jurisdiction or different jurisdiction, EVP, GSTN replied that this officer was from different jurisdiction.

Chairman, ITGRC further enquired whether the same officer had requested GSTN to correct the rectification through the backend.

EVP, GSTN replied in the affirmative.

Chairman, ITGRC further enquired whether the jurisdictional officer had calculated the correct value and requested GSTN to enable him to fill it up again in the Tran-1 Form.

EVP, GSTN clarified that the order would be issued by the jurisdictional officer only. GSTN would only reset the original form.

### **Decision:**

**ITGRC approved the reset of the original Tran-1 Form by GSTN.**

### **5(c). Status of Issues reported in previous ITGRC meetings:**

#### **I. Data mismatch issue between Hbase & Ledger in GSTR-3B**

<b>S. No.</b>	<b>Issue reported</b>	<b>No. of Cases Impacted</b>	<b>Module</b>	<b>Detailed Description</b>	<b>Action Taken, Proposed Solution and Status</b>
1	Update on the Data mismatch issue between Hbase &	15,960+ 4,470	GSTR-3B	With reference to issue of mismatch in Hbase and ledger database of taxpayers, reported in 20 <sup>st</sup>	<b><u>Action Taken</u></b>  1) While doing the reset it was noticed that there were some duplicate records in the database and as a result the revised count

Ledger in GSTR-3B.			<p>ITGRC meeting held on 12.01.2024; it was decided that in such 75,732 identified cases the GSTR-3B returns shall be reset by the system which would be communicated to the taxpayers via email and SMS so that the taxpayers can file their GSTR-3B again with the correct values.</p>	<p>for the impacted cases got reduced from 75,732 to 61,763 and the amount involved was reduced from Rs 4,822.96 Cr to Rs.4,377.26 Cr.</p> <ol style="list-style-type: none"> <li>2) Accordingly, these cases were successfully reset by the system and the impacted taxpayers were communicated via email and SMS.</li> <li>3) The nodal officer of State Tax Departments and the DG Systems, Chennai were also communicated the list of impacted taxpayers along with reset done cases.</li> <li>4) Out of 61,763 cases, 41,315 cases have been reset by the system and till date 6,803 returns have been re-filed in which amount of Rs 2,222.08 Cr has been recovered.</li> <li>5) In 15,960 cases the reset did not happen because the taxpayers were cancelled due to various reasons and the list of cancelled taxpayers is being communicated to the field formations. Out of these 6,147 cases are suo-moto cancelled.</li> <li>6) In 4,470 cases the reset did not happen because the taxpayers were not having sufficient ITC balance in their Ledger.</li> <li>7) In 18 cases the reset was executed prior to this and were excluded due to duplicity.</li> </ol> <p><b><u>Proposed Solution</u></b></p> <ol style="list-style-type: none"> <li>1). Taxpayers who are cancelled – <ol style="list-style-type: none"> <li>a) The impacted returns of such cancelled taxpayers shall also be reset.</li> </ol> </li> </ol>
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					<p>2). Taxpayers with insufficient ITC Balance –</p> <p>a) Adding the negative ITC values into return additional liability table and set the ITC balance as 'zero' and then do the reset.</p> <p><b><u>Status</u></b></p> <p>CR-22721 is created for permanent fix development is in progress.</p>
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### **Discussion:**

EVP, GSTN stated that in the 20<sup>th</sup> ITGRC meeting, they had brought up an agenda of a mismatch between Hbase and Ledger in GSTR-3B and informed ITGRC that there were some 75,000 cases in which the Hbase and Ledger value did not reconcile. He stated some values were reported in Hbase, like in tables 3 and table 4, but the values were different after offsetting in table 6. So, it was decided to reset those returns and ask the taxpayers to file again. The jurisdictional tax authorities would also help the taxpayers in filing those returns.

EVP, GSTN further stated that before resetting they had done de-duplication check and finally found 61,763 anomalous returns and the total revenue impact was coming out to be Rs. 4,377 crores. Out of these 61,763 cases, 45,785 cases had been reset by the system and till date 6,803 returns have been re-filed and Rs. 2,222 crores had been recovered by the field formations and the system.

Further, the remaining 15,960 cases were cancelled taxpayers, out of which 6,174 taxpayers were cancelled suo-moto by the field officers. EVP, GSTN sought approval to reset these cases and inform the field formations to report any recovery, if made in these cases.

EVP, GSTN further stated that there were around 4,470 cases, where reset did not happen due to insufficient ITC balance in the Ledger. One option was that if we reset with negative entry in the electronic credit ledger, the system would validate the same and would not allow the taxpayer to file the return, then some developments in GSTR-3B is required to remove validation which is not feasible. The second option was to add the liability in the liability ledger as additional liability.

On being enquired by the JS, GSTCS about the removal of the validation, EVP GSTN replied that with a negative entry in the electronic credit ledger, the taxpayer would not be able to file the return in order to offset the negative ITC. Therefore, GSTN would have to add ITC to offset it.

Chairman, ITGRC stated that out of 61763 cases, 45785 cases were reset Rs. 2222 crores were recovered. On being enquired about the pending recovery amount, EVP, GSTN stated that they had built a validation in the system where the taxpayers could not reduce the liability. The taxpayer would also be not able to avail ITC more than that was declared in the original period in the ledger. EVP, GSTN stated that they could not verify the returns but according to the resetting or the validation they built, they could say that it must be the equal or more than amount what was originally entered by them. But only 6803 returns had been filed so far. The remaining returns were still unfilled.

The officer from Haryana enquired about the proposal for reset of 15,960 cases where the reset did not happen because the taxpayers were already cancelled.

EVP, GSTN stated that they were seeking the approval of the ITGRC to reset the returns filed by these taxpayers by creating a liability so that after cancellation also the liability would remain there for recovery.

JS, GSTCS clarified that the approval given by ITGRC did not make a distinction between cancelled and active taxpayers so GSTN should have gone ahead with reset of all the taxpayers.

EVP, GSTN agreed to the same.

Chairman, ITGRC enquired about the creation of liability in 15960 cases of cancelled taxpayers and 4470 cases of insufficient ITC Ledger balance.

The officer from Haryana stated that liability had to be created in the ledger.

Pr. CC, CGST Delhi Zone agreed to the same.

The officer from West Bengal stated that out of Rs. 4377 crores, Rs. 2222 crores had recovered and Rs. 2155 crores still pending for recovery. This amount involved 15,960 cases of cancelled registration and 4470 cases of insufficient balance in ITC ledger. If the proposed solution in respect of taxpayers with insufficient ITC balance to create an additional negative liability to reset and create liability accepted, then what would happen in respect of the cancelled taxpayers. Further, if the tax amount related to the period 2017-18, 2018-19 and 2019-20, then how the amount recovered due to time limitation of the adjudication period.

EVP, GSTN informed that this was already declared or self-assessed liability which could not lapse because of the limitation of Section 73 and 74 of the CGST Act.

The officer from Haryana stated that this issue was discussed in January meeting also and it was agreed to also that it was an admitted liability and in such cases, SCNs are not required to recover this admitted liability.

The officer from Haryana further stated that Rs. 4,377 crores was the tax portion. He enquired about the interest amount as to whether the interest needs to be demanded from the taxpayer or taxpayer need not pay interest as it was a system fault.

EVP, GSTN stated that the jurisdictional tax officers had been informed about it and the nodal officer of the state tax department and DG Systems, Chennai were communicated the list of impacted taxpayers for recovery of interest, if due.

The officer from Haryana enquired whether the taxpayers were liable for interest in this case.

Chairman, ITGRC enquired whether these self- declarations were confirmed tax demands which had to be recovered and if recoveries were being made, whether interest for the period till recovery had to be charged. The officer from Haryana stated that in these cases 24% returns had been filed after the reset in Haryana and none of them, not even a single taxpayer had deposited interest. They said that it was not their fault and also there was no ground on which department could force the taxpayer to pay interest

Chairman, ITGRC directed that this matter could be divided into two parts. First, in cases of reset, interest could not be charged till that date as the same could be imputed to problem on systems part. Secondly, for any delayed payment after the liability had been reset, interest could be charged on that delayed portion.

The officer from Haryana agreed to the same.

Pr. CC, CGST Delhi Zone stated that 45785 cases out of 61763 cases, had been reset and 6803 returns had been filed. So, about 39,000 returns were still not filed. So, first we need to find out what happened about those 39,000 returns, whether these had been refiled or the recovery had been done.

Chairman, ITGRC directed to create liability in the cases of cancelled taxpayers and insufficient ITC ledger balance as these were self-declared taxes and jurisdictional officers be informed to take suitable steps to recover these amounts. He stated that recovery in these cases might not be so easy. Thus, it could be summarized that that amount of Rs. 2222 crores had been crystallized and the jurisdictional taxpayers were making efforts on recovery action, and it was an ongoing process.

The officer from West Bengal stated that as per section 75(12) of CGST Act, only that self-assessed tax which had not been paid can be recovered directly without invoking section of 73 and 74 of the Act and as per explanation given in section 75(12), that self-assessed tax means only that amount which has been declared in GSTR-1 but not declared in GSTR-3B. The differential amount which the taxpayer declared in GSTR-1 but not declared in GSTR3B, could be recovered as per provision of section 79 and without invoking the provision of section 73 or 74 and the interest could also be recovered under section 75. In this case, we were directly creating the liability without invoking section 75 and section 73 or 74 might not be invoked because it is only due to technical glitches. Out of these 15,960 cases, where the registration had already been cancelled, if we now create the liability in the liability register or reset the liability, whether it was possible to recover the amount because the taxpayers' registration had already been cancelled.

Chairman, ITGRC asked for suggestions in this regard.

The officer from West Bengal stated that if we reset the return, recovery could not be possible because the registration had already been cancelled.

Pr. CC, CGST Delhi Zone stated that even if we cancel the registration of a person, his liability survives, it was not extinguished and for that the limitation of 73 and 74 does not apply because it was the taxpayer's self-assessment. It is what he declared in his GSTR-1 that has ultimately gone to this Hbase.

The officer from West Bengal stated that as per section 75(12), self-assessed tax which had not been paid is only that amount of tax which had been declared in GSTR-1 but not paid in GSTR-3B.

Chairman, ITGRC stated that for the liability in 15960 cases of cancelled taxpayers and 4470 cases of insufficient ITC Ledger balance, ITGRC could recommend that Law Committee could deliberate to find the best way to take forward the process of recovery.

EVP, GSTN stated that as per section 75(12), notwithstanding section 73 or 74 where any amount of self-assessed tax in accordance with a return furnished under section 39 remains unpaid could be recovered directly.

Chairman, ITGRC agreed and suggested that it would be better that the Law Committee also deliberates on it.

Pr. CC, CGST Delhi Zone stated that the unpaid amount was in the ledger of the taxpayer but not in the self-assessed return, and therefore, the system could not reconcile it.

Chairman, ITGRC stated that his original suggestion was that this should amount should be taken as declared liability and every possible method should be attempted for recovery whether the taxpayers have any amount in their bank or whether they have any property and then try to recover with that because they were cancelled. However, since different views have emerged within the ITGRC, his suggestion would be to let it be evaluated by the Law Committee and then recovery action would be taken as per the law.

The officers from Haryana and West Bengal agreed to the same.

Chairman, ITGRC directed GSTN to provide more updates on returns refiled and what amount had been recovered.

JS, GSTCS stated that the numbers were not adding up. The revised count was now 61763, out of which 45785 cases have been reset. In 15960 cases, the reset did not happen because they were cancelled and in 4470 cases the reset did not happen because the taxpayers were not having sufficient ITC ledger balance which was adding up to more than 66000.

Chairman, ITGRC enquired as to how when the sum total came to about 66000, whereas the revised count of mismatch cases was mentioned around 61000, EVP, GSTN replied that they had done de-duplication check a lot of times as it was a resetting of returns, they would relook at this number and get back with correct figures.

Chairman, ITGRC stated that once the numbers would be relooked, then out of those where returns had been refiled, the recoveries needed to be looked into, and for other points as discussed above, a view from the Law Committee also might be required.

EVP, GSTN stated that in the meanwhile they would try to reset this 15,960 and the 4,470 cases and also try to raise them in the liability of the taxpayers.

Chairman, ITGRC stated that in the discussion there were different views, one, that it might not be regarded as a confirmed demand, also that it was lying in Hbase, so that is why the Law Committee could deliberate on the same. Further, we should ensure that resetting would not create a new demand.

**Decision:**

**ITGRC took note of the reset done by GSTN and amount recovered due to refile of GSTR-3B returns. Further, ITGRC directed GSTN to recheck the figure of total cases and the pending cases for reset. For the liability in 15960 cases of cancelled taxpayers and 4470 cases of insufficient ITC Ledger balance, ITGRC recommended that the same be referred to the Law Committee to deliberate on the best way to take forward the process of recovery.**

EVP, GSTN then updated the status of the amount that was supposed to be credited to Consumer Welfare Fund.

## **II. CWF issue (Amount inadvertently credited to TP account)**

**[Reference - 20<sup>th</sup> ITGRC (6b, S. No. 11)]**

### **CWF RECOVERY DETAILS**

	Total taxpayers	Total amount
To be recovered	17	1292191
Already recovered	9	974758
Yet to be recovered	7	317433
Not applicable for recovery	1	171938*

### **Discussion:**

EVP, GSTN stated that this issue was discussed earlier in 20<sup>th</sup> ITGRC that due to system glitch, instead of parking the amount with consumer welfare fund, the amount got deposited into taxpayers' bank accounts. He stated that these cases were identified for recovery and the latest update on the recovery status was that out of a total of around Rs. 12.92 lakh to be recovered, an amount of around Rs.9.75 lakh has been recovered.

Chairman, ITGRC enquired about 7 pending cases in which an amount of Rs. 317000/- approx. had yet to be recovered. EVP, GSTN replied that they were constantly asking about the recoveries made and further updates in the said cases, from the jurisdictional officers.

Chairman, ITGRC directed GSTN to pursue these 7 cases and give further updates in the next meeting.

### **Decision:**

**ITGRC took note of the recoveries amounting to Rs.9,74,758/- done so far and directed GSTN to pursue the 7 pending cases of recovery and update ITGRC during the next meeting.**

EVP, GSTN then presented the recovery details of the Duplicate Shipping Bills

### III. Duplicate transmission of Shipping Bills

20<sup>th</sup> ITGRC (6b, S. No. 12)

#### DUPLICATE SB RECOVERY DETAILS

State	Total amount to be recovered	Recovered	Yet to be Recovered	Not applicable/Not to be recovered
Gujarat	6302028.23	603931.26	5698096.97	0
Kerala	630326.55	0	0	630326.55*
Rajasthan	3065279.31	2304618	760662	0
Tamilnadu	13768277.79	4864090	0	8904189*
Telangana	4711614	4711614	0	0
Uttar Pradesh	899084.58	0	899084.58	0
Uttarakhand	434150.16	0	434150.16	0
Maharashtra	7921473.14	2204507.18	5169143.56	547822.4*
TOTAL	37732233.76	14688760.44	12961137.27	10082337.95

EVP, GSTN stated that this issue was also discussed in the 20<sup>th</sup> meeting of the ITGRC wherein duplicate transmission of Shipping Bills had occurred and refund applications had been created on those duplicate records. EVP, GSTN had furnished the recovery details state wise in these duplicate refunds and stated that an amount of around Rs. 1.47 crores has been recovered so far.

Chairman, ITGRC directed GSTN to follow up those cases in which an amount of Rs. 1.29 crores has yet to be recovered.

#### **Decision:**

**ITGRC took note of the recoveries made and directed GSTN to follow up those cases in which an amount of Rs. 1.29 crores has yet to be recovered.**

#### **5(d). Any other issue with the permission of the Chair:**

5(d).1 ADC (Systems) Tamil Nadu stated that they were keeping track of the grievances of the taxpayers sent to GSTN routed through the State but they were not aware about the grievances which



the taxpayers sending directly to the GSTN. ADC (Systems) Tamil Nadu requested for some kind of access from GSTN to view those grievances.

5(d).2 Chairman, ITGRC enquired whether GSTN kept any State wise record regarding tickets raised in respect of the total grievances received and grievances resolved, EVP, GSTN replied that they do not keep any record of the State wise tickets raised. However, in cases where some action is required from the jurisdictional officers at the back office, they inform them in case of some technical glitches taxpayers are facing, so that the same could be rectified. There was no practice to inform the jurisdictional tax officer in case of non-financial implication, technical glitches during the filing etc.

5(d).3 CCT, Tamil Nadu further added that it would be better if the State was also aware of what the taxpayers' grievances are. The States could be given access to the taxpayers tickets raised to the GSTN so that they could also follow it up and be in a position to resolve the issues. That would help the State in speeding up the resolution process of complaints.

5(d).4 Chairman, ITGRC suggested that GSTN could categorize the complaints/ grievances state wise and also keep the records of opened and closed tickets State wise.

5(d).5 EVP, GSTN agreed to the same.

The meeting ended with a vote of thanks.

To summarize, there were a total of 21 issues which were tabled as agenda to the 22<sup>nd</sup> meeting of the ITGRC of which 9 were technical issues with no financial implications where correct data was known with certainty involving 445 cases wherein ITGRC took note of the data fixes done/proposed by GSTN, on the basis of technical analysis done by GSTN.

Seven technical issues where there were financial implications affecting locally and correct data was known were also presented involving 64 cases involving an amount Rs. 53,04,883/-. ITGRC took note of the data fixes done by GSTN and directed GSTN to update the status of recovery in 2 issues and recommended waiving of late fee in 2 issues.

2 issues similar to ones recommended in previous ITGRC meetings were also brought as agenda. ITGRC recommended waiver of late fee in one issue and approved the reset of TRAN-1 in the other.

Status update of 3 issues reported in previous ITGRC meetings was presented by GSTN. ITGRC took note of the reset done by the system in case of data mismatch between Hbase and Ledger in 41,315 cases and re-filing of 6,803 returns in which amount of Rs 2,222.08 Cr has been recovered. Further, ITGRC directed GSTN to recheck and correct the figure of total cases and the pending cases for reset. For the liability in 15960 cases of cancelled taxpayers and 4470 cases of insufficient ITC Ledger balance, ITGRC recommended that the same be referred to the Law Committee to deliberate on the best way to take forward the process of recovery.

In the issue pertaining to inadvertent crediting of taxpayer's account instead of Consumer Welfare Fund, ITGRC took note of the recoveries amounting to Rs.9,74,758/- done so far and directed GSTN to pursue the 7 pending cases of recovery and update ITGRC during the next meeting.

With regard to the issue pertaining to duplicate transmission of Shipping Bills, ITGRC took note of Rs. 1.47 crores of recovery made and directed GSTN to follow up those cases in which an amount of Rs. 1.29 crores has yet to be recovered.

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**Centre:**

- i. Member (GST), CBIC – Sh. Shashank Priya (Chairman, ITGRC)
- ii. Pr. Chief Commissioner, CGST, Delhi Zone – Sh. Rajesh Sodhi
- iii. Commissioner, GST Policy Wing – Sh. Gaurav Singh

**States:**

- i. Additional Commissioner, Excise and Taxation, Haryana – Dr. Hemant Kumar
- ii. Joint Commissioner, State Tax, Gujarat – Sh. Atul Mehta
- iii. Commissioner, State Tax, Tamil Nadu – Dr. D Jagannathan
- iv. Additional Commissioner, State Tax, Tamil Nadu – Ms. T Padmavathi
- v. Additional Commissioner, State Tax, West Bengal – Sh. Joyjit Banik
- vi. Additional Commissioner, State Tax, West Bengal – Ms. Srobona Bose Datta

**GST Council Secretariat:**

- i. Additional Secretary, GSTCS- Sh. Pankaj Kumar Singh
- ii. Joint Secretary, GSTCS- Ms. B. Sumidaa Devi
- iii. Under Secretary, GSTCS- Ms. Reshma R Kurup

**Special Invitees:**

- i. EVP (Services), Sh. Alok Kumar
- ii. CTO, Sh. Om Sharma
- iii. SVP (Services), Ms. Nisha Gupta
- iv. VP (Services), Mr. Shikar Pant
- v. AVP (Services), Mr. Md. Saim
- vi. AVP (Services), Mr. B.Jeyanth Malaiyandi

### Agenda on Data Fix issues

#### Technical Issues Requiring Data Fix of the Processed Incorrect Data through Backend Utilities

The changes in GST law / Rules, the representations received from taxpayers and other stakeholders require alterations to be continuously made in the GST System. GSTN has therefore adopted an agile methodology of developing applications for GST System keeping it modular to handle frequent changes in law and rules incorporated in a running application. This has necessitated integrating all new application changes downstream being dependent on the module undergoing the change and led to following concerns:

- Some corner scenarios owing to varying taxpayer actions and system behaviour, when subjected to heavy load, go unhandled leading to inconsistent data persisting in GST System.
- The data inconsistencies vary from ledger getting improper debits/credits, the return details stored in the system having incorrect information relating to situations where an irreversible commit has happened in the database.
- No option available to taxpayer to seek remedy in GST System leading to a need of performing data fixes through auditable utilities.

These issues generally have been noticed after

- A complaint is raised by taxpayer/ tax officer
- Result of a periodic internal and external audits.

In order to resolve these issues, the processed incorrect data requires fixing, collecting correct data besides solving the software/platform issues being faced by respective stakeholders. Accordingly, GSTN has initiated fixing of technical issues identified, as per the SOP approved by the ITGRC in the 15<sup>th</sup> meeting held on 12/08/2021, which is as below:

- i. Analysis of data discrepancy.
- ii. Confirmation of discrepancy sought from MSP.
- iii. Upon confirmation, utility to be created by MSP to extract similar cases from GST System data.
- iv. A root cause analysis conducted to fix the issue and implemented by MSP in consultation with GSTN to rectify data inconsistency.
- v. Scripts created for data fix and tested in multiple cycles by MSP and GSTN.
- vi. Approval note presented to competent authority to fix the issue.
- vii. After approval, audit entries created for each change affecting the data.
- viii. Scripts executed and post execution state of data stored for reference later.
- ix. List of all such changes to be presented and explained to GST policy wing & ITGRC and periodic internal audit also to be undertaken.

**Data Fix cases are accordingly presented to ITGRC for deliberations and decision as mentioned in the attached Annexure.**

**Annexure**

**Technical Issues Requiring Data Fixes through Backend Utility**

**(Period -01st April 2024 to 30<sup>st</sup> June 2024)**

<b>Cases Requiring Internal Approval of SVP, EVP/CEO or Post facto Approval of ITGRC</b>										
<b>NO FINANCIAL IMPLICATIONS</b>										
<b>S. No.</b>	<b>Module</b>	<b>Issue reported By</b>	<b>Issue Brief</b>	<b>Detailed Description</b>	<b>Approved By</b>	<b>Date of Approval</b>	<b>No. of Cases Impacted</b>	<b>Financial Implication (Yes/No)</b>	<b>Correct Data Known / Not Known</b>	<b>Status</b>
1	Refund	Taxpayer	ONGC Petro additions Limited ('OPaL' or 'We'), having GSTIN 24AAACO9200B3Z2 is registered Special Economic Zone (SEZ) unit located in Bharuch, Gujarat. The export ledger balance is negative to the amount of INR 1,11,42,985.35/-under IGST head. The taxpayer has made payment under Table 3.1(a) instead of	<p>This is related to grievance raised by M/s OPaL (ONGC Petro additions Limited), a SEZ unit located in Gujrat. The export ledger of this taxpayer is deficit to the amount of Rs 1,11,42,985.35.</p> <p>During FY 18, the taxpayer has reported the supplies made to a DTA unit located in Gujrat as SEZ supplies. As per the taxpayer, GST system was not accepting the DTA's GSTIN for IGST payment as both are in the same State. To disclose the correct liability under IGST,</p>	To be placed before ITGRC for approval .		1	No, because payment against liability is already made in another head.	Known	Data Fix will be given in the export Ledger to offset the negative balance. Jurisdictional report is attached herewith :

			<p>table 3.1(b), therefore, the export ledger is showing negative balance. The negative value (deficit) in the export ledger is not allowing further eligible invoices to get transmitted to ICEGATE.</p>	<p>these supplies have been reported as “SEZ supply with payment” on GST portal while filing GSTR 1. The taxpayer has made the payment in table 3.1(a) of GSTR 3B and the same has been verified by the technical team.</p> <p>As the supplies have been reported as ‘SEZ’ supply, it has created liability in Export ledger. The payment has been done in Table 3.1(a) and therefore, it is not reflecting in Export ledger and created the negative balance. The negative value (deficit) in the export ledger is not allowing further eligible invoices to get transmitted to ICEGATE. The only solution available in this case is to provide offset for the amount of Rs 1,11,42,985.35/- in the export ledger.</p>						
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2	Refund	Written. Filed by taxpayer in GJ HC	The export ledger is having negative balance due to mistakes committed by taxpayer in GSTR-1 and this negative balance disallows transfer of eligible export invoices to ICEGATE for IGST Refund. In this case, DTA-SEZ (not meant for authorized operation) supply is reported as Export supply instead of domestic supply in GSTR 1.	M/s Corrtch (GSTIN 24AAACI8838 F1ZK) has misreported DTA-SEZ supplies (not meant for authorized operation) as zero-rated supplies for the period of December 2018, March 2019 and May 2019 in GSTR 1. It has created negative balance of Rs 16,67,197 in the export ledger. This negative balance has stopped further transmission of eligible export invoices to ICEGATE belonging to the period November 2022 to October 2023 and IGST refund of Rs 7,23,91,175.70 is stuck.	To be placed before ITGRC for approval.		1	For July 2018, the GST system will create a back-end fix and will remove the double liability at the earliest.		Data Fix will be given in the export Ledger to offset the negative balance of Rs 16,67,197. Report is received from Jurisdiction confirming the claim of the taxpayer.
3	Returns	Taxpayer raised Ticket	Mismatch in the Annual Aggregate Turnover (AATO)	Mismatch in the AATO of the taxpayers because few records are getting missed intermittently during the pick-up and processing from Hbase tables for AATO calculation. Thus, the accurate AATO	SVP(Services)	Multiple Dates	56+288 (Data Fix is in process, concept note approved) = 344 GSTINs	No	Known	The permanent fix of this issue has been incorporated in the CR 27001 "Changes in computation of aggregat

				<p>could not be updated to the MySQL master tables.</p> <p>GST system processes data from GSTR 3B and CMP08 filings to calculate turnover (AATO) of the taxpayers. The records are stored in HBase tables in the backend. Every hour, a system process (periodic bolt) calculates the aggregate turnover and updates the MySQL master tables. However, some records are intermittently missed by this hourly process, leading to incomplete turnover data in the MySQL tables.</p>						<p>e turnover” given for AATO design change which will be picked up for development.</p>
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4	Returns	Taxpayer has raised ticket# 11846 429.	Taxpayer was unable to file GSTR-3B for month September 2017 because taxpayer has submitted entries for GSTR-4 return for quarter Jul-Sept and Oct - Dec 2017-18.	<p>The GSTIN 09BAEPA7929 R1Z1 was in composition scheme for the period of July 2017-Dec 2017. When he was in composition scheme, he tried to file GSTR 4 return (Quarterly return for Composition scheme). However, the taxpayer saved and submitted the GSTR 4 return for the above periods but not filed the said returns. These entries were stored in the database and did not allow the taxpayer to file GSTR 3B for the month of Sep 2017.</p> <p>The taxpayer's application for withdrawal from Composition scheme was accepted w. e. f 01.07.2017. This acceptance has made the GSTR 4 entries in the database as invalid since the taxpayer was no longer in Composition scheme.</p>	SVP Services	#### ###	1	No	Known	Data fix was given on 22.05.2024 to remove the entries of GSTR 4 so that the taxpayer is enabled to file GSTR 3B of Sep 2017 (ICR#26020).
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				<p>After Section 37(4) &amp; Section 39(10) was amended vide Notification No. 18/2022, sequential filing of GSTR-3B was introduced on GST portal w.e.f. 1st Nov. 2022. This sequential filing check stops the taxpayer from filing returns if any of the previous returns are not filed. In this case, the details of GSTR 4 were present in the database and GST system considered that these GSTR 4 returns were not filed. Therefore, the taxpayer was not allowed to file GSTR 3B of September 2017.</p>							
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5	Retur ns (GST R-7)	Taxpa yers have raised tickets (11709 949,11 76440 8)	Tax Deductors were not able to file Form GSTR-7 return. (29BLRE0 3895D1DX – Oct 2023 and 37HYDM0 2204G2DL – Sep 2023)	<p>Tax Deductors furnish the TDS details in Table 3 of GSTR 7. These details (records) are auto populated in GSTR 2X of the recipient which can be either accepted or rejected. If a record is accepted, the amount equivalent to the TDS amount will get reflected in the cash ledger of the recipient. If a record is rejected, the record will be sent back to Tax deductor and reflect in Table 4 of next month's GSTR 7 for amendment.</p> <p>In this case, the recipient has neither accepted nor rejected the records of that period GSTR 2X. Meanwhile, the Tax deductor has amended the same records in the next return which were accepted by the recipients in the next GSTR 2X. After some period, the taxpayer has rejected the</p>	SVP Services	#### ###	2	No	Know n	Data fix was complet ed (to change the status to 'deferre d') on 27-June- 2024 via ICR#26 683. Analysis is under progress for permane nt fix.
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				records in earlier GSTR 2X.						
6	Returns (GSTR-9)	91 Taxpayers have raised 91 tickets	Table 7J of GSTR9 Return is not displaying the modified value in Preview Draft (PDF/Excel). The same data is also not reflecting in Table 12E of GSTR9C Return.	<p>In GSTR 9 Return, difference of Table 6O (Total ITC availed) and Table 7I (Total ITC Reversed) is displayed in Table 7J(Net ITC Available for Utilization (6O - 7I) ). This value must be displayed on UI and the Preview Draft (PDF/Excel) of GSTR9 return and Table 12E of GSTR9C Return. However, modified value is not displayed in both the returns.</p> <p>Taxpayers have modified the Json value</p>	SVP Services	#### ###	91	No	Known	<p>The permanent fix was deployed on production via RQM: 25857, ECR 23365 on 2-Nov-2023.</p> <p>These are older cases prior to permanent fix for which data fix was completed on 4-June-2024 via ICR#26</p>

				<p>which was created using GSTR9 offline tool. The changed values were not updated in the database. Due to this error, the modified values are not displaying in Table 7J of GSTR 9, but old values are getting displayed.</p> <p>The 7J data is further used in GSTR9C Return Form. Therefore, the same is not displayed in GSTR 9C.</p>						333.
7	Advance Ruling	Maharashtra State for 1st issue; taxpayer ticket for 2nd issue.	Amount was deposited erroneously in cash ledger of Advance Ruling (AR) GSTIN, which doesn't not have refund/adjustment option.	<p>1. The issue is related to temp ID 272100000581 AR3 which was created for filing of Advance Ruling (AR). The taxpayer (GSTIN 27LDNPS8265 E1ZO) has raised a grievance saying that they have inadvertently deposited amount of Rs</p>	EVP(Services)	26th May, 2024	2	No	Known	Data fix is done to transfer the amount in cash ledger of AR GSTIN to Normal GSTIN of the taxpayers. For permanent fix, the taxpayer

				<p>1,80,600 in the AR GSTIN. As, there is no refund option in Advance Ruling Temp IDs, the cash ledger balance from Advance Ruling temp ID 272100000581 AR3 is to be transferred to their GSTIN 27LDNPS8265 E1ZO through data fix.</p> <p>2. Similar issue reported for AR temp ID 192200001233 AR4. The taxpayer has raised a grievance saying that they have inadvertently deposited amount of Rs 6,49,660 in the AR GSTIN. There is no refund option in AR GSTIN. The cash ledger balance was to be transferred from AR GSTIN 192200001233 AR4 to another of her GSTIN 19AYNPD6734 H1Z4 through data fix.</p>						is disallowed to deposit amount not more than Rs 15000 in Advance Ruling registrations. CR No. 26150 and deployed in production in April 2024.
8	Refund	Taxpayer ticket	Negative balance in export ledger due	M/s Louis Dreyfus (GSTIN 37AAACL7361	EVP(Services)	23rd May, 2024	1	No	Known	The export ledger has to

			to amendment of SEZ invoice.	<p>E1ZK) has reported SEZ supply with Tax amount of INR 73,36,736/- in January'23-month GSTR-1 while the actual tax amount was only Rs 18,34,184/-. In Jan 23's GSTR-3B, the amount was correctly reported i.e., 18,34,184/-.</p> <p>The amendment for such invoices was done by the taxpayer in Feb'23-month GSTR-1. However, the SEZ amendment value is not captured in export ledger leading to negative balance of Rs 55,02,552/-.</p> <p>Reason: In the export ledger, the amendment of SEZ invoices are not captured and export ledger is not adjusted accordingly as there is a functionality gap in the GST system.</p>						be given offset of Rs 55,02,552/- through the data fix. For permanent fix, RQM-19141 has been raised to update the existing functionality.
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9	Registration	Taxpayers Tickets	<p>Taxpayers were unable to file CMP-08 on crossing 50 lakhs threshold as they were considered under turnover limit of 50 lakhs instead of 1.5 cr. Below GSTINs are impacted:</p> <ol style="list-style-type: none"> <li>1. 24ABLFA5553G1ZH</li> <li>2. 08AGVPB7529G2Z0</li> </ol>	<ul style="list-style-type: none"> <li>• Taxpayers were not able to select any Registration Category as desired in table 6.1 of REG-01 Form while applying for New Registration under Composition Scheme because during that time the functionality of choosing the Category of Registration Person was not live in Production.</li> <li>• The option for choosing the “Category of Registered Person” by Existing taxpayers was not considered post go live of change and no functionality has been given to taxpayers to update the same.</li> <li>• Taxpayer is not able to file CMP 08 Returns due to the NULL value of Registration Category, as his Turnover is defaulted to 50 Lakhs.</li> <li>• Basis confirmation with returns and HSN code, the category of taxpayer was</li> </ul>	EVP Services	01.05.2024	2	No	Not Known	Data fix done and issue resolved . Change request has been raised.
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				changed to 'Suppliers making supplies referred to in clause (b) of paragraph 6 of schedule ii'. (Composition supplier of restaurant service through ECO )						
10	Tran	Taxpayer raised Ticket	In compliance of Hon'ble Supreme Court order, GST Portal was opened from 01.10.2022 to 30.11.2022 for aggrieved taxpayer to file their TRAN form. During this window, this taxpayer filed a revised TRAN-1 amounting to Rs.16,05,928/-. The tax officer vide order dated 25.02.2023 approved the TRAN-1 credit of Rs. 16,05,928/- . Tax officer was	During the window for re-filing of TRAN M/s UFLEX LIMITED (09AAACF010 9J1ZY) filed his TRAN-1 for Rs. 16,05,928/-. The tax officer initially approved this TRAN of Rs. 16,05,928/- and entered the same amount in the system. However, the functionality in the system was developed so that it automatically deducts the earlier claimed TRAN credit from the new claimed amount and net amount could be posted in taxpayer's ECL. However, in case of resulting of negative entry, no amount was credited to taxpayer's ECL.			1 (Similar issues were approved in 21 <sup>st</sup> , ITGR C meeting held on 1 <sup>st</sup> Aug, 2024)	No	Known	Proposal : GSTN may reset the rectified order from backend and tax officer may put the correct values in back office so that correct amount get posted in taxpayer's ECL.

			<p>supposed to credit entire amount to taxpayer's ECL. However, he credited only Rs. 16,05,928/- to the taxpayer's ECL.</p>	<p>Through the Rectification order of TRAN, the tax officer again erroneously entered the original amount for Rs. 16,05,928/- only in the system and hence zero amount got posted to taxpayer's ECL again. As per current implementation of back office, no further rectification is allowed.</p> <p>Reason: As per current implementation of back office, rectification of TRAN order is only allowed once. The tax officer has erroneously entered wrong amount through the order and again through the rectification order in the system. Hence, the amount posted in taxpayer's ECL is zero.</p>						
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FINANCIAL IMPLICATIONS										
S. No.	Module	Issue reported by	Issue in Brief	Detailed Description	Approved By	Date of Approval	No. of Cases Impacted	Financial Implication (Yes/No)	Correct Data Known / Not Known	Status
1	Refund	DG System s, Chennai	Due to technical issue, refund applications were created twice for 222 GST invoices by GST system for Risky exporters.	<p>For Risky exporters, ICEGATE transmits records to GST system and the Refund applications are created by GST system using such records.</p> <p>During the period 2022-23 when ICEGATE sent records of shipping bills with multiple invoices, the first customs invoice number got repeated for all the subsequent invoices of those shipping bills. This occurred for some Shipping bills and not for all. The records where customs invoices were repeated</p>	EVP( Services)	2nd July, 2024	52 ARNs, 222 invoices	Yes (Amount Rs. 40,08,025/- for the 5 ARNs Recovery must be done, and letter has been sent to concerned field formations )	Known	Impacted ARNs – 52. (Officer rejected – 5 ARNs, Officer Sanctioned – 5 ARNs, Not processed – 42) 42 ARNs were purged in the system. Recovery is to be done for 5 ARN. A duplication check is now being introduced at the GST invoice level also to permanently fix this issue via RQM: 26620. The 5 ARNs are freezed in the system so

				<p>were rejected as duplicate by GST system and not considered for refund generation. Only one invoice in that shipping bill was considered for generation of refund application. This was informed to ICEGATE at that point of time</p> <p>Later, ICEGATE has resolved the Customs-invoice-number-repeating issue and sent all the SBs/invoices which were rejected earlier by GST system. This time, ICEGATE has sent all the details correctly on 30.04.2024. These invoices were re-processed on 15.05.2024. However, for 222 invoices which were</p>						that no appeal or remand back happens in the system against these ARNs.
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				already processed in 2022-23, the refund applications were created again by GST system on 15.05.2024.						
2	Return		Error in filing of GSTR-6 because Table-4 summary incorrectly calculating negative value at the time of filing April GSTR-6.	i. Taxpayer uploaded B2B invoices to be distributed in Table-3, CN in Table-6B and ISD invoices in Table-5, using the GSP API on 13th May 2024 for April GSTR-6. ii. However, none of these invoices got	EVP Services		1 Taxpayer (Amazon Seller Services) has reported the issue involving 29,984 B2B invoices of value Rs. 174,41,45,551 (Table-3) and 3,258 CN of value	Since the April GSTR-6 got filed late by 1 day, data fix was done to shift the ITC for April return period instead of May.	known	Taxpayer is recurringly reporting same problem since last 3 return periods – they have been filing GSTR-6 after multiple attempts with different combinat

				<p>populated in their respective tables of GSTR-6 though CN were available in Table-6B.</p> <p>iii. This led to negative net amount in Table-4 and taxpayer could not proceed to file GSTR-6.</p> <p>iv. The taxpayer was able to file GSTR-6 on 14th May (one day late) after many tries and interactions between MSP and Taxpayer.</p> <p>v. As a result, the ITC Credit got queued for May GSTR-2B of instead of April GSTR-2B.</p> <p>vi. Considering the above experience, taxpayer was advised to initiate the filing process earlier than the last day to avoid any late filing in subsequent</p>			Rs. 2,66,16, 186 (Table-6B) in April GSTR-6.			<p>ions for all these 3 periods. Ticket 2024061 3024429 9 was created by taxpayer for difficulty faced in May GSTR-6.</p>
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				periods						
3	Refund	SDM raised by jurisdictional officer	While processing a refund application, tax officer has issued a deficiency memo. After issuance of deficiency memo, ITC got credited twice in the electronic credit ledger (ECL) but was not reflecting on taxpayer's ECL.	<p>The taxpayer M/s Valmatic Components (GSTIN 24ATVPP2352C1ZN) has filed refund application on 03-04-2024 vide ARN No. AA240424010471V.</p> <p>After scrutiny of this application, Deficiency Memo in RFD-03 was issued on 19-04-2024 vide Reference No. ZD240424045128M.</p> <p>The claimed refund amount was credited twice in the taxpayer's</p>	EVP(Services)	1st July, 2024	1	Yes (Amount of 9,98,000/- was re-credited twice after DM got issued)		Data Fix is done. For permanent fix, CR 23096 is issued.

				<p>electronic credit ledger entry register. However, the available credit balance amount in electronic credit ledger was not reflecting in taxpayer's ECL. Therefore, taxpayer was unable to file new refund application due to insufficient amount in ECL.</p>						
4	GS TR-10	Taxpayer has raised ticket# 116589 24. (GSTIN 24AAJHK7245L1ZV)	Refund of Late fee for delayed filing of GSTR10 return.	As per the GST rules, GSTR10 should be filed within 90 days from Cancellation/Order Date. The taxpayer (GSTIN 24AAJHK7245L1ZV) was unable to file GSTR10 return after issuance of the order of cancellation due to technical issue. On analysis, it was found that taxpayer's registration	EVP Services	#### ###	1	Yes. Amount of Rs. 1400/- (CGST: Rs. 700/-, SGST: Rs. 700/-) to be credited to the cash ledgers of the taxpayer.	Known	Data fix was completed on 2-May-2024 via ICR#25643.



				<p>was cancelled on 6-Sep-2023 w. e. f 28-Feb-2019 but the status of registration was 'Active' on portal. This disabled the taxpayer from filing GSTR 10.</p> <p>The issue had occurred because of cache clearance. Due to this, GSTIN / UIN status was reflected as ACTIVE despite cancellation of the registration. Registration team has cleared the cache on 12-Dec-2023 and fixed the issue. Thereafter, the taxpayer has filed the GSTR 10 return on 13-Dec-2023.</p> <p>The due date for filing the GSTR10 return was 6-Dec-2023 (90 days from</p>							
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				registration cancellation date) and the System has calculated late fee when the taxpayer filed the return.						
5	GS TR-4	Taxpayer has raised ticket# 11754766. (GSTIN 33BDJPR3904D1ZS)	Taxpayer (GSTIN 33BDJPR3904D1ZS) has requested for nullifying the negative balance in cash ledger.	Many taxpayers have filed GSTR 4 with Zero liability (by not filling in any data in Table 6) inadvertently. The amount paid by the taxpayers in CMP 08 has been posted in 'Negative liability statement'. The taxpayers started using this amount for future liability. To prevent such taxpayers from using the said amount, a negative entry is made in 'Negative liability statement' as per L. Cs decision.	EVP Services	#### ###	1	Yes, Refund of RS. 95,000/- to be done for the extra liability paid. (CGST tax amount: 47,500/- SGST tax amount: 47,500/-)	Known	Data fix was completed on 8-May-2024 via ICR#25689. A validation has been implemented in GSTR 4 that the taxpayer must have to fill the value in Table 6 at the time of filing GSTR4 return. A communication is sent to a tax officer for verification as per the Council's

				<p>Wherever there is insufficient balance in 'Negative liability statement', a debit entry was posted in Cash ledger.</p> <p>However, 47th GST Council has decided to nullify the negative entry in the cash ledger and inform the tax officer for verification. Accordingly, GSTN carried out exercises to nullify the negative entry in the cash ledger. It was done only for taxpayers who were 'active' at that time.</p>						decision.
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6	GS TR3 B	Taxpayers raised Ticket	While filing GSTR3B some of user are getting the error "Issue while filing GSTR-3B - "Error! Payment amount should not exceed the outstanding".	In the old GSTR-3B filing process, there were three steps: Submit, Offset, and File. Now, there are only two steps: Offset and File. Previously, the late fee was calculated during the Submit step and included in the same return period. Any late fee for delays between submission and actual filing was added to the next return period.  If the total late fee for the current and previous month exceeded the cap of Rs. 5000, the excess amount was recorded as a negative entry in the liability ledger under the Late Fee section. This meant that taxpayers	EVP(Services)	#### ###	7	Yes (Additional late fee liability as Tax liability payable Rs.34,440/-)	Known	Data Fix done
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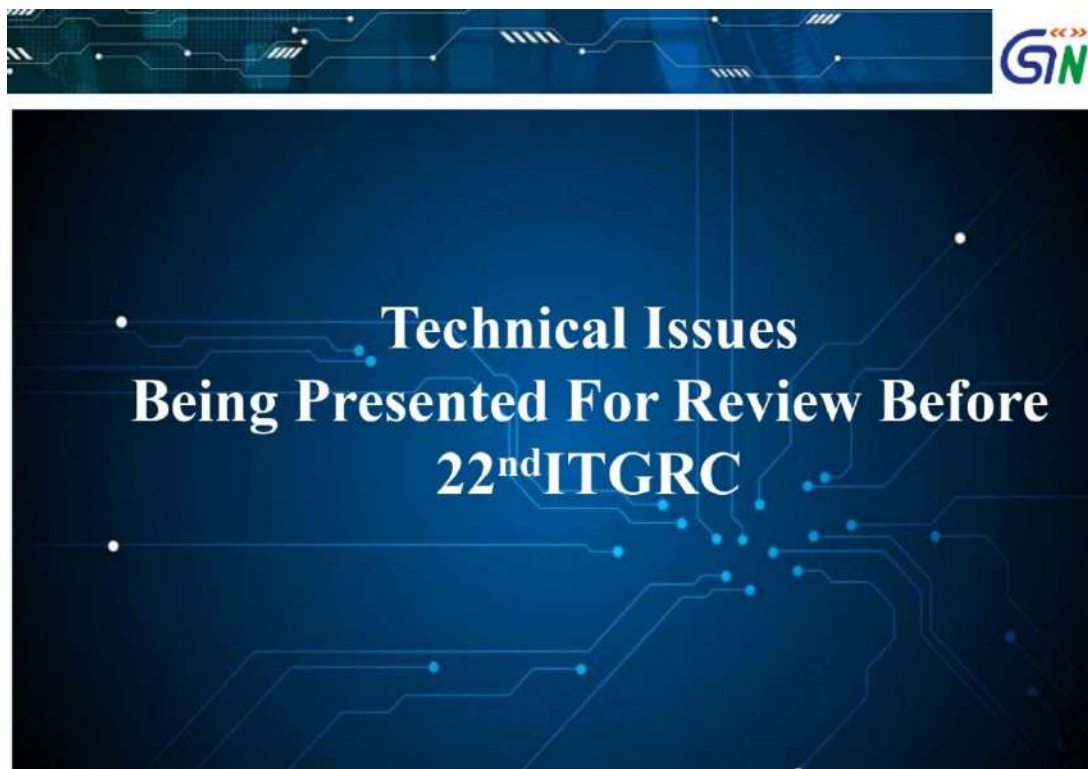
				didn't pay any extra late fee. The late fee for both months was adjusted, and any amount over Rs. 5000 was posted as a negative balance.						
7	GS TR-4	Taxpayer has raised ticket# 118940 11.	Taxpayer (GSTIN-32ABCF R1426N1 Z9) was getting Turnover (TO) validation error while filing GSTR-4 for FY 2022-23.	There is a validation in CMP 08 & GSTR 4 regarding turnover of composition taxpayers. The turnover validation for 'Service Provider other than SMRCP' is not more than 50 lacs and for 'Goods dealer' it is not more than 1.5 cr. Due to technical issue; the Turnover validation was incorrectly set as Rs 1.5 Cr for all composition taxpayers.	EVP Services	#####	1	Yes, Amount paid in CMP-08 was re-credited to the cash ledger: Rs. 1,68,018/- (CGST /SGST Amount: Rs. 81,718/- each and CGST/SGST Interest Amount: Rs. 2,291/- each)	Known	Data fix is completed on 5-Jul-2024 via ICR#26701. The jurisdictional officer has been informed to ensure the compliance by the taxpayer and asked to intimate GSTN about the outcome.

				<p>In this case, the taxpayer is a service provider, and his registration category is 'others' (T.O limit of 50 lacs for composition) . However, at the time of filing of CMP 08 returns on 13-Jan-2023 for the periods Apr-Jun 2022 (TO: 29,38,883) and Jul-Sep 2022 (TO: 46,70,798), the validation of T.O of 50 lakhs was not in place in the GST system due to technical issue. Hence, the taxpayer was allowed to file CMP08 returns though the Turnover crossed 50 lacs. Taxpayer has filed NIL return for next two quarters.</p> <p>On 31-May-2023, the</p>						
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				issue was fixed and TO validation of 50 lakhs was again enabled in the GST system. Now when taxpayer tried to file GSTR4 for FY 2022-23, GST system shows “Turnover validation error” and did not allow the Taxpayer to file GSTR 4.						
8	GS TR3 B	Taxpayer raised Ticket	Waiver of GSTR3B late fee.	On February 20th, 2024, an incident occurred wherein some GSTR3B-related tables were not updated due to database lag (connection lost issue). The system checks for data in columns 4A(5), 4B(2), and 4D(1). If there is no entry in the respective DB table for the previous return period, the system prevents	EVP( Services)	#####	1 (For similar issues, late fee waiver was approved in 18th ITGRC-Item No. 6b of MOM)	Yes (Total amount for reversal to taxpayer is Rs. 850)	Known	Data Fix/Code Fix done

				<p>taxpayers from successfully saving their form for the current return period.</p> <p>Hence, the late fee for GSTR3B for the month of February 2024 needs to be waived as the taxpayer was not able to file his return on time due to a technical issue.</p>						
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S. No.	Types of Issues	Count
1	Technical issues with no financial Implications – Correct data known	9
2	Technical issues affecting locally with financial implications – Correct data known	7
3	Similar issues discussed/approved in previous ITGRC	2
4	Update on previous ITGRC issues.	3



# 1. Technical Issues With No Financial Implications – Correct Data Known

## 1. Negative Export ledger and non-transmission of export invoices - 1

#	Heading	Details
1	<b>Issue Summary</b>	The export ledger is having negative balance due to mistakes committed by taxpayer in GSTR-1 and this negative balance disallows transfer of eligible export invoices to ICEGATE for IGST Refund. In this case, normal supply(SEZ to DTA) is reported as export supply(SEZ to SEZ) in GSTR 1.
2	<b>Issues Description</b>	M/s OPaL (ONGC Petro additions Limited), having GSTIN 24AAACO9200B3Z2, a SEZ unit located in Bharuch, Gujarat. During FY 18, the taxpayer has reported SEZ-DTA supply (Normal supply) as SEZ-SEZ (Zero rated supply) in GSTR 1. As per the taxpayer, GST system did not allow him to pay IGST as the DTA's GSTIN is also located in the same state (Gujarat). To circumvent the system restriction, the taxpayer has reported SEZ-DTA supply as SEZ-SEZ supply i.e., "SEZ supply with payment" in GSTR 1. However, the taxpayer has made the payment under the correct head in GSTR 3B (Table 3.1(a)).
3	<b>Reason</b>	In initial period, GST system was not allowing to pay IGST on SEZ-DTA supply if SEZ and DTA's GSTINs belong to same state. The supplies misreported as Zero rated has created negative balance in the export ledger to the amount of INR 1,11,42,985.35. This negative balance is not allowing any eligible export invoices to be transmitted to ICEGATE from 2018.
4	<b>Status</b>	Data Fix will be given in the export Ledger to offset the negative balance. Jurisdictional report is received and the same fact has been verified in the report.
5	<b>Financial Implications</b>	No
6	<b>No. of Cases</b>	1



## 2. Negative Export ledger and non-transmission of export invoices - 2



#	Heading	Details
1	<b>Issue Summary</b>	The export ledger is having negative balance as taxpayer declared domestic supplies as an export supplies in GSTR 1 due to system validation. This negative balance disallows transfer of eligible export invoices to ICEGATE for IGST Refund. In this case, DTA-SEZ (not meant for authorized operation) supply is reported as Export supply instead of domestic supply in GSTR 1.
2	<b>Issues Description</b>	M/s Corrtch (GSTIN 24AAACI8838F1ZK) has made supplies to SEZ for authorised operations for the period of December 2018, March 2019 and May 2019. However, due to system check in the portal, this supply is reported as export supply with payment of duty in Table 6 of GSTR 1. In GST system, all DTA-SEZ supplies are made to be reported in Table 6 only. However, the taxpayer has made payment in GSTR 3B considering it as domestic supply as it is meant for non-authorized operations, i.e. B2B in Table 3.1(a). It has created negative balance of Rs 16,67,197 in the export ledger. This negative balance has stopped further transmission of eligible export invoices to ICEGATE belonging to the period November 2022 to October 2023 and IGST refund of Rs 7,23,91,175.70 is stuck.
3	<b>Reason</b>	The negative balance is not allowing any eligible export invoices to be transmitted to ICEGATE from 2018. CR is in pipeline to take care of the fact that supply for non authorized operation to SEZ can be declared as normal domestic supply.
4	<b>Status</b>	Data Fix will be given in the export Ledger to offset the negative balance of Rs 16,67,197. Report is received from Jurisdiction confirming the claim of the taxpayer.

## 3. Mismatch in the AATO.



#	Heading	Details
1	<b>Issue Summary</b>	Mismatch in the Annual Aggregate Turnover (AATO)
2	<b>Issues Description</b>	Mismatch in the AATO of the taxpayers because few records are getting missed intermittently during the pick-up and processing from Hbase tables for AATO calculation. The exact AATO could not be updated to the MySQL master tables.
3	<b>Reason</b>	GST system processes data from GSTR 3B and CMP08 filings to calculate turnover (AATO) of the taxpayers. The records are stored in HBase tables in the backend. Every hour, a system process (periodic bolt) calculates the aggregate turnover and updates the MySQL master tables. However, some records are intermittently missed by this hourly process, leading to incomplete turnover data in the MySQL tables.
4	<b>Status</b>	The permanent fix of this issue has been incorporated in the CR 27001 "Changes in computation of aggregate turnover" given for AATO design change which will be picked up for development.
5	<b>Financial Implications</b>	No
6	<b>No. of Impacted Cases</b>	56+288 (Data Fix is in process, concept note approved)= 344 GSTINs

#### 4. Issue in filing GSTR-3B for Composition Scheme.



#	Heading	Details
1	<b>Issue Summary</b>	Taxpayer was unable to file GSTR-3B for the month September 2017.
2	<b>Issues Description</b>	The GSTIN 09BAEPA7929R1Z1 was in composition scheme for the period of July 2017-Dec 2017. When he was in composition scheme, he tried to file GSTR 4 return (Quarterly return for Composition scheme). However, the taxpayer saved and submitted the GSTR 4 return for the above periods but not filed the said returns. Meanwhile, the taxpayer's application for withdrawal from Composition scheme was accepted from 01.07.2017. The GSTR 4 entries were stored in the database and did not allow the taxpayer to file GSTR 3B for the month of Sep 2017.
3	<b>Reason</b>	The taxpayer's application for withdrawal from Composition scheme was accepted w. e. f 01.07.2017. This acceptance has made the GSTR 4 entries in the database as invalid since the taxpayer was no longer in Composition scheme. After Section 37(4) & Section 39(10) was amended vide Notification No. 18/2022, sequential filing of GSTR-3B was introduced on GST portal w.e.f. 1 <sup>st</sup> Nov. 2022. This sequential filing check stops the taxpayer from filing returns if any of the previous returns are not filed. In this case, the details of GSTR 4 were present in the database and GST system considered that these GSTR 4 returns were not filed. Therefore, the taxpayer was not allowed to file GSTR 3B of September 2017.
4	<b>Status</b>	Data fix was given on 22.05.2024 to remove the entries of GSTR 4 so that the taxpayer is enabled to file GSTR 3B of Sep 2017 (ICR#26020)
5	<b>Financial Implications</b>	No
6	<b>No. of Cases</b>	1

#### 5. Issue in filing GSTR-7.



#	Heading	Details
1	<b>Issue Summary</b>	Tax Deductors were not able to file Form GSTR-7 return. (29BLRE03895D1DX – Oct 2023 and 37HYDM02204G2DL – Sep 2023)
2	<b>Issues Description</b>	Tax Deductors furnish the TDS details in Table 3 of GSTR 7. These details (records) are auto populated in GSTR 2X of the recipient which can be either accepted or rejected. If a record is accepted, the amount equivalent to the TDS amount will get reflected in the cash ledger of the recipient. If a record is rejected, the record will be sent back to Tax deductor and reflect in Table 4 of next month's GSTR 7 for amendment. In this case, the recipient has neither accepted nor rejected the records of that period GSTR 2X. Meanwhile, the Tax deductor has amended the same records in the next return which were accepted by the recipient in the next GSTR 2X. After some period, the recipient has rejected the records in earlier GSTR 2X.
3	<b>Reason</b>	If recipient accepts an amended record and reject the corresponding original record, then such original record has to be placed in 'deferred status'. However, in this case, it remained in 'rejected status' and it did not allow the Tax deductor to file next GSTR 7 return.
4	<b>Status</b>	Data fix was completed (to change the status to 'deferred') on 27-June-2024 via ICR#26683. Analysis is under progress for permanent fix.
5	<b>Financial Implications</b>	No
6	<b>No. of Impacted Cases</b>	2



## 6. Issue in GSTR-9 & 9C.



#	Heading	Details
1	<b>Issue Summary</b>	Table 7J of GSTR9 Return is not displaying the modified value (due to the update of ITC taken/reversal in Table 6/7) in Preview Draft(PDF/ Excel). As a result, the old data is also populated in Table 12E of GSTR9C Return.
2	<b>Issues Description</b>	In GSTR 9 Return , difference of Table 6O(Total ITC availed) and Table 7 I (Total ITC Reversed) is displayed in Table 7J(Net ITC Available for Utilization (6O - 7I) ). This value must be displayed on UI and the Preview Draft (PDF/ Excel) of GSTR9 return and Table 12E of GSTR9C Return. However, modified value (due to the update of ITC taken/reversal in Table 6/7) is not displayed in both the returns.
3	<b>Reason</b>	Taxpayers have modified the Json value which was created using GSTR9 offline tool. The changed values were not updated in database. Due to this error, the modified values are not displayed in Table 7J of GSTR 9 but old values are getting displayed. The 7J data is further used in GSTR9C Return Form. Therefore, the same is not displayed in GSTR 9C.
4	<b>Status</b>	The permanent fix was deployed on production via RQM: 25857, ECR 23365 on 2-Nov-2023. These are older cases prior to permanent fix for which data fix was completed on 4-June-2024 via ICR#26333.
5	<b>Financial Implications</b>	No
6	<b>No. of Impacted Cases</b>	91

## 7. Transfer of erroneously deposited amount in cash ledger of AR GSTIN



#	Heading	Details
1	<b>Issue Summary</b>	Amount was deposited erroneously in cash ledger of Advance Ruling(AR) GSTIN, which doesn't not have refund/adjustment option.
2	<b>Issues Description</b>	The taxpayer with GSTIN 27LDNPS8265E1ZO has raised a grievance saying that they have inadvertently deposited amount of Rs 1,80,600 in the AR GSTIN 272100000581AR3. As, there is no refund option in Advance Ruling GSTINs, the cash ledger balance from Advance Ruling GSTIN 272100000581AR3 was transferred to other GSTIN 27LDNPS8265E1ZO through data fix.  Similarly, another taxpayer with GSTIN 19AYNPD6734H1Z4 raised the same issue. In this case, the taxpayer has wrongly deposited amount of Rs 6,49,660 in AR GSTIN 192200001233AR4. The cash ledger balance was transferred from AR GSTIN 192200001233AR4 to another of GSTIN 19AYNPD6734H1Z4 through data fix.
3	<b>Reason</b>	No refund or adjustment option available for AR GSTINs
4	<b>Status</b>	Data fix is done to transfer the amount in cash ledger of AR GSTIN to Normal GSTIN of the taxpayers. For permanent fix, the taxpayer is disallowed to deposit amount not more than Rs 15000 in Advance Ruling registrations. CR No. 26150 and deployed in production in April 2024.
5	<b>Financial Implications</b>	No
6	<b>No. of Cases</b>	2

## 8. Negative balance in export ledger due to amendment of SEZ invoice.



#	Heading	Details
1	<b>Issue Summary</b>	Negative balance in export ledger due to amendment of SEZ invoice.
2	<b>Issues Description</b>	<p>M/s Louis Dreyfus (GSTIN 37AAACL7361E1ZK) has reported SEZ supply incorrectly with Tax amount of INR 73,36,736/- in GSTR-1 of January'23 but the actual tax amount was only Rs 18,34,184/-. However, in GSTR-3B of the same return period, the amount of Rs 18,34,184 was correctly paid.</p> <p>The amendment for such invoices was then done by the taxpayer in Feb'23-month GSTR-1. However, the SEZ amendment value is not captured in export ledger leading to negative balance of Rs 55,02,552/-. This negative balance has stopped further transmission of eligible export invoices to ICEGATE.</p>
3	<b>Reason</b>	In the export ledger, the amendment of SEZ invoices are not captured as there is a functionality gap in the GST system.
4	<b>Status</b>	The export ledger has to be given offset of Rs 55,02,552 through data fix. For permanent fix, RQM- 19141 has been raised to update the existing functionality.
5	<b>Financial Implications</b>	No
6	<b>No. of Impacted Cases</b>	1

## 9. Issue in filing CMP-08 on crossing 50 lakhs threshold. .



#	Heading	Details
1	<b>Issue Summary</b>	Taxpayers were unable to file CMP-08 on crossing 50 lakhs threshold as they were considered under turnover limit of 50 lakhs instead of 1.5 cr.
2	<b>Issues Description</b>	<ul style="list-style-type: none"> <li>Taxpayers were not able to select any Registration Category in table 6.1 of Form REG-01, while applying for New Registration under Composition Scheme. During that time the functionality of choosing the Category of Registration Person was not available.</li> <li>The option for choosing the "Category of Registered Person" for existing taxpayers was not available. No functionality has been given to such taxpayers to update the same.</li> <li>Taxpayer is not able to file Form GST CMP 08 due to the NULL value of Registration Category for which default Turn over limit is 50 Lakhs.</li> <li>On the basis of GST Returns and HSN code, the category of taxpayers were changed to 'Suppliers making supplies referred to in clause (b) of paragraph 6 of schedule ii'.</li> <li>( Composition supplier of restaurant service through ECO )</li> </ul>
3	<b>Reason</b>	The insertion of Table 6.1 in REG-01 Form was not taken care for the existing taxpayers at that time when this table was developed and inserted in REG-01 Form for upcoming taxpayers.
4	<b>Status</b>	Data fix done and issue resolved. Change request has been raised.
5	<b>Financial Implications</b>	No
6	<b>No. of Cases</b>	2





## 2..Technical issue affecting locally with financial implications – Correct data known

### 1a. Duplicate Refund application generated for Risky Exporters.

#	Heading	Details
1	<b>Issue Summary</b>	Due to technical issue, refund applications were created twice for 222 GST invoices by GST system for Risky exporters.
2	<b>Issues Description</b>	<p>For Risky exporters, ICEGATE transmits records to GST system and the Refund applications are created by GST system using such records.</p> <p>During the period 2022-23 when ICEGATE sent records of shipping bills with multiple invoices, the first customs invoice number got repeated for all the subsequent invoices of those shipping bills. This occurred for some Shipping bills and not for all. The records where customs invoices were repeated were rejected as duplicate by GST system and not considered for refund generation. Only one invoice in that shipping bill was considered for generation of refund application. This was informed to ICEGATE at that point of time</p> <p>Later, ICEGATE has resolved the “Customs-invoice-number-repeating” issue and sent all the SBs/invoices which were rejected earlier by GST system. This time, ICEGATE has sent all the details correctly on 30.04.2024. These invoices were re-processed on 15.05.2024. However, for 222 invoices which were already processed in 2022-23, the refund applications were created again by GST system on 15.05.2024.</p>
3	<b>Reason</b>	<p>On analysis, it is found that when the records were processed for the first time in 2022-23, GST system had picked up the last invoice and rejected other invoices in each Shipping bill for processing the refund application due to custom invoice duplication check.</p> <p>When the records were re-transmitted with correct details, 222 invoices were reprocessed as these records were not hit by the duplication check even though the last invoice was processed already. (Explained in next slide)</p>
4	<b>Status</b>	<p>Impacted ARNs – 52. (Officer rejected – 5 ARNs, Officer Sanctioned – 5 ARNs, Not processed – 42)</p> <p>42 ARNs were purged in the system. Recovery is to be done for 5 ARN. A duplication check is now being introduced at the GST invoice level also to permanently fix this issue via RQM: 26620. The 5 ARNs are disabled in the system so that no appeal or remand back happens in the system against these ARNs.</p>
5	<b>Financial</b>	Yes(Amount Rs. 40,08,025/- for the 5 ARNs Recovery has to be done and letter has been sent to

## 1b. Duplicate Refund application generated for Risky Exporters.



Duplication Check in GST system		GSTIN, Shipping bill number, Shipping bill date, Customs Invoice number and Customs Date					
Data transmitted by ICEGATE (2022-23)							
SB number	SB date	Port code	GST Invoice number	IGST Amt in GST	Customs Invoice number	IGST Amt in Customs	
12345	1.1.2020	x	1	100	1	100	Rejected as Duplicate by GST system
12345	1.1.2020	x	2	200	1	200	Rejected as Duplicate by GST system
12345	1.1.2020	x	3	300	1	300	Processed by GST system
Rectified in 2022 : Impacted records retransmitted April 2024							
SB number	SB date	Port code	GST Invoice number	IGST Amt in GST	Customs Invoice number	IGST Amt in Customs	
12345	1.1.2020	x	1	100	1	100	Rejected as Duplicate by GST system
12345	1.1.2020	x	2	200	2	200	Processed by GST system
12345	1.1.2020	x	3	300	3	300	Processed by GST system (Processed twice)

## 2. Error in Filing GSTR-6



#	Heading	Details
1	<b>Issue Summary</b>	Error in filing of GSTR-6 because Table 4 is not reflecting the correct number of invoice uploaded by the taxpayer.
2	<b>Issues Description</b>	<ul style="list-style-type: none"> <li>i. Taxpayer uploaded B2B invoices to be distributed in Table-3, CN in Table-6B and ISD invoices in Table-5, using the GSP API on 13<sup>th</sup> May 2024 for April GSTR-6.</li> <li>ii. However, some of these invoices got populated in their respective tables of GSTR-6 though CN were available in Table-6B.</li> <li>iii. This led to negative net amount in Table-4 and taxpayer could not proceed to file GSTR-6.</li> <li>iv. The taxpayer was able to file GSTR-6 on 14<sup>th</sup> May (one day late) after many tries and interactions between MSP and Taxpayer.</li> <li>v. As a result, the ITC Credit got queued for May GSTR-2B of instead of April GSTR-2B.</li> </ul>
3	<b>Reason</b>	Though the root cause for the above behaviour is not yet found, it is anticipated that the population of large-scale invoices were delayed due to slow processing of topology and some other defect in the system that is preventing the complete invoice data getting populated even though the data, uploaded using GSP API, was available in Hbase tables.
4	<b>Status</b>	Taxpayer is recurrently reporting same problem since last 3 return periods – they have been filing GSTR-6 after multiple attempts with different combinations for all these 3 periods. Ticket 202406130244299 was created by taxpayer for difficulty faced in May GSTR-6.
5	<b>Financial Implication</b>	Since the April GSTR-6 got filed late by 1 day, data fix was done to shift the ITC for April return period instead of May.
6	<b>No. of Impacted Cases</b>	1 Taxpayer (Amazon Seller Services) has reported the issue involving 29,984 B2B invoices of value Rs. 174,41,45,551 (Table-3) and 3,258 CN of value Rs. 2,66, 16, 186 (Table-6B) in April GSTR-6.



### 3. Issue in crediting of electronic credit ledger post issuance of Deficiency Memo in Refund



#	Heading	Details
1	<b>Issue Summary</b>	While processing a refund application, tax officer has issued a deficiency memo. After issuance of deficiency memo, ITC got credited twice in the electronic credit ledger (ECL) but was not reflecting on taxpayer's ECL balance.
2	<b>Issues Description</b>	The taxpayer M/s Valmatic Components (GSTIN 24ATVPP2352C1ZN) has filed refund application on 03-04-2024 vide ARN No. AA240424010471V. After scrutiny of this application, Deficiency Memo in RFD-03 was issued on 19-04-2024 vide Reference No. ZD240424045128M. The claimed refund amount was credited twice in the taxpayer's electronic credit ledger. However, the available credit balance in electronic credit ledger was not updated. Therefore, taxpayer was unable to file new refund application due to insufficient amount in ECL.
3	<b>Reason</b>	RFD03 was issued by Tax officer the claimed refund amount is shown two times in their electronic credit ledger. But same available balance amount is not reflected in electronic credit ledger due to Transaction timeout error.
4	<b>Status</b>	Data Fix is done. For permanent fix, CR 23096 is issued.
5	<b>Financial Implications</b>	Yes (Amount of 9,98,000/- was re-credited twice after DM got issued)
6	<b>No. of Impacted</b>	

### 4. Refund of Late fee in GSTR10.



#	Heading	Details
1	<b>Issue Summary</b>	Refund of Late fee for delayed filing of GSTR10 return.
2	<b>Issues Description</b>	As per the GST rules, GSTR10 should be filed within 90 days from Cancellation/Order Date. The taxpayer (GSTIN 24AAJHK7245L1ZV) was unable to file GSTR10 return after issuance of the order of cancellation due to technical issue. On analysis, it was found that taxpayer's registration was cancelled on 6-Sep-2023 w. e. f 28-Feb-2019 but the status of registration was 'Active' on portal. This disabled the taxpayer from filing GSTR 10.
3	<b>Reason</b>	The issue had occurred because of cache clearance. Due to this, GSTIN / UIN status was reflecting as ACTIVE despite cancellation of the registration. Registration team has cleared the cache on 12-Dec-2023 and fixed the issue. Thereafter, the taxpayer has filed the GSTR 10 return on 13-Dec-2023.  The due date for filing the GSTR10 return was 6-Dec-2023 (90 days from registration cancellation date) and the System has calculated late fee when the taxpayer filed the return.
4	<b>Status</b>	Data fix was completed on 2-May-2024 via ICR#25643.
5	<b>Financial Implications</b>	Yes. Amount of Rs. 1400/- (CGST: Rs. 700/-, SGST: Rs. 700/-) was credited to the cash ledger of the taxpayer.
6	<b>No. of Cases</b>	1

5. Nullify the Negative balance in Taxpayer's cash ledger due to GSTR 4 issue		
#	Heading	Details
1	<b>Issue Summary</b>	Taxpayer (GSTIN 33BDJPR3904D1ZS) has requested for nullifying the negative balance in cash ledger.
2	<b>Issues Description</b>	<p>Many taxpayers has filed GSTR 4 with Zero liability (by not filling any data in Table 6) inadvertently. The amount paid by the taxpayers in CMP 08 has been posted in 'Negative liability statement'. The taxpayers started using this amount for future liability. To avoid such taxpayers from using the said amount, a negative entry is made in 'Negative liability statement' as per L.Cs decision. Wherever, there is insufficient balance in 'Negative liability statement', a debit entry was posted in Cash ledger.</p> <p>However, 47th GST Council has made a decision to nullify the negative entry in cash ledger and inform the tax officer for verification. Accordingly, GSTN carried out this exercise to nullify the negative entry in cash ledger. It was done only for taxpayers who were 'active' at that time.</p>
3	<b>Reason</b>	Offset of cash ledgers were given only for the active taxpayers and this taxpayer was not active at that point of time. This taxpayer is active now and raised a ticket to nullify the negative balance in 'cash ledger' table.
4	<b>Status</b>	Data fix was completed on 8-May-2024 via ICR#25689 . A validation has implemented in GSTR 4 that the taxpayer must have to fill the value in Table 6 at the time of filing GSTR4 return. A communication is sent to tax officer for verification as per Council's decision.
5	<b>Financial Implications</b>	Yes, Offset of Rs. 95,000/- to be done in cash ledger. CGST tax amount: 47,500/-, SGST tax amount: 47,500/-
6	<b>No. of Cases</b>	1

6. Issue in filing GSTR-3B.		
#	Heading	Details
1	<b>Issue Summary</b>	While filing GSTR3B some of user are getting the error "Issue while filing GSTR-3B - "Error! Payment amount should not exceed the outstanding".
2	<b>Issues Description</b>	<p>In the old GSTR-3B filing process, there were three steps: Submit, Offset, and File. Now, there are only two steps: Offset and File.- Previously, the late fee was calculated during the Submit step and included in the same return period. Any late fee for delays between submission and actual filing was added to the next return period.</p> <p>If the total late fee for the current and previous month exceeded the cap of Rs. 5000, the excess amount was recorded as a negative entry in the liability ledger under the Late Fee section. This meant that taxpayers didn't pay any extra late fee. The late fee for both months were adjusted, and any amount over Rs. 5000 was posted as a negative balance.</p>
3	<b>Reason</b>	The system considered any amount over Rs. 5000 as excess and recorded it as a negative entry in the liability ledger. This negative balance automatically adjusted any late fee in the subsequent month, even though the taxpayer didn't actually pay the excess amount.
4	<b>Status</b>	Data Fix done
5	<b>Financial Implications</b>	Yes (Additional late fee liability as Tax liability payable Rs.34,440/-).
6	<b>No. of Impacted</b>	7



7. Issue in filing Form GSTR-4 return.		
#	Heading	Details
1	<b>Issue Summary</b>	Taxpayer(GSTIN-32ABCFR1426N1Z9) was getting Turnover(TO) validation error while filing GSTR-4 for FY 2022-23.
2	<b>Issues Description</b>	<p>There is a validation in CMP 08 &amp; GSTR 4 regarding turnover of composition taxpayers. The turnover validation for 'Service Provider other than SMRCP' is not more than 50 lacs and for 'Goods dealer' it is not more than 1.5 cr. Due to technical issue, the Turnover validation was incorrectly set as Rs 1.5 Cr for all composition taxpayers.</p> <p>In this case, taxpayer is a service provider, and his registration category is 'others' (T.O limit of 50 lacs for composition). However, at the time of filing of CMP 08 returns on 13-Jan-2023 for the periods Apr-Jun 2022 (TO: 29,38,883) and Jul-Sep 2022 (TO: 46,70,798), the validation of T.O of 50 lakhs was not in place in the GST system due to technical issue. Hence, the taxpayer was allowed to file CMP08 returns though the Turnover crossed 50 lacs. Taxpayer has filed NIL return for next two quarters.</p> <p>On 31-May-2023, the issue was fixed and TO validation of 50 lakhs was again enabled in the GST system. Now when taxpayer tried to file GSTR4 for FY 2022-23, GST system shows "Turnover validation error" and did not allow the Taxpayer to file GSTR 4.</p>
3	<b>Reason</b>	Even though taxpayer is not eligible for the Composition scheme post July – Sep 2022 quarter, but because of technical reasons he remained under Composition scheme till 31.05.2023. Thus a data fix is given to reset the filed return of July – Sep 2022 quarter so that after crossing of the turnover limit of Rs 50 Lakhs, he is allowed to file GSTR 3B returns as normal taxpayer and the amount paid in CMP 08 was to be recredited in 'cash ledger'. The recredit has already been carried out after datafix on 5.07.2024.
4	<b>Status</b>	Data fix is completed on 5-Jul-2024 via ICR#26701. The jurisdictional officer has been informed to ensure the compliance by the taxpayer and asked to intimate GSTN about the outcome.
5	<b>Financial Implications</b>	Yes, Amount paid in CMP-08 was re-credited to the cash ledger: Rs. 1,68,018/- (CGST /SGST Amount: Rs. 81,718/- each and CGST/SGST Interest Amount: Rs. 2,291/- each).
6	<b>No. of Cases</b>	

### 3. Similar issues discussed & approved in previous ITGRC

## 8. Waiver of GSTR-3B late fee.



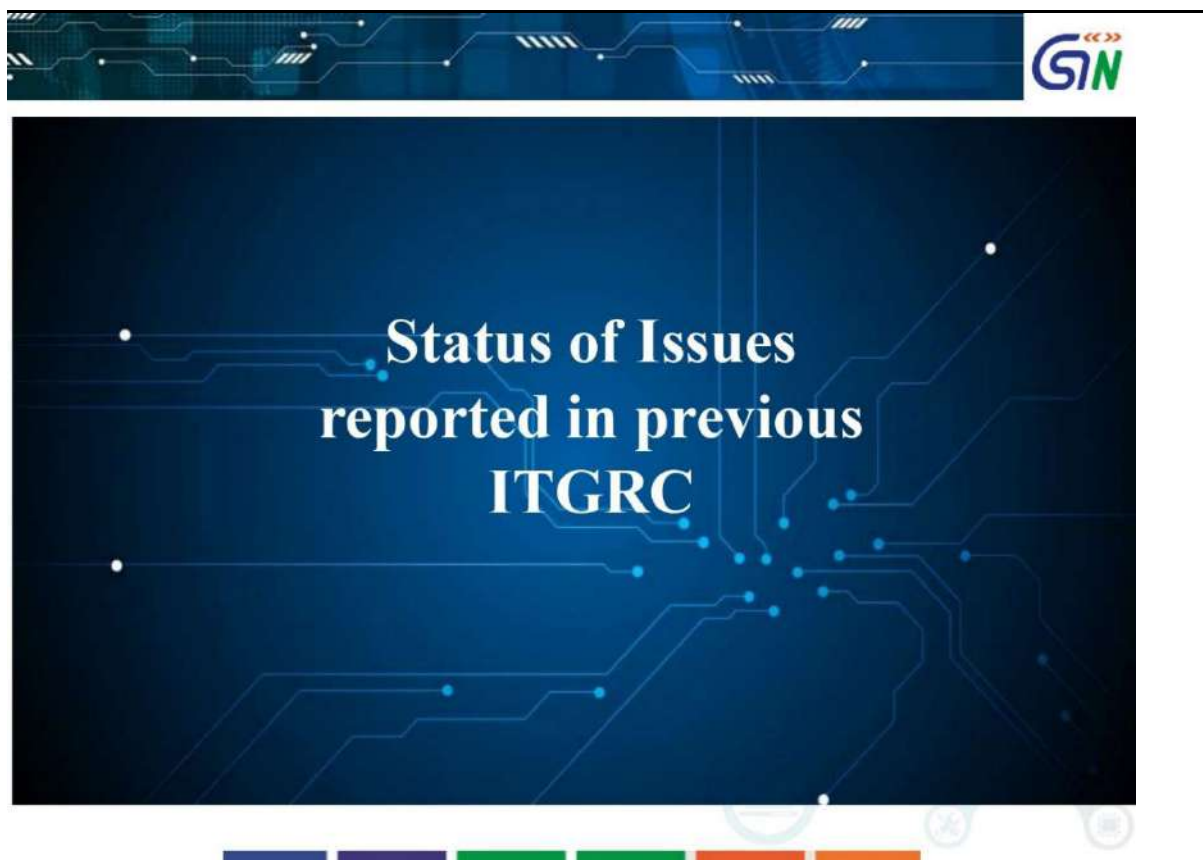
#	Heading	Details
1	<b>Issue Summary</b>	Waiver of GSTR3B late fee.
2	<b>Issues Description</b>	<p>On February 20<sup>th</sup>, 2024, an incident occurred wherein some GSTR3B-related tables were not updated due to database lag (connection lost issue). The system checks for data in columns 4A(5), 4B(2), and 4D(1). If there is no entry in the respective DB table for the previous return period, the system prevents taxpayers from successfully saving their form for the current return period.</p> <p>Hence, the late fee for GSTR3B for the month of February 2024 needs to be waived as the taxpayer was not able to file his return on time due to a technical issue.</p>
3	<b>Reason</b>	The previous month's entry for ITC reclaim was missing in the DB table due to technical issue.
4	<b>Status</b>	DataFix/CodeFix done
5	<b>Financial Implications</b>	Yes (Total amount for reversal to taxpayer is Rs. 850)
6	<b>No. of Impacted Cases</b>	1 (For similar issues, late fee waiver was approved in 18 <sup>th</sup> ITGRC- Item No. 6b of MOM )

## 9. TRAN Order Rectification.



#	Heading	Details
1	<b>Issue Summary</b>	In compliance of Hon'ble Supreme Court order, GST Portal was opened from 01.10.2022 to 30.11.2022 for aggrieved taxpayer to file their TRAN form. During this window, this taxpayer filed a revised TRAN-1 amounting to Rs.16,05,928/-. The tax officer vide order dated 25.02.2023 approved the TRAN-1 credit of Rs. 16,05,928/- . Tax officer was supposed to credit entire amount to taxpayer's ECL. However, he credited only Rs. 16,05,928/- to the taxpayer's ECL.
2	<b>Issues Description</b>	During the window for re-filing of TRAN M/s UFLEX LIMITED (09AAACF0109J1ZY) filed his TRAN-1 for Rs. 16,05,928/-. The tax officer initially approved this TRAN of Rs. 16,05,928/- and entered the same amount in the system. However, the functionality in the system was developed so that it automatically deduct the earlier claimed TRAN credit from the new claimed amount and net amount could be posted in taxpayer's ECL. However, in case of resulting of negative entry, no amount was credited to taxpayer's ECL. Through the Rectification order of TRAN the tax officer again erroneously entered the original amount for Rs. 16,05,928/- only in the system and hence zero amount got posted to taxpayer's ECL again. As per current implementation of back office, no further rectification is allowed.
3	<b>Reason</b>	1) As per current implementation of back office, rectification of TRAN order is only allowed once. The tax officer has erroneously entered wrong amount through the order and again through the rectification order in the system. Hence, the amount posted in taxpayer's ECL is zero.

#	Heading	Details
4	<b>Proposal</b>	GSTN may reset the rectified order from backend and tax officer may put the correct values in back office so that correct amount get posted in taxpayer's ECL.
5	<b>Financial Implications</b>	No
3	<b>No. of Cases</b>	1 ( Similar issues were approved in 21 <sup>st</sup> , ITGRC meeting held on 1 <sup>st</sup> Aug,2024)





## 1a. Data mismatch between Hbase & Ledger in GSTR-3B



#	Heading	Details
1	<b>Issue Summary</b>	Update on the Data mismatch issue between Hbase & Ledger in GSTR-3B.
2	<b>Issues Description</b>	With reference to issue of mismatch in Hbase and ledger database of taxpayers, reported in 20 <sup>st</sup> ITGRC meeting held on 12.01.2024; it was decided that in such 75,732 identified cases the GSTR-3B returns shall be reset by the system which would be communicated to the taxpayers via email and SMS so that the taxpayers can file their GSTR-3B again with the correct values.
3	<b>Action Taken</b>	<ol style="list-style-type: none"> <li>1) While doing the reset it was noticed that there were some duplicate records in the database and as a result the revised count for the impacted cases got reduced from 75,732 to 61,763 and the amount involved was reduced from Rs 4,822.96 Cr to Rs.4,377.26 Cr.</li> <li>2) Accordingly, these cases were successfully reset by the system and the impacted taxpayers were communicated via email and SMS.</li> <li>3) The nodal officer of State Tax Departments and the DG Systems, Chennai were also communicated the list of impacted taxpayers along with reset done cases.</li> <li>4) Out of 61,763 cases, 45,785 cases have been reset by the system and till date 6,803 returns have been re-filed in which amount of Rs 2,222.08 Cr has been recovered.</li> <li>5) In 15,960 cases the reset did not happen because the taxpayers were cancelled due to various reasons and the list of cancelled taxpayers is being communicated to the field formations. Out of these 6,174 cases are suo-moto cancelled.</li> <li>6) In 4,470 cases the reset did not happen because the taxpayers were not having sufficient ITC balance in their Ledger.</li> </ol>

## 1b. Data mismatch between Hbase & Ledger in GSTR-3B



#	Heading	Details
4	<b>Proposed Solution</b>	<ol style="list-style-type: none"> <li>1). Taxpayers who are cancelled – <ol style="list-style-type: none"> <li>a) the impacted returns of such cancelled taxpayers shall also be reset.</li> </ol> </li> <li>2). Taxpayers with insufficient ITC Balance – <ol style="list-style-type: none"> <li>a) Adding the negative ITC values into return additional liability table and set the ITC balance as 'zero' and then do the reset.</li> </ol> </li> </ol>
5	<b>Status</b>	CR#22721 is created for permanent fix development is in progress.
6	<b>Financial Implications</b>	Yes
7	<b>No. of Impacted Cases</b>	15,960+4,470

## 2. CWF issue ( Amount inadvertently credited to TP account)

[ Reference - 20<sup>th</sup> ITGRC (6b, S. No. 11)]

### CWF RECOVERY DETAILS

	Total taxpayers	Total amount
To be recovered	17	1292191
Already recovered	9	974758
Yet to be recovered	7	317433
Not applicable for recovery.	1	171938*

\*The amount is not applicable for recovery as the amount was intended to be sent to TP account only. By mistake , the officer has entered the amount in CWF column.

## 3. Duplicate transmission of Shipping Bills

20<sup>th</sup> ITGRC (6b, S. No. 12)

### DUPLICATE SB RECOVERY DETAILS

State	Total amount to be recovered	Recovered	Yet to be Recovered	Not applicable/Not to be recovered
Gujarat	6302028.23	603931.26	5698096.97	0
Kerala	630326.55	0	0	630326.55*
Rajasthan	3065279.31	2304618	760662	0
Tamilnadu	13768277.79	4864090	0	8904189*
Telangana	4711614	4711614	0	0
Uttar Pradesh	899084.58	0	899084.58	0
Uttarakhand	434150.16	0	434150.16	0
Maharashtra	7921473.14	2204507.18	5169143.56	547822.4*
<b>TOTAL</b>	<b>37732233.76</b>	<b>14688760.44</b>	<b>12961137.27</b>	<b>10082337.95</b>

\*The refund amount in these cases was either adjusted in next refund applications or the duplicate refund application was rejected.



# THANK YOU!!

 Goods And Services Tax Network







# Agenda for 55<sup>th</sup> GST Council Meeting

21<sup>st</sup> December, 2024

Volume - II







## **GST Council Secretariat New Delhi**

5<sup>th</sup> Floor, Tower-II, Jeevan Bharti Building, New Delhi  
15<sup>th</sup> November, 2024

### **OFFICE MEMORANDUM**

**Subject: Notice for the 55<sup>th</sup> GST Council Meeting to be held on 21<sup>st</sup> December, 2024-reg**

The undersigned is directed to refer to the above subject and to convey that the 55<sup>th</sup> Meeting of the GST Council will be held on 21<sup>st</sup> December, 2024 at Jaisalmer, Rajasthan. The schedule of the meeting is as follows:-

- **Saturday, 21<sup>st</sup> December, 2024, from 11.00 A.M. onwards**

2. In addition, an Officers' Meeting will be held on 20<sup>th</sup> December, 2024 at Jaisalmer, Rajasthan as per the following schedule:

- **Friday, 20<sup>th</sup> December, 2024 from 10.00 A.M. onwards**

3. The venue of the meeting, agenda items and other details for the 55<sup>th</sup> Meeting of the GST Council and officers' Meeting will be communicated in due course of time.

4. Kindly convey the invitation to the Hon'ble Member of the GST Council to attend the 55<sup>th</sup> Meeting of the GST Council.

Sd/-

**(Sanjay Malhotra)**

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



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# Discussion on Agenda Items

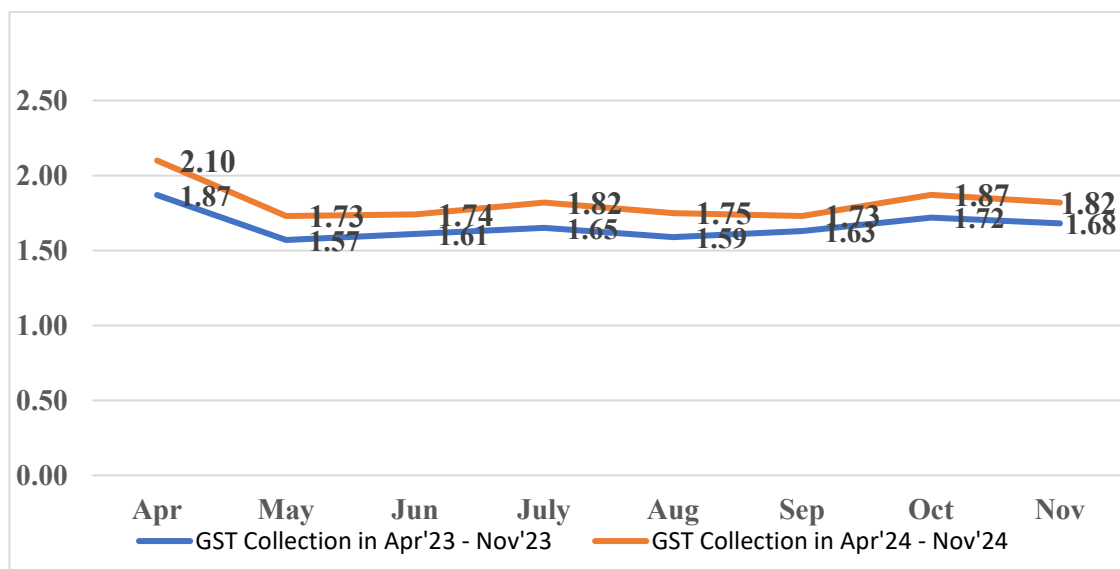
## Agenda Item 7: DoR Agendas.

### Agenda Item 7(a): Review of revenue position under Goods and Services Tax

#### GST Revenue performance

1. The Figure below shows the trend and Table 1 shows the details of the collection in Apr'24 – Nov'24 vis-à-vis Apr'23 – Nov'23.

**Figure 1: Monthly gross GST collection (in ₹ lakh crore)**



**Table 1: Monthly gross GST collection (₹ crore)**

GST Collection	Apr'24	May'24	Jun'24	Jul'24	Aug'24	Sep'24	Oct'24	Nov'24
CGST	43,846	32,409	32,627	32,386	30,862	31,422	33,821	34,141
SGST	53,538	40,265	40,715	40,289	38,411	39,283	41,864	43,047
IGST	99,623	87,781	87,310	96,447	93,621	90,594	99,111	91,828
<i>Domestic</i>	61,797	47,902	47,270	49,437	44,593	46,087	54,878	50,093
<i>Imports</i>	37,826	39,879	40,040	47,009	49,028	44,507	44,233	41,736
Comp Cess	13,260	12,284	13,160	12,953	12,068	11,941	12,550	13,253
<i>Domestic</i>	12,252	11,207	12,188	11,923	11,120	11,059	11,688	12,398
<i>Imports</i>	1,008	1,076	972	1,029	948	883	862	855
<b>Gross Collection</b>	<b>2,10,267</b>	<b>1,72,739</b>	<b>1,73,812</b>	<b>1,82,075</b>	<b>1,74,962</b>	<b>1,73,240</b>	<b>1,87,346</b>	<b>1,82,269</b>
<i>YoY Growth</i>	<i>12.4%</i>	<i>10.0%</i>	<i>7.6%</i>	<i>10.3%</i>	<i>10.0%</i>	<i>6.5%</i>	<i>8.9%</i>	<i>8.5%</i>
<b>Less – Refunds (Domestic + Imports)</b>	<b>18,507</b>	<b>28,410</b>	<b>19,946</b>	<b>16,283</b>	<b>24,460</b>	<b>20,458</b>	<b>19,306</b>	<b>19,259</b>

<b>Net Collection</b>	<b>1,91,760</b>	<b>1,44,329</b>	<b>1,53,866</b>	<b>1,65,792</b>	<b>1,50,502</b>	<b>1,52,782</b>	<b>1,68,040</b>	<b>1,63,010</b>
<i>YoY Growth</i>	<i>15.5%</i>	<i>6.9%</i>	<i>6.3%</i>	<i>14.4%</i>	<i>6.5%</i>	<i>3.9%</i>	<i>7.9%</i>	<i>11.1%</i>

**2.** Table 2 shows the IGST collected, refunded, and settled/apportioned during FY 2024-25 till Nov, 2024.

**Table 2: IGST Collection/Settlement/Apportionment/Refund in FY 2023-24 & 2024-25**  
(Figures in Rs. Crore)

#	Particulars	2023-24	2024-25 (as of Nov 2024)
<b>1</b>	Collections (+)	10,22,280	7,48,490
<b>2</b>	Recovery from IGST Ad-hoc apportionment (+)	-	-
<b>3</b>	Refunds (-)	1,46,730	1,15,841
<b>4</b>	Settlement (-)	8,99,067	6,59,406
	i. CGST	4,87,039	3,54,754
	ii. SGST	4,12,028	3,04,652
<b>5</b>	Ad-hoc Settlement (-)	-18,000	-
	i. CGST ad hoc	-9,000	-
	ii. SGST ad hoc	-9,000	-
<b>6</b>	<b>Net (1+2-3-4-5)</b>	<b>-5,516</b>	<b>-26,757</b>
	<b>Total as of date</b>	<b>-32,273</b>	

*\*Source: Pr. CCA, CBIC (updated on 02-12-2024)*

#### States Revenue Comparison

**3.** The State-wise details of comparison of SGST revenue and the post settlement SGST revenue (including ad-hoc settlement) for FY 2024-25 (April-Nov) as compared to FY 2023-24 (April-Nov) may be seen in the Table 3.

**Table 3: State-wise Revenue Comparison (Apr-Nov) (FY 2024-25) vs (Apr-Nov) (FY 2023-24)**  
(Amount Rs. in Crore)

State Code	State/UT	Pre-settlement (Apr'23-Nov'23)	Pre-settlement (Apr'24-Nov'24)	SGST Growth (%)	Post-Settlement (Apr'23-Nov'23)	Post-Settlement (Apr'24-Nov'24)	SGST Growth Post settlement (%)
1	Jammu and Kashmir	1,960	2,013	3%	5,367	5,932	11%
2	Himachal Pradesh	1,731	1,841	6%	3,701	4,178	13%
3	Punjab	5,612	6,129	9%	14,734	16,102	9%
4	Chandigarh	439	502	14%	1,505	1,576	5%
5	Uttarakhand	3,625	3,915	8%	5,586	6,275	12%
6	Haryana	13,415	15,468	15%	23,134	26,246	13%
7	Delhi	10,340	11,847	15%	21,037	24,028	14%



State Code	State/UT	Pre-settlement (Apr'23-Nov'23)	Pre-settlement (Apr'24-Nov'24)	SGST Growth (%)	Post-Settlement (Apr'23-Nov'23)	Post-Settlement (Apr'24-Nov'24)	SGST Growth Post settlement (%)
8	Rajasthan	11,348	12,017	6%	25,699	28,658	12%
9	Uttar Pradesh	21,624	23,376	8%	49,282	56,687	15%
10	Bihar	5,377	5,913	10%	16,991	18,735	10%
11	Sikkim	321	264	-18%	677	646	-5%
12	Arunachal Pradesh	418	361	-14%	1,276	1,188	-7%
13	Nagaland	206	186	-10%	701	699	0%
14	Manipur	229	249	9%	730	783	7%
15	Mizoram	182	189	4%	634	633	0%
16	Tripura	335	352	5%	1,037	1,139	10%
17	Meghalaya	394	407	3%	1,103	1,187	8%
18	Assam	3,885	4,206	8%	9,553	10,352	8%
19	West Bengal	15,600	16,025	3%	28,042	30,737	10%
20	Jharkhand	5,866	5,776	-2%	8,116	9,327	15%
21	Odisha	10,626	11,723	10%	15,515	17,253	11%
22	Chhattisgarh	5,398	5,692	5%	8,831	10,143	15%
23	Madhya Pradesh	8,496	9,043	6%	20,673	23,674	15%
24	Gujarat	27,671	30,000	8%	41,545	48,096	16%
25& 26	Dadra and Nagar Haveli & Daman and Diu	426	497	17%	699	845	21%
27	Maharashtra	65,983	73,941	12%	96,551	1,12,174	16%
29	Karnataka	26,713	29,514	10%	48,766	54,922	13%
30	Goa	1,487	1,659	12%	2,616	2,873	10%
31	Lakshadweep	16	6	-60%	69	70	2%
32	Kerala	9,171	9,743	6%	20,623	21,792	6%
33	Tamil Nadu	27,046	30,282	12%	42,472	51,430	21%
34	Puducherry	330	363	10%	933	1,042	12%
35	Andaman and Nicobar Islands	140	140	0%	347	378	9%
36	Telangana	12,994	13,859	7%	26,691	29,186	9%
37	Andhra Pradesh	9,291	9,613	3%	20,952	21,998	5%
38	Ladakh	155	176	14%	457	528	15%
97	Other Territory	156	125	-20%	822	554	-33%
	<b>Grand Total</b>	<b>3,09,003</b>	<b>3,37,412</b>	<b>9%</b>	<b>5,67,464</b>	<b>6,42,064</b>	<b>13%</b>

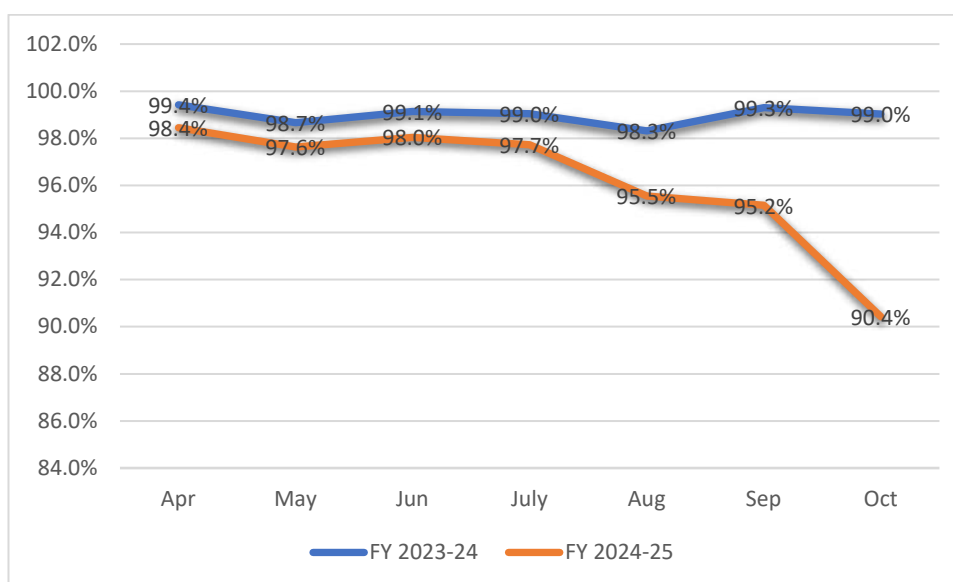
## Trends in Return filing

4. The tables 4A and 4B shows the trend in return filing in FORM GSTR-3B and GSTR-1 respectively as on 01.12.2024 for return period April to October of FY 2023-24 and FY 2024-25. Tables 5 and 6 show the State wise filing for April to October of FY 2024-25.

**Table 4A: Return filing GSTR-3B (%) as on 01.12.2024**

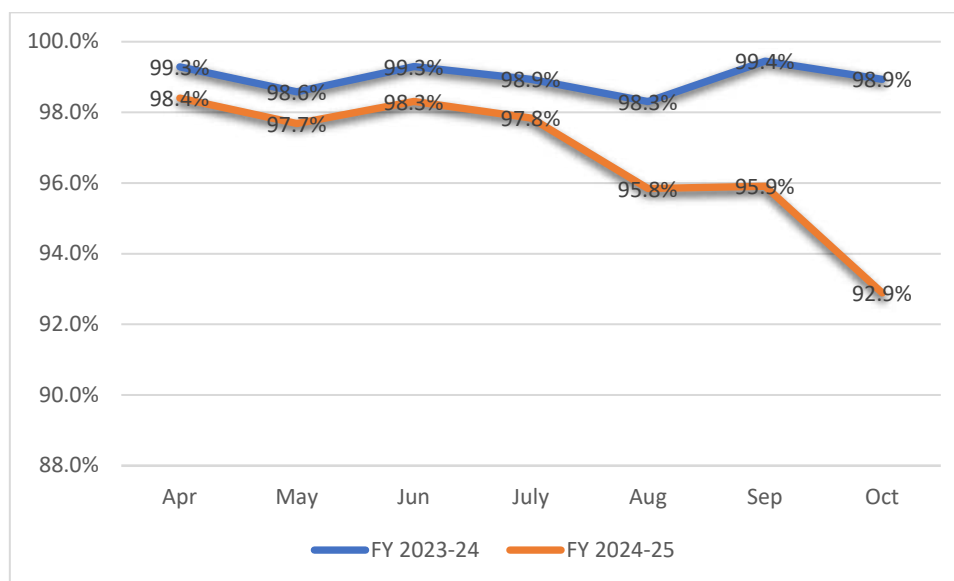
Return Period	FY 2023-24	FY 2024-25
Apr	99.4%	98.4%
May	98.7%	97.6%
Jun	99.1%	98.0%
July	99.0%	97.7%
Aug	98.3%	95.5%
Sep	99.3%	95.2%
Oct	99.0%	90.4%

**Figure 2A: GSTR-3B Filing as on 01.12.2024**



**Table 4B: Return filing GSTR-1(%) as on 01.12.2024**

Return Period	FY 2023-24	FY 2024-25
Apr	99.3%	98.4%
May	98.6%	97.7%
Jun	99.3%	98.3%
July	98.9%	97.8%
Aug	98.3%	95.8%
Sep	99.4%	95.9%
Oct	98.9%	92.9%

**Figure 2B: GSTR-1 Filing as on 01.12.2024****Table 5: State-wise Return filing (GSTR-3B) till 01.12.2024 (Apr'24-Oct'24)**

S. No.	State/UT	Apr-24	May-24	Jun-24	Jul-24	Aug-24	Sep-24	Oct-24
1	Jammu and Kashmir	99.4%	98.5%	99.0%	99.0%	96.5%	96.3%	91.6%
2	Himachal Pradesh	98.9%	97.8%	98.3%	97.8%	94.6%	95.5%	91.2%
3	Punjab	98.8%	97.7%	98.3%	98.6%	96.2%	96.4%	91.7%
4	Chandigarh	99.8%	98.7%	99.2%	98.8%	97.6%	97.1%	93.6%
5	Uttarakhand	98.5%	95.9%	97.8%	97.7%	94.3%	94.5%	89.9%
6	Haryana	98.7%	98.3%	98.5%	98.2%	96.1%	96.2%	90.8%
7	Delhi	98.1%	97.0%	97.5%	97.5%	95.2%	94.7%	90.2%
8	Rajasthan	99.1%	98.1%	98.2%	98.5%	95.4%	96.1%	91.7%
9	Uttar Pradesh	98.4%	97.5%	98.0%	97.7%	95.6%	95.3%	91.3%
10	Bihar	96.5%	94.5%	96.3%	95.2%	90.9%	90.9%	86.1%
11	Sikkim	96.8%	90.1%	94.7%	94.0%	91.2%	89.9%	82.3%
12	Arunachal Pradesh	94.6%	94.4%	95.3%	94.7%	90.6%	87.4%	78.5%
13	Nagaland	96.8%	97.1%	96.5%	96.0%	93.5%	91.5%	85.1%
14	Manipur	95.4%	95.5%	95.3%	93.5%	79.3%	86.5%	73.2%
15	Mizoram	97.1%	96.2%	95.4%	94.5%	92.9%	92.0%	86.9%
16	Tripura	95.0%	97.2%	97.9%	97.3%	94.8%	94.8%	89.7%
17	Meghalaya	98.2%	96.8%	97.9%	96.6%	93.9%	92.3%	87.4%
18	Assam	95.0%	95.1%	96.1%	94.9%	91.9%	90.9%	84.1%
19	West Bengal	98.4%	96.9%	97.8%	97.5%	95.1%	95.2%	90.9%
20	Jharkhand	98.1%	97.5%	97.5%	96.7%	94.9%	93.3%	89.0%
21	Odisha	97.8%	96.8%	97.2%	97.0%	93.9%	94.0%	88.7%
22	Chhattisgarh	99.5%	98.5%	99.3%	98.6%	95.8%	95.5%	88.2%

S. No.	State/UT	Apr-24	May-24	Jun-24	Jul-24	Aug-24	Sep-24	Oct-24
23	Madhya Pradesh	98.7%	97.6%	98.5%	98.0%	94.9%	95.4%	90.5%
24	Gujarat	100.0%	99.4%	99.7%	99.7%	98.9%	98.8%	95.5%
25	Dadra and Nagar Haveli & Daman and Diu	98.8%	98.7%	98.6%	97.8%	96.6%	95.5%	89.8%
27	Maharashtra	98.7%	97.9%	98.4%	98.0%	95.6%	95.4%	89.5%
29	Karnataka	98.1%	97.6%	97.9%	97.3%	95.4%	94.3%	89.6%
30	Goa	98.9%	97.8%	98.1%	97.1%	94.3%	93.5%	87.4%
31	Lakshadweep	97.1%	95.3%	97.6%	98.1%	92.6%	89.0%	84.9%
32	Kerala	98.2%	97.9%	97.7%	97.3%	95.5%	94.1%	87.9%
33	Tamil Nadu	98.8%	98.3%	98.3%	98.2%	97.1%	96.3%	92.3%
34	Puducherry	98.0%	98.1%	97.7%	97.1%	94.9%	93.2%	87.4%
35	Andaman and Nicobar Islands	98.6%	97.4%	96.7%	95.7%	92.9%	90.1%	82.2%
36	Telangana	98.1%	97.3%	97.2%	96.7%	93.8%	92.8%	87.5%
37	Andhra Pradesh	97.8%	97.0%	97.1%	96.9%	94.9%	94.0%	88.8%
38	Ladakh	99.6%	96.6%	98.9%	97.3%	91.0%	92.1%	83.2%
97	Other Territory	81.3%	81.3%	83.3%	107.7%	113.8%	112.3%	97.8%
<b>Total</b>		<b>98.4%</b>	<b>97.6%</b>	<b>98.0%</b>	<b>97.7%</b>	<b>95.5%</b>	<b>95.2%</b>	<b>90.4%</b>

**Table 6: State-wise Return filing (GSTR-1) till 01.12.2024 (Apr'24-Oct'24)**

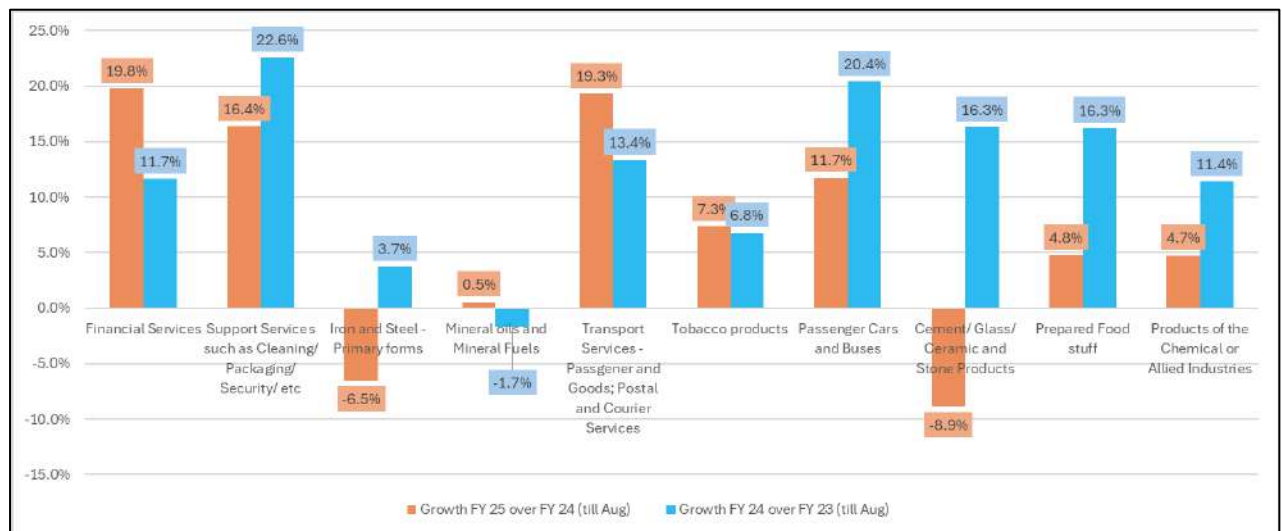
S. No.	State/UT	Apr-24	May-24	Jun-24	Jul-24	Aug'24	Sep'24	Oct'24
1	Jammu and Kashmir	99.4%	98.4%	99.2%	98.9%	96.7%	96.9%	93.4%
2	Himachal Pradesh	98.3%	97.6%	98.6%	97.5%	94.7%	96.3%	93.4%
3	Punjab	98.5%	97.7%	98.5%	98.6%	96.4%	97.1%	93.5%
4	Chandigarh	99.6%	98.8%	99.4%	98.9%	97.8%	97.8%	95.8%
5	Uttarakhand	98.2%	95.8%	98.2%	97.6%	94.5%	95.3%	92.1%
6	Haryana	98.6%	98.3%	98.7%	98.2%	96.4%	97.0%	93.7%
7	Delhi	97.9%	97.1%	97.8%	97.5%	95.5%	95.6%	92.9%
8	Rajasthan	98.6%	97.9%	98.4%	98.2%	95.4%	96.7%	93.7%
9	Uttar Pradesh	98.4%	97.6%	98.3%	97.8%	95.8%	96.0%	93.3%
10	Bihar	96.6%	94.6%	96.7%	95.3%	91.2%	91.7%	88.0%
11	Sikkim	96.6%	90.0%	95.1%	94.1%	91.6%	90.5%	85.1%
12	Arunachal Pradesh	94.7%	94.6%	95.6%	94.9%	91.2%	88.1%	80.8%
13	Nagaland	97.0%	97.4%	96.7%	96.3%	93.7%	92.2%	87.3%
14	Manipur	95.8%	95.7%	95.6%	93.9%	79.7%	87.3%	76.1%
15	Mizoram	97.2%	96.5%	95.9%	94.9%	93.3%	92.5%	88.6%
16	Tripura	95.1%	97.4%	98.2%	97.4%	95.1%	95.4%	92.1%
17	Meghalaya	98.0%	96.9%	98.1%	96.3%	94.2%	92.9%	89.1%
18	Assam	95.0%	95.2%	96.5%	95.2%	92.4%	91.9%	86.8%
19	West Bengal	98.4%	97.0%	98.0%	97.6%	95.5%	95.9%	93.0%
20	Jharkhand	98.2%	97.6%	97.7%	96.9%	95.3%	94.0%	91.2%
21	Odisha	97.8%	96.8%	97.4%	97.1%	94.1%	94.7%	90.8%

S. No.	State/UT	Apr-24	May-24	Jun-24	Jul-24	Aug'24	Sep'24	Oct'24
22	Chhattisgarh	99.3%	98.4%	99.5%	98.3%	95.9%	96.4%	91.0%
23	Madhya Pradesh	98.4%	97.5%	98.7%	97.9%	95.0%	96.1%	92.4%
24	Gujarat	99.7%	99.1%	99.9%	99.6%	99.0%	99.3%	97.4%
25	Dadra and Nagar Haveli & Daman and Diu	98.9%	98.9%	98.9%	98.1%	97.2%	96.7%	94.5%
27	Maharashtra	98.7%	98.0%	98.7%	98.2%	95.9%	96.3%	92.8%
29	Karnataka	98.2%	97.7%	98.2%	97.5%	95.8%	95.1%	92.1%
30	Goa	98.8%	97.9%	98.4%	97.4%	94.8%	94.4%	90.4%
31	Lakshadweep	97.6%	95.7%	97.6%	100.0%	93.1%	89.9%	86.3%
32	Kerala	98.4%	98.1%	98.0%	97.7%	96.1%	95.1%	91.6%
33	Tamil Nadu	98.9%	98.5%	98.6%	98.4%	97.5%	97.0%	94.8%
34	Puducherry	98.2%	98.3%	98.0%	97.5%	95.4%	94.2%	90.7%
35	Andaman and Nicobar Islands	98.7%	97.7%	97.2%	96.3%	93.5%	91.2%	85.6%
36	Telangana	98.3%	97.5%	97.5%	97.1%	94.3%	93.7%	90.1%
37	Andhra Pradesh	97.9%	97.2%	97.4%	97.2%	95.2%	94.7%	91.3%
38	Ladakh	99.3%	96.2%	99.1%	97.3%	91.5%	93.7%	86.0%
97	Other Territory	81.3%	81.3%	83.3%	107.7%	113.8%	112.3%	102.2%
<b>Total</b>		<b>98.4%</b>	<b>97.7%</b>	<b>98.3%</b>	<b>97.8%</b>	<b>95.8%</b>	<b>95.9%</b>	<b>92.9%</b>

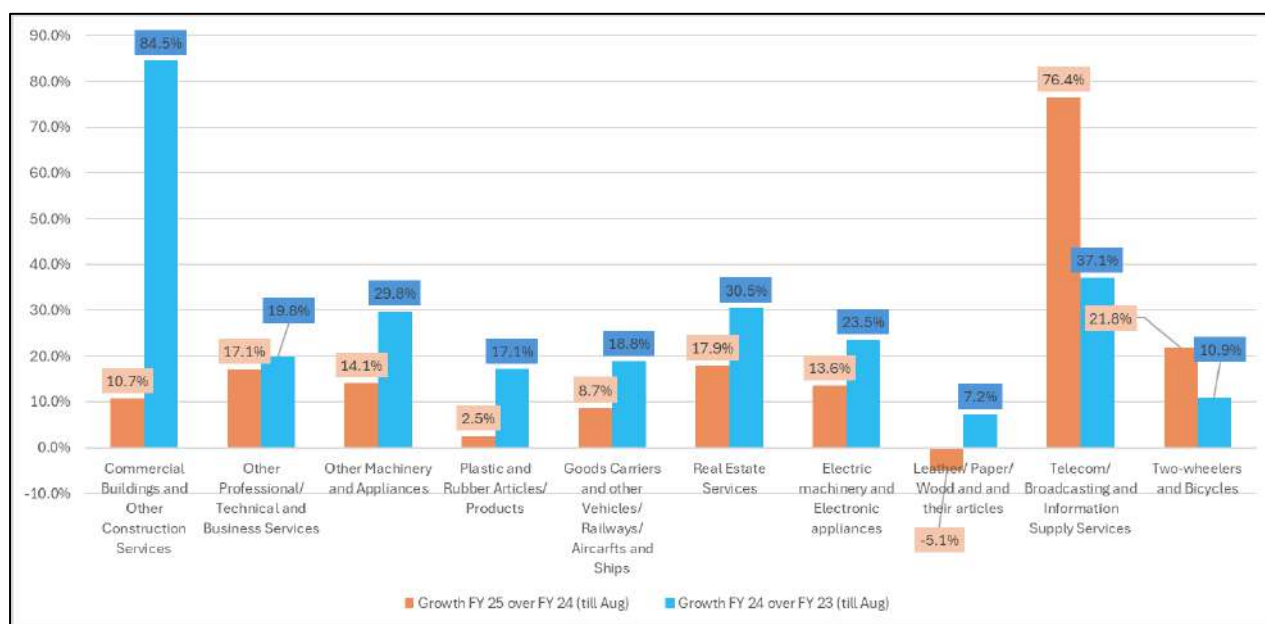
## 5. Sector wise Revenue:

Sector wise Y-o-Y growth in Cash collections for top 30 sectors is given in the charts below:

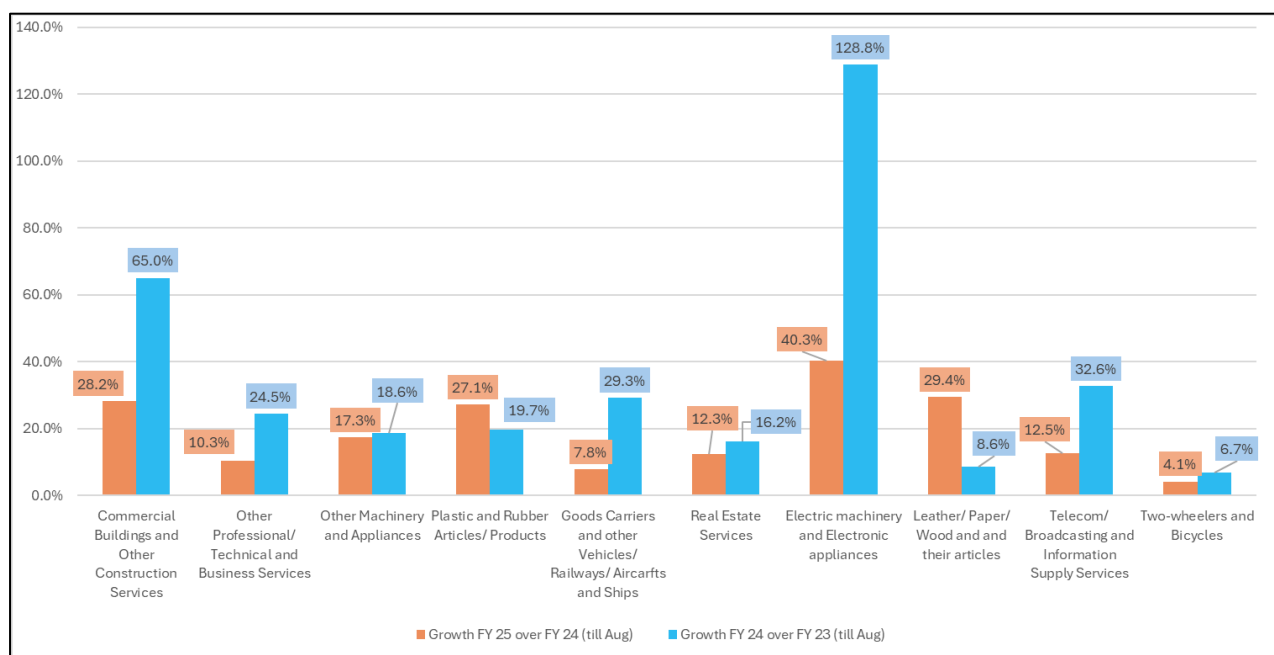
**Figure 3: Sector wise cash collection and growth (Top 10)**



**Figure 4: Sector wise cash collection and growth (Top 11-20)**



**Figure 5: Sector wise cash collection and growth (Top 21-30)**



**Table 7: Relative contribution of Sectors**

Sectors	Relative Contribution in Cash Collection	
	FY 25 (upto Oct 24)	FY 24
Financial Services	7.4%	6.9%
Support Services such as Cleaning/ Packaging/ Security/ etc	7.2%	6.9%
Iron and Steel - Primary forms	5.3%	5.8%
Mineral oils and Mineral Fuels	5.2%	5.6%
Tobacco products	4.9%	4.8%
Passenger Cars and Buses	4.8%	4.7%
Transport Services - Passenger and Goods; Postal and Courier Services	4.8%	4.4%
Commercial Buildings and Other Construction Services	4.6%	5.6%
Products of the Chemical or Allied Industries	4.2%	4.1%
Other Professional/ Technical and Business Services	4.2%	4.2%
Cement/ Glass/ Ceramic and Stone Products	4.1%	4.9%
Prepared Food stuff	4.1%	3.9%
Other Machinery and Appliances	3.5%	3.4%
Goods Carriers and other Vehicles/ Railways/ Aircrafts and Ships	3.2%	3.3%
Plastic and Rubber Articles/ Products	3.2%	3.3%
Electric machinery and Electronic appliances	2.7%	2.6%
Real Estate Services	2.6%	2.4%
Two-wheelers and Bicycles	1.6%	1.4%
Leather/ Paper/ Wood and their articles	1.6%	1.8%
Leasing/ Rental or Licensing Services	1.6%	1.0%
Telecom/ Broadcasting and Information Supply Services	1.4%	1.1%
Residential buildings - Construction Services	1.4%	1.4%
Articles of Iron and Steel	1.4%	1.4%
Pharmaceuticals and Medical Devices	1.3%	1.2%
Gold and precious metals/ articles thereof	1.2%	1.0%
Accommodation/ Food and Beverages Services	1.1%	1.2%
Plants and Plant Products	1.1%	1.1%
Miscellaneous Manufactured Articles	1.1%	1.1%
Other metals/ articles thereof	1.1%	0.9%
Textiles and Textile Articles including Headgear and Footwear	1.1%	1.1%

## **Agenda Item 7(b): Status update on issues related to IGST Settlement to States.**

### **1. Background and Terms of Reference**

- 1.1 Pursuant to the decision made in the 54<sup>th</sup> meeting of the GST Council held on 9<sup>th</sup> September 2024, a Committee of Officers (“the Committee” or “CoO”) under the Chairmanship of Additional Secretary (Revenue) was set up vide OM dated 17<sup>th</sup> September 2024. Members of the Committee are given in **Annexure – 1**.
- 1.2 The Committee was tasked with the following mandate:
  - (a) To examine the legislative provisions and rules relating to process of IGST Settlement under GST.
  - (b) To examine the current process followed by GSTN in making the IGST settlement and analyse in detail any items of settlement not carried out and the reasons thereof.
  - (c) To analyse and apprise the GST Council regarding the following:
    - detailed understanding of the workings and the process followed in making the IGST settlement.
    - reasons and circumstances under which there can be a positive/negative balance in the IGST account.
    - manner in which settlement may be carried out of positive or negative balances going forward.
    - suggestions to improve the process of IGST so as to arrive at a more accurate settlement to States including any amendments desired in the relevant GST laws and the rules.

### **2. A brief of the deliberations of the CoO**

- 2.1 The members of the Committee highlighted various issues in respect of Settlement and the issues were deliberated over multiple meetings.
- 2.2 Each of the settlement (STL) forms along with the source of data for these forms were discussed and examined at length. Sample data was called for from GSTN and the issues were analysed for possible solutions. While arriving at the possible solutions for the issues, it was ensured that:
  - (a) There is transparency in the settlement process.
  - (b) Demystification of the items included in the settlement forms with sufficiently detailed data.
  - (c) Resolve the anomalies in reporting and ensure accurate reporting.
  - (d) Align the current rules to the settlement process and bring clarity in the process of settlement.
  - (e) Ensure continuous reporting of data / MIS to the States.
- 2.3 Based on the various deliberations and views of the Members, the Committee proposed certain amendments in Rules and certain methodologies to be followed for a smooth and transparent Settlement Process. finalized its report. Accordingly, the Committee also recommended various amendments to the Settlement Rules. The detailed report of the Committee and the proposed amendment in the Settlement Rules are placed as **Annexure – 2** and **Annexure – 3** to this Agenda Note.



- 2.4 The details of the recommendations and the proposed amendments in the Rules are placed below in the succeeding paragraphs. The summary of the recommendations is placed below:

Issue	Suggestion/Recommendation
Blank forms with no settlement pertaining to un-availed ITC on both domestic and imports and ineligible ITC on both domestic and imports.	<ul style="list-style-type: none"> <li>• Settlement based on individual line item-wise information is possible only after implementation of Invoice Management System (IMS).</li> <li>• Until IMS is implemented: <ul style="list-style-type: none"> <li>i. Settle un-availed ITC (on both imports and domestic) in summary form based on reporting in Table 4D in GSTR 3B on a monthly basis in STL Form 1.07.</li> <li>ii. Settle ineligible ITC (on both imports and domestic) in summary form based on reporting in Table 4B in GSTR 3B on a monthly basis in STL Form 1.06.</li> </ul> </li> <li>• Once the IMS is operational, settlement is to be done separately for domestic and imports with line-item wise information in the respective forms.</li> </ul>
Requirement of legal framework for mandating the tax payer to report ineligible ITC and ITC reversals under IMS or otherwise.	<ul style="list-style-type: none"> <li>• Circular no 170/02/2022-GST dated 6th July, 2022 should be included as a legal provision so that it brings a binding obligation on the taxpayers.</li> <li>• Law Committee to evaluate and suggest a legal provision which may be introduced for adjudication of taxpayers who have not availed/short availed IGST ITC.</li> <li>• Under IMS, rules should be framed to make it mandatory for the taxpayers to report un-availed ITC and ineligible ITC. In case of un-availed ITC based on limitation, automatic reversal may also be envisaged in IMS.</li> </ul>
Over a period of time changes have been introduced in GSTR forms and rules which are not reflected in settlement rules and forms.	<ul style="list-style-type: none"> <li>• Make consequential changes in the rules to align with the current business process.</li> <li>• Rules to be amended for certain issues like updating terms used such as Common Portal for GSTN, OIDAR being included in the settlement process, reference to UN refunds etc.</li> </ul>
Settlement Forms are not aligned to the Rules and Source for capturing the data for each of the forms are not well delineated.	<ul style="list-style-type: none"> <li>• Amend the relevant Rules and Forms to clearly delineate the various categories of settlement items contained in this form.</li> <li>• Sources for all the forms are to be specified in the</li> </ul>

Issue	Suggestion/Recommendation
	headings of the forms.
In case of imports by unregistered persons, there were credits which were reversed without any explanation.	<ul style="list-style-type: none"> <li>• GSTN to share sample data with States for Bills of Entry that were wrongly settled, including month, name, and reverse settlement details. If discrepancies are found, States can request complete data from GSTN, which will be provided as needed.</li> <li>• Going forward the States to be provided with the details of the bills of entry as received from ICEGATE.</li> <li>• Importer Exporter Code to be included in STL Form 1.08.</li> </ul>
Information regarding place of supply in case of imports by unregistered persons is not available in the settlement forms.	Importer Exporter Code to be included in STL Form 1.08.
Issues in settlement of accumulated ITC between centre and states upon cancellation of GST registration both voluntary and enforced.	<ul style="list-style-type: none"> <li>• Many cancellations may involve fake or non-genuine taxpayers, making ITC settlement inappropriate.</li> <li>• Introducing a mechanism for the ‘Proper Officer’ to certify credits could also be counterproductive.</li> <li>• Committee felt that this requires further deliberation, and status quo can be maintained for now.</li> </ul>
Reporting of revenue in ‘state code 97’ (Other Territory) is unclear indicating possibility of state revenue being allocated to centre.	<ul style="list-style-type: none"> <li>• GSTN has provided sample data on entries appearing in “97. Other Territory”.</li> <li>• Based on analysis of the same, States to report back anomalies in reporting in the category “97. Other Territory”.</li> <li>• Upon review of the data, Committee to evaluate and recommend if instead of “97. Other Territory”, more specific classification can be considered. SRS to be amended appropriately.</li> </ul>
Details pertaining to ‘online information data access retrieval services’ (OIDAR) regarding place of supply not available to states.	<ul style="list-style-type: none"> <li>• GSTN to share data pertaining to OIDAR (TIN of supplier, Name, PoS, IGST collected etc) as it appears in the return filed in GSTR-5A as an MIS on a monthly basis.</li> <li>• States may seek further data from the jurisdictional officer for OIDAR (i.e) Bengaluru West Zone of CBIC.</li> <li>• Settlement for OIDAR would be reflected in STL Form 1.04 and the rules would be amended accordingly.</li> </ul>

### 3. Deliberations on the manner of recovery

- 3.1 The Committee also deliberated on the Method of apportionment / recovery of the balance (positive / negative) remaining in the IGST account. The issue was discussed in detail. It was felt that off late, the balance has been negative and if the trend of negative balance does not reverse, it will become imperative to recover the shortfall equally from the Centre and the States. The present status of the
- 3.2 balance in the IGST Account is as follows:

Financial Year	Balance in cr.
FY 2023-24	- 5,516
FY 2024-25 (till November)	-26,757
<b>Total</b>	<b>-32,273</b>

- 3.3 The Committee observed that the ratio of apportionment between the Centre and the States (50:50) is specified in law, method of apportionment between the States is not specified. Although there is no clear specification in law, ad-hoc advance apportionment has been consistently distributed in a set ratio (base year revenue). Recovery adjustments from FY 2019-20 were also made consistently based on the actual settlement of the month since it reflects the actual utilization of the balance lying with the states.
- 3.4 Various options for recovery, if needed, were discussed with the objective to decide on a method which is demonstrably simple, equitable, uniform, transparent, and which accurately reflects the current economic realities / actual pattern of the IGST utilization amongst States. IGST Settlement is done on a monthly basis based on actual final consumption (in terms of the returns and other similar statements furnished by taxpayers) under various heads as provided in the Settlement rules. In this regard, it was noted that the present ratio of revenues of the States has moved substantially from the base year revenues of the States. Advance apportionment in base year ratio and recovery based on IGST settlement ratio of the month may not reflect the actual pattern of IGST utilization over a period of time.
- 3.5 Two major options were discussed, the first being to adopt the base year revenue ratio for both apportionment of positive balance and recovery of negative balance. The second option is to adopt the ratio of the cumulative IGST settlement ratio in the past 3 years for both apportionment of positive balance and recovery of negative balance. Based on the views of the States, the following was recommended by the Committee:
- Recovery of negative balance should be the last resort and should be undertaken only when it is absolutely clear that the negative balance would not reverse within the financial year.
  - Although there was no consensus on the method for apportionment, in order for the ad-hoc advance apportionment to closely mimic the actual expected IGST settlement in future period, it is not appropriate to apportion the IGST balance (positive or negative) based on base year revenue or VAT revenue. In case if GST Council decides to apportion the IGST balance in the ratio of the cumulative IGST settlement ratio, then the consensus is to adopt the IGST settlement ratio of the

immediate previous financial year and the same ratio is to be adopted for recovery of negative balance as well.

- Further in line with the suggestion of some States, accumulated positive balance over Rs.10,000 crores may be distributed to the States as per the agreed method of apportionment. However, the negative balance shall be recovered within the same financial year by March 15<sup>th</sup> of every year and cannot be postponed to the subsequent financial year. Any balance for the last fifteen days can be settled when the figures are finalised by CCA.

#### **4. Other items:**

- 4.1 It has been further recommended that System Requirement Specification (SRS) document for implementing the changes recommended by the Committee may be placed before the Committee and the approval of the Committee be taken before the same is implemented.
- 4.2 Certain other issues were recommended for GSTN and the GST Council Secretariat. The gist of the same is as below:
  - i. Issues which may be considered by GSTN. GSTN to report status on these items to the Committee on an ongoing basis.
    - Centralised database of bill traders may be maintained.
    - Furnishing of settlement report to all States in the login of all CCTs.
    - Data on actual credit ledger balance of IGST ITC, month-wise data for all IGST inflow, month-wise data for all IGST outflow.
    - Validation mechanism for Table 4(D)(2) reversal similar to summary available for undue reversal in Table 4(8)(1).
    - Report of IGST ITC balance in ECL as of 25th of every month to be made available to States.
    - MIS report on GSTR-2B vs. GSTR-3B.
  - ii. GST Council Secretariat may be advised to issue an advisory to all States to ensure that States automatically notify details of any adjudication orders of other State taxpayer with PoS.
- 4.3 It was also recommended that the Committee may continue to review and examine various IT related issues faced by the States and Central formations and provide necessary directions and guidance to GSTN from time to time.

#### **5. Approval required from the GST Council**

- 5.1 The recommendations of the Committee are placed before the GST Council for approval.
- 5.2 The GST Council may approve that draft amendments to the Settlement rules be notified after being vetted by the Law Committee for consistency and approval of GIC.
- 5.3 Approval of the GST Council is also sought for extending the term of the Committee as a Standing Committee so that IT related issues may be examined and resolved in a regular and comprehensive manner. Remaining issues regarding IGST Settlement may also be considered by the Committee for resolution.

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S-31011/55/2024-ST-1-DoR

Government of India  
Ministry of Finance  
Department of Revenue

\*\*\*\*\*

North Block, New Delhi  
Dated, the 17th September, 2024

**OFFICE MEMORANDUM****Subject: Constitution of Committee of Officers on IGST Settlement - reg.**

The undersigned is directed to refer to subject cited above that as decided in the 54<sup>th</sup> GST Council held on 09.09.2024, it has been decided to constitute a committee of officers on IGST Settlement. The members of the committee are as under: -

S No	Designation / State	Name of the Officer presently holding the Post.
<b>Convenor</b>		
1	Additional Secretary, Department of Revenue	Sh Vivek Aggarwal
<b>Centre</b>		
2	Joint Secretary, Tax Policy Research Unit	Sh Balasubramanian Krishnamurthy
3	Joint Secretary, Department of Revenue	Sh Naval Kishore Ram
4	Commissioner, GST Policy Wing, CBIC	Sh Gaurav Singh
5	Director General, DG Systems, CBIC	Sh Yogendra Garg
6	Chief Executive Officer, Goods and Services Tax Network	Sh Manish Kumar Sinha
<b>States</b>		
7	Commissioner, Commercial Taxes Tamil Nadu	Sh (Dr.) D. Jagannathan
8	Commissioner, Commercial Taxes, Kerala	Sh Ajith Patil
9	Commissioner, Commercial Taxes, Uttar Pradesh	Sh Nitin Bansal
10	Commissioner, Commercial Taxes, Maharashtra	Sh Asheesh Kumar
11	Commissioner, Commercial Taxes, Gujarat	Sh Rajeev Topno
12	Commissioner, Commercial Taxes, Bihar	Sh. Sanjay Singh
13	Commissioner, Commercial Taxes, Karnataka	Smt C Shikha
14	Commissioner, Commercial Taxes, Madhya Pradesh	Sh Dhanaraju S.

2. The terms of reference of the Committee are as under: -

- To examine the legislative provisions and rules relating to process of IGST Settlement under GST.
- To examine the current process followed by GSTN in making the IGST settlement and analyse in detail any items of settlement not carried out and the reasons thereof.
- To analyse and apprise the GST Council regarding the following:
  - detailed understanding of the workings and the process followed in making the IGST settlement.
  - reasons and circumstances under which there can be a positive/negative balance in the IGST account.
  - manner in which settlement may be carried out of positive or negative balances going forward.
  - suggestions to improve the process of IGST so as to arrive at a more accurate settlement to States including any amendments desired in the relevant GST laws and the rules.

3. TPRU shall provide the Secretarial assistance to the committee. The Committee shall submit its final report on or before 31<sup>st</sup> October 2024.

4. This issues with the approval of competent authority.

*Sunil*  
*17/09/2024*

(Sunil Kumar)

Under Secretary to the Govt. of India

Tel.011-23092976

To,

1. All Members of the Committee
2. PS to FM / PS to MoS (Finance)
3. PSO to RS/Sr. PPS to AS (R)/PPS to JS (R)/PPS to JS (TPRU) / PA to DS (ST)



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**MINISTRY OF FINANCE**
**(Department of Revenue)**
**NOTIFICATION**

 New Delhi, the 27<sup>th</sup> July, 2017

**G.S.R. 964(E).**—In exercise of the powers conferred by section [53164](#) read with section [1753](#), [and 53A](#) of the Central Goods and Services Tax Act, 2017 (12 of 2017), section 17, [17A, 18](#) and [1822](#) of the Integrated Goods and Services Tax Act, 2017 (13 of 2017) and section [2422](#) of the Union Territories Goods and Services Tax Act, 2017 (14 of 2017), the Central Government hereby makes the following rules namely:—

**1. Short Title and Commencement.**—(1) These rules may be called the Goods and services Tax Settlement of funds Rules, 2017.

(2) They shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

**2. Definitions.**— (1) (a) “Authorities” means the Board, State Tax Nodal Authority, Principal Chief Controller of Accounts, Central Board of [ExciseIndirect Taxes](#) and Customs and State Accounting Authorities of the respective States;

(b) “Board” means the Central Board of [ExciseIndirect Taxes](#) and Customs constituted under the Central Boards of Revenue Act, 1963;

(c) “cross utilization of credit” means utilization of-

(i) [credit on account of integrated tax for payment of central tax or State tax or Union Territory tax, or](#)

(ii) [credit on account of central tax or State tax or Union Territory tax for payment of integrated tax,](#)

[in accordance with the provisions of section 49 of the Central Goods and Services Tax Act, 2017 read with the provisions of section 49 of the concerned State Goods and Services Tax Act, 2017 or section 9 of the Union Territory Goods and Services Tax Act, 2017 or section 18 of the Integrated Goods and Services Tax Act, 2017, as the case may be;](#)

(d) “Government” means the Central Government;

(e) (d) “input tax credit” means the credit of input tax;

(e) “registered person” means a person who is registered under section 25 of the Central Goods and Services Tax Act, 2017, but does not include a person having a Unique Identity Number;

(f) “reports” means any report specified or otherwise required to be furnished by or under these rules;

(g) “State Accounting Authority” means Accounting Authority of any State as notified by the concerned State Government;

(h) “State Tax Nodal Authority” means the Taxation Authority of any State as notified by the concerned State government-(s);

(2) Words and expressions used and not defined in these rules, but defined in the Central Goods and Services Tax Act, 2017, the Integrated Goods and Services Tax Act, 2017 and the Union Territories of Goods and Services Tax Act, 2017 shall have the same meanings as respectively assigned to them in those Acts.

**3. Electronic transmission of the Reports.-**

(1) The [Goods and Services Tax Network common portal](#) shall transmit reports electronically to the Authorities as provided hereunder.



(Rationale: The expression “Goods and Services Tax Network” has not been defined either in these rules or any of the Acts. The CGST Act uses the expression “common portal” as defined in section 2(26) thereof and vide section 146 ibid the said ‘common portal’ has been entrusted the task of “computation and settlement of integrated tax”.)

(a)(2) The Reports, as referred to in sub-rule (1) shall be ~~submitted~~ transmitted by 25<sup>th</sup> of the month in which Goods and Services Tax returns are ~~submitted, in case of monthly reports; and furnished:~~

(b) ~~by the 25<sup>th</sup> of October of the subsequent financial year, in case of annual reports, in case of report relating to non-unutilised input tax credit:~~

Provided that if 25<sup>th</sup> of the month is a holiday, then the ~~reports~~ said reports shall be ~~sent~~ transmitted by the first working day after the holiday:

Provided further that if the date of filing of return is extended, then the date of generation of settlement report shall stand extended accordingly ~~and in case the return for September is filed late the report related to non-utilised input tax credit shall be sent accordingly.~~

(Point for consideration: As per the existing provisions, credit in respect of any financial year can be availed before the 30<sup>th</sup> of November of the subsequent financial year and it can be ascertained with finality from the system only through the ‘accept-reject-pending’ facility of the Invoice Management System (wherein any invoice kept ‘pending after the 30<sup>th</sup> of November can be said to have lapsed and can be settled). This will also require the IGST component of the said invoice/s to be not settled till such date which, in effect, would mean that the IGST component of a B2B invoice that has been kept pending not enter the settlement stream at all till November of the following year, which may be difficult to implement. Accordingly, this may result in recoveries from ad hoc settlement when such invoices are finally settled. Thus, clause (b) is proposed to be deleted; this will further require deletion of Tables 1.07 and 1.09 as well. The said two Tables and clause (b) above can be kept only if there are no ad hoc settlements to the extent of the IGST component of invoices that have kept pending by the recipient.)

Added on 22.10.2024:

In the third meeting of the Committee held on 17.10.2024 it was deliberated to retain STL 1.07 and 1.11. It seems appropriate to retain STL-1.07 and populate the lapsed credit (in terms of section 16(4)) in the said Form from Table 4D(2) of GSTR-3B; the said Form STL-1.07 can have two sections viz. lapsed on account of domestic transactions and lapsed on account of imports. Accordingly, STL-1.11 is proposed to be deleted. However, since this will require some changes to be made to the process flow in the system, amendments to this effect may be implemented with effect from a date to be notified. In the meanwhile, such amounts may continue to be settled in STL-1.06.

Further, the credit in respect of invoices of any FY kept pending beyond 30<sup>th</sup> November of the next FY in the IMS can be auto-populated in Table 4D(2) of GSTR-3B and locked for revision downward (not hard-locked in view of the residuary category of intra-state supply recipient situated in a different State, which would be a user entry).

#### **4. Report of Cross-Utilisation and Apportionment of Integrated Tax between Centre (Integrated Tax) and State (State Tax) or Central (Integrated Tax) and Centre (Union Territory Tax).—**

(1) The details relating to the transfer of funds to be made between Centre (Integrated Tax) and State (State Tax) or Centre (Integrated Tax) and Centre (Union territory Tax) shall be ~~sent~~ transmitted by ~~Goods and Services Tax Network~~ the common portal to the Authorities, in FORMS GST STL ~~011.01 to GST STL – 011.09, except FORM GST STL 1.07, and GST STL 1.12~~, for each State and Union Territory, as follows— (corrected on 22.10.2024)



(Remarks: STL-07 issue will be discussed below)

(a) a monthly Consolidated statement for each State in **FORM GST STL – 011.01** containing the details referred to in clause (b) relating to the total amount to be transferred:-

(i) from the Centre (Integrated Tax) to the State (State Tax) or the Centre (Union Territory Tax), ~~or vice-versa;~~

(ii) ~~from the State (State tax) or the Centre (Union Territory tax) to the Centre (integrated tax)-~~

on account of cross-utilisation of credit as ~~per provided in~~ section 53 of the Central Goods and Services Tax Act ~~and, section 53 of~~ the Goods and Services Tax Act of the concerned State (hereinafter referred to as State Goods and Services Tax Act), section ~~2410~~ of the Union Territory Goods and Services Tax Act and section 18 of the Integrated Goods and Services Tax Act, ~~and;~~

(a) (iii) from the Centre (Integrated Tax) to the State (State Tax) or the Centre (Union Territory Tax) on account of apportionment as provided for in section 17 of the Integrated Goods and Services Tax Act;

(b) ~~the~~The monthly reports containing State-wise details pertaining to the information contained in **FORM GST STL – 011.01** are as under—

(i) list of registered persons of the State or Union Territory who have ~~adjusted~~discharged liability of Integrated Tax ~~from by utilizing~~ the input tax credit of State Tax or Union Territory Tax ~~and/or~~ Central Tax, ~~as provided under in accordance with~~ section 53 of the Central Goods and Services Tax Act ~~and, 2017 or section 53 of~~ the State Goods and Services Tax Act, ~~2017 or section 2410 of~~ the Union Territory Goods and Services Tax Act, ~~2017~~ (including cross utilisation by Input Service Distributor), as the case may be, in **FORM GST STL – 011.02**.

**Note:** The summary of Integrated Tax ~~paid from~~liability discharged by using the input tax credit of Central Tax and ~~from that~~ discharged by using the input tax credit of State Tax or Union Territory Tax shall be reflected in column 3 of **FORMS GST STL 12.01** and **21.01** respectively;

(ii) list of registered persons of the State or Union territory who have ~~adjusted~~discharged liability of State Tax or Union Territory Tax, as the case may be, from the input tax credit of Integrated Tax, as provided under section 18 of the Integrated Goods and Services Tax Act, in **FORM GST STL – 011.03**.

(Rationale: Discharge of liability as stated above is not provided in section 18 of the IGST Act; this section provides for reduction in IGST account in the event of such cross-utilization, hence proposed to be deleted)

**Note:** The summary of ~~liability on account of~~ State Tax/Union Territory Tax ~~paid~~discharged from the input tax credit of the Integrated Tax shall be reflected in column 4 of **FORMS GST STL 1.01**;

(iii) list of registered persons or unregistered persons who have paid Integrated Tax ~~in~~under the following ~~cases~~circumstances and ~~the said Integrated Tax has~~which is required to be apportioned as per the provisions of section 17 of the Integrated Goods and Services Tax Act ~~shall be as under-~~

(a) (A) list of registered persons of ~~other a~~ State or Union Territory who have made outward inter-State supply, including Input Service Distributor distribution, to unregistered persons or units of ~~the concerned another~~ State or Union Territory ~~and the list of persons of a State or taxpayers~~Union territory who have ~~made exports or have made supplies~~provided online information and database access and retrieval services (OIDAR) to ~~SEZ on payment of tax, including non filers who have Integrated Tax~~



~~credit available with them unregistered persons of another State or Union territory shall be, in FORM GST STL – 011.04.~~

(Rationale: IGST paid on exports, supplies to SEZ is zero-rated and hence qualifies for refund and hence is not to be settled)

**Note:** The summary of Integrated Tax to be apportioned as State Tax or Union Territory Tax and Central Tax from this statement shall be reflected in column 5 of both **FORM GST STL 1.01** and **FORM GST STL 2.01**, respectively;

~~(b) (B) list of registered persons of other a State or Union Territory who have made outward inter-State supplysupplies to composition taxable person or a person paying tax under section 10 of the Central Goods and Services Tax Act, 2017, or to Non-resident taxpayer taxable persons or persons registered under section 51 or Unique Identification Number holders52 of the CGST Act of another State or Unique Identification Number holders who have not claimed refund of the input tax within the time period allowed in this regard, shall be in FORM GST STL – 011.05.~~

(Rationale for changes: the tax paid by UIN holders on their purchases is refunded to them in accordance with section 55 of the CGST/SGST Act and hence is not to be settled)

**Note:** The summary of Integrated Tax to be apportioned as State Tax or Union Territory Tax and Central Tax ~~portion of Integrated Tax~~ from this statement shall be reflected in column 6 of both **FORM GST STL 1.01** and **FORM GST STL 2.01**, respectively;

~~(C) list of registered persons of other a State or Union Territory who have made:- received inter-State inward supplies for or imports in respect of which the input tax credit is:-~~

~~(i) has been declared as ineligible as provided for in, or~~

~~(ii) remains un-availed till the period specified in clause (c) or clause (f) of sub-section (1) of section 17 of the CentralIntegrated Goods and Services Tax Act and State Goods and Services Tax Act and section 21 of the Union Territory Goods and Services Tax Act, or whose Integrated tax input tax credit, 2017, or~~

~~(iii) has lapsed due to opting into composition scheme as provided for in sub-section (4) of section 18 of the Central Goods and Services Tax Act and section 18 of the respective State Goods and Services Tax Act read with section 21 of the Union Territory Goods and Services Tax Act, 2017, or whose input tax credit of Integrated tax has lapsed due to~~

~~(iv) availed in respect of inputs (whether as such or contained in semi-finished or finished goods) or capital goods lying in stock on the day immediately preceding the date of cancellation of registration, where the said tax has been paid along with the application for cancellation registration, in accordance with the provisions of sub-section (5) of section 29 of the Central Goods and Services Tax Act, 2017, sub-section (5) of section 29 of the respective State Goods and Services Tax Act, read with section 21 of the Union Territory Goods and Services Tax Act, 2017, or~~

~~(v) tax of the nature specified in sub-clause (iv) above that has been paid along with the final return and the time period for revocation of the cancellation of registration has lapsed.~~

~~shall be reflected in FORM GST STL – 011.06;~~

~~(e)~~

**Note:** The summary of Integrated Tax to be apportioned as State Tax or Union Territory Tax and Central Tax from this statement shall be reflected in column 7 of both **FORM GST STL 1.01** and **FORM GST STL 2.01**, respectively;

(Rationale for deletion of Table 1.07 and 1.11 and the corresponding provisions in these rules:



Tables STL 1.07 and STL 1.11 essentially deal with apportionment of IGST implicit in domestic and imported supplies received during a financial year by registered persons who have failed to avail the credit thereof by 30<sup>th</sup> of November of the following year or by the date of filing the annual return for that year, whichever is earlier, i.e. credit that is barred by the limitation envisaged in sub-section (4) of the section 16 of the Act. Such credit has to be apportioned and settled since it can not be claimed anymore and has gone out of the value chain. As can be seen from sub-clause (ii) of clause (b) above (clause (iv) of sub-rule (1) of rule 4 of the extant rules), this was to be annual affair, consequent upon filing of the annual return or the expiry of the specified period. Settlement of such amount was difficult owing to turnover-based exemptions granted for filing annual returns and multiple extensions of the annual return due dates in the initial years. However, consequent to the issuance of circular no. 170/02/2022-GST Dated 6<sup>th</sup> July, 2022, the said amounts are to be declared in Table 4D(2), vide clause F of par 4.3 of the said circular which is reproduced below:

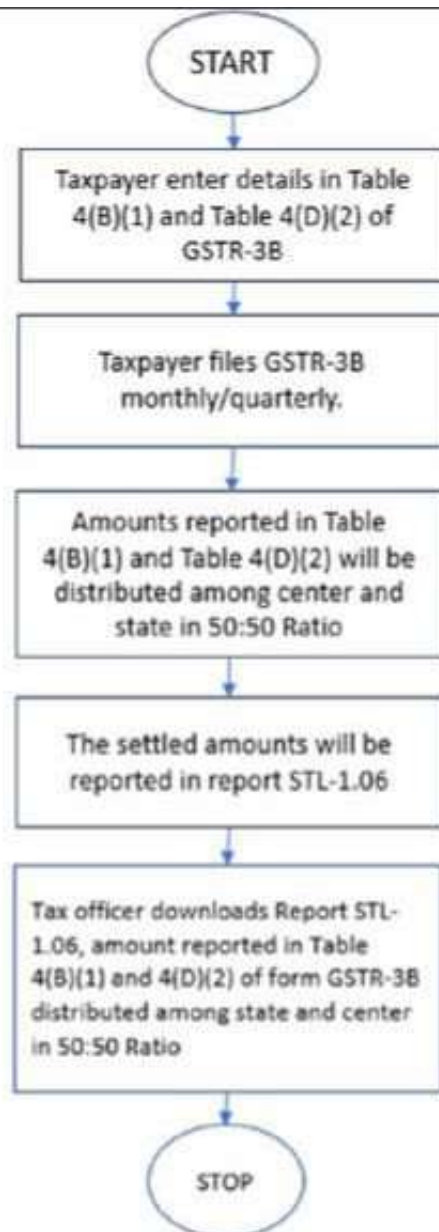
“ITC not available, on account of limitation of time period as delineated in subsection (4) of section 16 of the CGST Act or where the recipient of an intraState supply is located in a different State / UT than that of place of supply, may be reported by the registered person in Table 4D (2). Such details are available in Table 4 of FORM GSTR-2B.”

This amount is being settled in Table STL 1.06 from the said declarations made in the said Table 4D(2) of FORM GSTR-3B (or from Table 4B(1) of the said Form where the taxpayer has availed the same but reversed it Table 4B(1)).

In this context the relevant portion of the TFD of the functionality developed by GSTN for such settlement is reproduced below:

Para 3.5 of the Document:

“3.5 Business Process Flow



Thus, it would be clear from the above flow that the IGST on imported and domestic supplies hit by the limitation of section 16(4) of the Act (the subject matter of present Tables STL 1.07 and 1.11) is being settled as aforesaid and hence, the Tables STL 1.07 and 1.11 are redundant and need to be deleted along with the corresponding provisions in their behalf in the present rules.)

(d) (D) list of unregistered persons who have made imports in the concerned State or Union Territory, underin terms of clause (d) of sub-section (1) of section 17 of the Integrated Goods and Services Tax Act, 2017 shall be reflected in FORM GST STL – 01.08.

**Note:** The summary of Integrated Tax to be apportioned to State Tax or Union Territory Tax and Central Tax from this statement shall be reflected in column 9 of both FORM GST STL 1.01 and FORM GST STL 2.01, respectively;

(e) (E) list of composition taxpayer/taxpayers or Unique Identification Number holders who have not claimed refund within the time period specified in this regard or person registered under section 51 or 52 of the CGST Act in a State or Union Territory who have made imports- or composition taxpayers or non-resident taxable persons



who have received inward inter-State supplies that are liable to reverse charge, shall be reflected in FORM GST STL – 011.09.

(Rationale: UIN holders are entitled to refund of tax paid on their purchases and hence such tax is not liable to be settled)

**Note:** The summary of Integrated tax to be apportioned to State Tax or Union Territory Tax and Central Tax from this statement shall be reflected in column 10 of both **FORM GST STL 1.01** and **FORM GST STL 2.01**, respectively;

~~(f) list of registered persons in a State or Union Territory who have made imports, on which input tax credit is declared as ineligible as provided for in section 17 of the Central Goods and Services Tax Act and State Goods and Services Tax Act and section 21 of the Union Territory Goods and Services Tax Act, in FORM GST STL – 01.10.~~

(Rationale for deletion of FORM GST STL—1.10: This Form deals with IGST paid on imports by a registered taxpayer where credit is ineligible. Such ineligible credit is being reported in Table 4B(1) of FORM GSTR-3B in terms of Circular no. 170/02/2022-GST supra and is being settled vide FORM GST STL 1.06 (clubbed with sub-clause (i) of clause (c) above), as per process flow para 3.5 cited and reproduced above. Hence, it is redundant here and, thus, needs to be deleted.) (Clause (e) of section 17(1) of the IGST Act also would required to be deleted)

~~**Note:** The summary of Integrated Tax to be apportioned to State Tax or Union Territory Tax and Central Tax from this statement shall be reflected in column 11 of both FORM GST STL 1.01 and FORM GST STL 2.01, respectively;~~

~~(g)(a) list of registered persons in a State or Union Territory who have paid interest on Integrated Tax, ~~in~~ and fee deposited for filing advance ruling application under IGST shall be reflected in FORM GST STL – 011.12.~~

**Note:** The summary of Integrated Tax to be apportioned as State Tax or Union Territory Tax and Central Tax from this statement shall be reflected in column ~~13~~ of both **FORM GST STL 1.01** and **FORM GST STL 2.01**, respectively;

**Added on 22.10.2024:**

(f) Notwithstanding anything contained in the foregoing sub-clause (ii) of clause (C) above and with effect from a date to be notified in this behalf, the list of registered persons of a State or Union territory who have received inter-State inward supplies, including imports of goods or services or both, during any financial year the credit in respect of which has not been availed till the 30<sup>th</sup> day of November of the immediately succeeding financial year and the integrated tax paid in respect whereof is to be apportioned in accordance with clauses (c) and (f) of sub-section (2) section 17 of the Integrated Goods and Services Tax Act, 2017 shall be transmitted to the authorities in FORM STL-1.07 and the summary of integrated Tax to be apportioned to State Tax or Union Territory Tax and Central Tax from this statement shall be reflected in column 8 of both FORM GST STL 1.01 and FORM GST STL 2.01.

~~(iv) the following reports containing GSTIN-wise, State-wise details pertaining to the information contained in FORM GST STL – 01.01 shall also be required to sent once a year—~~

~~(a) list of registered persons in a State or Union Territory who have made inter State inward supplies on which input tax remains unutilised till end of September of the~~



~~subsequent financial year and thus input tax credit on Integrated Tax paid is not available as per sub-section (4) of section 16 of Central Goods and Services Tax Act and State Goods and Services Tax Act and section 21 of the Union Territory Goods and Services Tax Act, and the said Integrated Tax paid is to be apportioned under section 17 of the Integrated Goods and Services Tax Act, in FORM GST STL-01.07.~~

~~Note: The summary of Integrated Tax to be apportioned to State Tax or Union Territory Tax and Central Tax from this statement shall be reflected in column 8 of both FORM GST STL 1.01 and FORM GST STL 2.01, respectively;~~

- ~~(b) — list of registered persons in a State or Union Territory who have made import on which input tax credit remains unutilised till end of September of the subsequent financial year and thus input tax credit on Integrated Tax paid is not available as per sub-section (4) of section 16 of Central Goods and Services Tax Act and State Goods and Services Tax Act and section 21 of the Union Territory Goods and Services Tax Act, and the said Integrated Tax paid is to be apportioned under section 17 of the Integrated Goods and Services Tax Act, in FORM GST STL-01.11.~~

~~Note: The summary of Integrated Tax to be apportioned to State Tax or Union Territory Tax and Central Tax from this statement shall be reflected in column 12 of both FORM GST STL 1.01 and FORM GST STL 2.01, respectively;~~

*(Rationale for deletion: As explained earlier, the IGST paid on inter-state inward supplies (domestic and imports) is being settled vide Table STL 1.06 and hence both the Tables STL 1.07 and 1.11 and the corresponding provisions in the rules need to be deleted. However, as discussed in the Third meeting, STL-1.07 is to be retained once the process flow is altered on the system and the said Table is to be split into two parts: one dealing with domestic transactions and the other containing imports. The modified rules, as circulated earlier, have been slightly re-modified to reflect this thought process.) (Expression "However..." added on 22.10.2024)*

#### 5. Report of Cross-Utilisation and Apportionment of Integrated Tax between Centre (Integrated Tax) and Centre (Central Tax).—

The details relating to the transfer of funds between Centre (Integrated Tax) and Centre (Central Tax) to be made in a particular month ~~relating shall be transmitted by the common portal to the authorities in FORMS GST STL 022.01 to GST STL – 2.02.02, and~~ are as follows:

- (a) a monthly consolidated statement containing State-wise details in FORM GST STL – 022.01 containing the month-wise details relating to
- (i) the total amount to be transferred from the Centre (Integrated Tax) to the Centre (Central Tax), or ~~vice-versa from the Centre (central tax) to the Centre (integrated tax), as the case may be,~~ on account of cross-utilisation of credit as provided for in section 53 of the Central Goods and Services Tax Act, 2017 and section 18 of the Integrated Goods and Services Tax Act, 2017, and
- (a) (ii) the total amount to be transferred from the Centre (Integrated Tax) to the Centre (Central Tax) on account of apportionment as provided for in section 17 of the Integrated Goods and Services Tax Act;
- (b) monthly reports containing State-wise details containing list of registered persons who have ~~adjusted~~ discharged liability of Central Tax ~~from by utilizing~~ the input tax credit of Integrated Tax, ~~as provided under in accordance with the provisions of~~ section 18 of the Integrated Goods and Services Tax Act, 2017 in FORM GST STL – 022.02.

Note: The summary of the liability of Central Tax ~~paid from~~ discharged by utilizing the input tax credit of Integrated Tax shall be reflected in column 4 of FORM GST STL 022.01, and the



summary integrated tax liability discharged by utilizing credit of central tax shall be reflected in column 3 of FORM GST STL-2.01.

**6. Report relating to apportionment of Integrated Tax recovered against demand, and compounding amount paid and amount deposited for filing appeal between Centre (Central Tax) and State (State Tax) or Centre (Union Territory Tax).—**

- The details for a particular month relating to recoveries of Integrated Tax, and the interest and penalty thereon on the basis of a demand order, or compounding amount, or deposit made for filing appeal, ~~as provided for in sections 79, 107, 112 and 138 of the Central Goods and Services Tax Act and the State Goods and Services Tax Act of the concerned State and section 21 of the Union Territory Goods and Services Tax Act for which input tax credit is not available as per sub-section (5) of section 17 of, 2017, the Central Goods and Services Tax Act and State Goods and Services Tax Act, section 21 of the Union Territory Goods and Services Tax Act and the said Integrated Tax is to be apportioned under section 17 of the Integrated Goods and Services Tax Act, shall be in FORMS GST STL 033.01 to GST STL – 033.02 which shall be sent for each State and Union Territory transmitted by the common portal,~~ as follows:

(a) a monthly State-wise consolidated statement showing a summary of amount recovered as Integrated Tax, and the interest and penalty thereon, or compounding amount, or deposited for filing appeal, to be apportioned to State (State Tax) or Centre (Union Territory Tax), and to Centre (Central Tax), in **FORM GST STL 033.01**;

(b) list of registered persons in a State or Union territory from whom recovery of Integrated Tax has been made with interest and penalty thereon, or compounding amount against demand, or amount deposited for filing appeal of the Integrated Goods and Services Tax Act ~~as provided for in sections 79, 107, 112 and 138 of the Central Goods and Services Tax Act and the State Goods and Services Tax Act of the concerned State and section 21 of the Union Territory Goods and Services Tax Act,~~ in **FORM GST STL 033.02**.

*(b) (Rationale: This required further deliberation as the pre-deposit, partial recoveries are not easy to be settled. Capturing of PoS in payment challans shall be made mandatory for all payments including pre-deposits and part payments which shall be based on the impugned order.)*

**7. Report relating to apportionment of Integrated Tax amount, where place of supply could not be determined or taxable person making such supply is not identifiable, between Centre (Central Tax) and State (State Tax) or Centre (Union Territory Tax).—**

The details relating to the apportionment of Integrated Tax to State (State Tax) or Centre (Union Territory Tax), and to Centre (Central Tax), in a particular month, in **FORMS GST STL 04.01 to GST STL – 04.03** shall be sent for each State and Union Territory, as follows—

(a) a monthly State-wise consolidated statement showing a summary of the apportionment of Integrated Tax to State (State Tax) or Centre (Union Territory Tax), and to Centre (Central Tax), in a particular month relating to Integrated Tax collected in respect of which place of supply could not be determined or the taxable person making such supplies is not identifiable, as provided under the proviso of sub-section (2) of section 17 of the Integrated Goods and Services Tax Act, in **FORM GST STL 04.01**;

(b) list of registered persons from whom Integrated Tax has been collected in respect of which place of supply made by taxable person could not be determined, and is to be apportioned as provided under first proviso of sub-section (2) of section 17 of the Integrated Goods and Services Tax Act, in **FORM GST STL 04.02**;

the details of Integrated Tax has been collected in respect of which the taxable person making such supplies is not identifiable, and is to be apportioned as provided under second proviso of sub-section (2) of section 17 of the Integrated Goods and Services Tax Act, in **FORM GST STL 04.03** and this shall be an annual report to be submitted in October each year.

(c)



(e) (Rationale: Further analysis on "97. Other Jurisdiction" would be made to understand this issue further )

**8. Report relating to reduction of amount to be apportioned to Centre (Central Tax) and State (State Tax) or Centre (Union Territory Tax) due to Integrated Tax apportioned earlier but subsequently refunded.—**

**(1)**—The details relating to reduction of amount to be apportioned to Centre (Central Tax) and State (State Tax) or Centre (Union Territory Tax), in a particular month due to Integrated Tax apportioned earlier but:

**(A)** subsequently refunded as provided for in sub-section (5) of section 17 of the Integrated Goods and Services Tax Act, or

**(B)** ineligible credit on account of the said integrated tax apportioned earlier subsequently having become eligible in accordance with sub-section (1) of section 18 of the Central Goods and Services Tax Act, 2017 read with sub-section (1) of section 18 of the State Goods and Services Tax Act of the respective State, section 20 of the Integrated Goods and Services Tax Act, 2017 and section 21 of the Union Territory Goods and Services Tax Act, 2017

in FORMS GST STL 055.01 to GST STL – 05.125.03 shall be ~~sent for each State and Union Territory transmitted by the common portal as follows—~~ in the manner hereinafter provided.

**Modified and added on 22.10.2024:**

*(Note: Columns 2 and 12 of Tables 7 & 8 of Form ITC-01 will be used for the purposes of clause (B) above; currently this Table in the settlement process is not active hence it will take some time to wire this flow in the settlement process in the system. The amount in column 12 will be reverse settled 50% from the Centre and 50% from the State/UT whose GSTIN features in column 2 when any ITC-01 is filed.)*

**(2)(a) aA** monthly State-wise consolidated statement showing a summary wherein Integrated Tax paid by taxpayer has already been apportioned but:

**(i)** subsequently refunded to the person due to ~~various~~ provisions of the Central Goods and Services Tax Act, 2017 or the State Goods and Services Tax Act of the concerned State or and the Union Territory Goods and Services Tax Act, 2017 leading to a reduction in amount to be apportioned to Centre (Central Tax) ~~and from~~ State (State Tax) or Centre (Union Territory Tax), in a particular month as provided for in sub-section (5) of section 17 of the Integrated Goods and Services Tax Act, or

**Modified and added on 22.10.2024:**

**(ii)** ineligible credit on account of the said integrated tax apportioned earlier subsequently having become eligible, as referred to in clause (B) of sub-rule (1) above-

**(a)** shall be transmitted in FORM GST STL 05.01,;

**(b)** (b) The monthly reports containing State-wise details pertaining to the information contained in FORM GST STL – 05.01 shall be further provided are as under:

~~(i) list of registered taxpayers who had made inter State supply of goods or services or both and the said Integrated Tax was already apportioned as per provisions of sub-section (2) of section 17 of the Integrated Goods and Services Tax Act as the supply was not eligible for credit as per section 17 of Central Goods and Services Tax Act, State Goods and Services Tax Act and section 21 of Union Territory Goods and Services Tax Act. The tax liability which was subsequently reduced due to issuance of credit notes or Input Services Distributor Credit notes to taxpayers for the said supply, as provided under sections 20 and 34 of the Central Goods and~~



Services Tax Act and the Goods and Services Tax Act of the concerned State (or section 21 of the Union Territory Goods and Services Tax Act), in **FORM GST STL 05.02**.

**Note:** The summary of reduction in amount to be credited to State tax or Union Territory tax and Central tax shall be reflected at S.No.1 of **FORM GST STL 5.01**;

- (ii) list of registered taxpayers who had paid Integrated Tax and the said Integrated Tax was already apportioned as the supply was made to composition dealers, and whose tax liability was subsequently reduced due to issuance of credit notes to composition taxpayers, as provided under sections 10 and 34 of the Central Goods and Services Tax Act and the Goods and Services Tax Act of the concerned State (or section 21 of the Union Territory Goods and Services Tax Act), in **FORM GST STL 05.03**.

**Note:** The summary of reduction in amount to be credited to State tax or Union Territory tax and Central tax shall be reflected at S.No.2 of **FORM GST STL 5.01**;

- (iii) list of registered taxpayers who had paid Integrated Tax and the said Integrated Tax was already apportioned as the supply was made to unregistered persons, and whose tax liability was subsequently reduced due to issuance of credit notes to un-registered persons, as provided under section 34 of the Central Goods and Services Tax Act and the State Goods and Services Tax Act (or section 21 of the Union Territory Goods and Services Tax Act), in **FORM GST STL 05.04**.

**Note:** The summary of reduction in amount to be credited to State tax or Union Territory tax and Central tax shall be reflected at S.No.3 of **FORM GST STL 5.01**;

*(Rationale: Credit notes issued by the supplier are adjusted in his liability in FORM GSTR-3B and it is the adjusted liability which he discharges in his return for the period during which the credit note was issued. This reduces the amount of IGST paid and is not further required to be reduced. This Table was put in place in view of the GSTR-1-2-3 architecture which has since been rescinded. The Table is not needed now in view of the reduction in the liability of IGST by the taxpayer himself in his return and hence is proposed for deletion.)*

- (iv) list of registered taxpayers who had paid Integrated Tax and the said Integrated Tax was already apportioned, and whose demand was subsequently reduced due to refund of amount deposited for filing appeal and interest thereon, as provided under sections 107 and 112 of the Central Goods and Services Tax Act and the State Goods and Services Tax Act (or section 21 of the Union Territory Goods and Services Tax Act) leading to reduction in Integrated Tax to be apportioned, in **FORM GST STL 05.05**.

**Note:** The summary of reduction in amount to be credited to State tax or Union Territory tax and Central tax shall be reflected at S.No.4 of **FORM GST STL 5.01**;

*(Rationale: This would be required as and when the mechanism for settlement of part payments and pre-deposits is available as this would require an amendment to the CGST rules/Forms.)*

- (v) list of registered taxpayers from whom Integrated Tax was recovered with interest due to non-acceptance of a supply, by a supplier, and the input tax credit of the buyer was reversed with interest as provided under sections 42 and 43 of the Central Goods and Services Tax Act and the Goods and Services Tax Act of the concerned State (or section 21 of the Union Territory Goods and Services Tax Act) and the interest amount has been apportioned and upon the



supplier subsequently accepting the supply, would result in reduction of amount of interest to be apportioned, in FORM GST STL 05.06.

**Note:** The summary of reduction in amount to be credited to State tax or Union Territory tax and Central tax shall be reflected at S.No.5 of FORM GST STL 5.01;

*(Rationale: Sections 42 and 43 stand omitted)*

(i) list of registered taxpayers where Integrated Tax paid was apportioned due to inter-State inward supplies for which input tax credit was ~~declared as ineligible~~ previously and was apportioned but has now become eligible in accordance with sub-section (1) of section 18 of the Central Goods and Services Tax Act, 2017 read with sub-section (1) of section 18 of the State Goods and Services Tax Act of the respective State, section 20 of the Integrated Goods and Services Tax Act, 2017 and section 21 of the Union Territory Goods and Services Tax Act, 2017 shall be transmitted in FORM GST STL 5.02. (Modified on 22.10.2024)

(vi) ~~as provided under section 17 of the Central Goods and Services Tax Act and State Goods and Services Tax Act (or section 21 of the Union Territory Goods and Services Tax Act), leading to reduction in Integrated Tax to be apportioned in FORM GST STL 05.07.~~

**Note:** The summary of reduction in amount to be credited to State tax or Union Territory tax and Central tax shall be reflected at S.No.61 of FORM GST STL 5.01;

(vii)(ii) list of registered taxpayers where Integrated Tax recovered under section 79 of Central Goods and Services Tax Act and State Goods and Services Tax Act (or section 21 of Union Territory Goods and Services Tax Act) or paid consequent to a demand raised by the proper officer is apportioned, and the demand amount so recovered is subsequently refunded pursuant to an reversed by appeal order, as provided under sections 107,112, 113, 117 and 118 of the Central Goods and Services Tax Act and the Goods and Services Tax Act of the concerned State (or section 21 of the Union Territory Goods and Services Tax Act), leading to reduction in Integrated Tax ~~to be apportioned~~shall be transmitted in FORM GST STL 05.030802.

**Note:** The summary of reduction in amount to be ~~credited~~debited to State tax or Union Territory tax and Central tax shall be reflected at S.No.712 of FORM GST STL 5.01;

(viii)(iii) list of registered taxpayers where the liability of payment of Integrated Tax is reduced due to an amendment in the amount payable after the said payment on account of rectification of return as provided under sections 37, 38 and 39 of the Central Goods and Services Tax Act and the Goods and Services Tax Act of the concerned State (or section 21 of the Union Territory Goods and Services Tax Act), and the excess Integrated Tax so paid has been apportioned, or ~~registered taxpayers who claim refund on account of making zero rated supplies as provided under section 16 of the Integrated Goods and Services Tax Act has been apportioned due to any other reason~~ and Services tax Act and the same is now required to be reduced from the Central Tax and State Tax or Union Territory Tax, in FORM GST STL 05.095.043.

**Note:** The summary of reduction in amount to be credited to State tax or Union Territory tax and Central tax shall be reflected at S.No.832 of FORM GST STL 5.01.

*(Point for discussion: SRS to be verified for these items. Added on 22.10.2024:*

Giving effect to this provision does not appear feasible with the present structure of returns where information flows into the return at an aggregate level and the absence of negative values in Table 3.2 of GSTR-3B. For instance, if a B2C supply declared in GSTR-1 with taxes paid in GSTR-3B in month M1 is revised downward in M2, GSTR-1 will accommodate it but GSTR-3B of M2 will



have two scenarios: (a) The aggregate value of B2C supplies to the concerned State in M2 exceeds the amount of correction then the inflow to the concerned State will stand automatically adjusted (through a delta effect in Table 3.2 of GSTR-3B) and there will be no need for any recovery/reduction. If, however, the value by which the correction is made exceeds the aggregate value of supplies made to that State in M2 then the value in M2 pertaining to that State in Table 3.2 will be in the negative and there is no way to handle this situation as of now and consequently any reduction/recovery will not be feasible as of now. (b) If the PoS itself declared in M1 changes in M2, GSTR-1 will accommodate it and then the matter will again revert to situation (a) elucidated above with the same consequences. This situation can be addressed by introducing an amendment sub-Table or sub-row in Table 3.2 and the matter may be debated by the Law Committee. If any change is proposed to the structure of GSTR-3B or any of its Tables, GSTN would need time to implement the same on the system.

Accordingly, till a decision is made on this count and implemented in the GSTN system, this provision of sub-clause (iii) and FORM GST STL 5.03 in the settlement rules may be kept in abeyance.)

**9. Report relating to recovery of various taxes from refunds and transfer of amount within cash ledger.—**

**(1)** —Report of settlement arising between Centre (Central Tax) and State (State Tax) or Centre (Union Territory Tax) or Centre (Cess) on account of

**(i)** recovery of any tax, interest, penalty, fees or any other amount from refund, as provided in sub-section (10) of section 54 of the Central Goods and Services Tax Act and State Goods and Services Tax Act (or of the concerned State read with section 21 of the Union Territory Goods and Services Tax Act), shall be submitted in FORM GST STL-06.01, 2017, and Report relating to  
**(ii)** transfer of amounts from one head of the electronic cash ledger of a registered person to another head of the said registered person or to the electronic cash ledger of another distinct person as specified in sub-section (10) of section 49 of the Central Goods and Services Tax Act, 2017 read with sub-section (10) of section 49 of the State Goods and Services Tax Act of the concerned State and section 17A of the Integrated Goods and Services Tax Act, 2017—

shall be transmitted by the common portal in FORM GST STL 6.01 to 6.045 as follows:

**(a)** Summary of the amount recovered from the erroneous refund claimed by taxpayer and amount transferred from one head to another of the electronic cash ledger shall be prepared in Form GST STL-6.01 and details provided as under:

**(j)** List of taxpayers from whose refund amount of any liability has been recovered shall be prepared in FORM GST STL 6.02 and major/minor head wise summary thereof shall be prepared in FORM GST STL 6.02A;

**(iv) (ii)** —List of taxpayers who have made inter head transfer of amount within cash ledger shall be prepared in FORM GST STL 6.03 and major/minor head wise summary thereof shall be prepared in FORM GST STL 6.03A and State-wise summary in FORM GST STL 6.05 ;

**Added on 23.10.2024:**

**(b)** Summary of refunds of state tax or union territory tax disbursed by the Centre shall be transmitted to the Central Government in FORM GST STL-6.04 along with a taxpayer-wise thereof in Form STL-6.04A.

(Note: 6.04 is not part of the settlement process but the report is transmitted to the DoR.)

(Rationale: The new Tables 6.02 to 6.045 are under implementation currently to operationalise the implementation sub-section (10) of section 49 of the CGST/SGST Act and



section 17A of the IGST Act dealing with transfers within the cash ledger of the same person or the cash ledger of another distinct person. UTGST Act does not have an analogous provision hence needs to be amended. Further, STL 6.01 is proposed to be modified in order to incorporate summary of such transfers within the cash ledger. Further, disbursement of SGST refunds by the Centre on behalf of the States should not form part of Settlement Rules since it is not a settlement matter.)

**10. Consolidated Settlement Register/Report for each State and Union Territory and for the Centre.-**

- (1) A monthly consolidated settlement register/report for each State and Union Territory, in **FORM GST STL 07.01** shall ~~be sent and this register shall give maintained providing the consolidated details of information about~~ transfer of funds to be made from State Tax or Union territory tax account to ~~Central Tax account or~~ Integrated Tax account and ~~vice versa from Integrated Tax to State tax or Union territory tax account~~ based on the consolidated summary of settlement details contained in Report Form FORMs GST STL 1.01, 3.01, 4.01, 5.01 and 6.01...
- (2) A monthly consolidated settlement register/report for the Centre, in **FORM GST STL 07.02** shall ~~be sent and this register shall give consolidated details of maintained providing information about~~ transfer of funds to be made from Central Tax account to Integrated Tax account and ~~vice versa from Integrated tax to Central tax~~ based on consolidated summary of settlement details contained in Report Form FORMs GST STL 1.01, 2.01, ~~4.01 and 5.01 and 6.01...~~

**11. Other provisions.—**

- (1) **Issue of provisional sanction order for each month-** (a) The Principal Chief Controller of Accounts shall maintain a login based Centralized Accounting portal which shall be accessible to State accounting authorities, Central Board of ~~Excise and Customs~~ Indirect Taxes and State taxation authorities.
- (b) on the receipt of above ledgers/reports, the Principal Chief Controller of Accounts shall calculate the net payment to be made from Integrated Goods and Services Tax account to each State or vice versa and shall upload a State-wise summary of the same on the Centralized Accounting portal within three working days of receipt of the data from Goods and Services Tax Network. Thereafter, based on uploading of this data, a provisional sanction order for the month shall be issued by Department of Revenue as per the procedure laid down in sub-rule (2).
- (2) **Resolution of any discrepancy in data provided by Goods and Services Tax Network:**
  - (a) On the basis of the above ledgers/reports provided by Goods and Services Tax Network for every month, the Central and respective State Accounting Authorities, the Board and the State tax nodal authorities shall reconcile the details of the payments received, Input Tax Credit cross-utilisation and apportionment details received from Goods and Services Tax Network, and shall revert to Goods and Services Tax Network and Principal Chief Controller of Accounts in case of any discrepancy by 20<sup>th</sup> of the subsequent month.
  - (b) If any discrepancy is pointed out by the Central or State(s) Accounting Authority or Taxation Authority within this period, the Goods and Services Tax Network shall look into it and prepare a Revised Calculation, if required and send it again to both the Central as well as State Accounting, Taxation Authorities and Principal Chief Controller of Accounts by 25<sup>th</sup> of the month.
  - (c) Based on the revised calculation received from Goods and Services Tax Network and after having reconciled the discrepancy referred to in ~~sub~~ clause (a) and (b), in case any changes have been made with respect to any State, the Principal Chief Controller of Accounts shall calculate the net payment to be made from Integrated Goods and Services Tax account to each State or vice versa and shall upload a final Statewise/State-wise summary of the same on the Centralised Accounting portal within three days of receipt of the revised data from Goods and Services Tax Network and based on uploading of this data a final sanction order for the month shall be issued by Department of Revenue as per the procedure laid down below—



- 
- (i) the Centralized Accounting Portal of Central Accounting Authority shall be used by the Department of Revenue, Ministry of Finance to download the details of the State-wise fund settlement with States.
  - (ii) a designated officer in the Department of Revenue shall issue the Sanction order of funds to be transferred from Integrated Goods and Services Tax account to each State or vice versa after obtaining necessary approvals of the competent authority.
  - (iii) the provisional sanction order for each month for each State shall be issued based on details uploaded by Principal Chief Controller of Accounts as per sub-rule (1).
  - (iv) the final sanction order for each month for each State, in case needed, shall be issued based on details uploaded by Principal Chief Controller of Accounts as per ~~sub-rule (3)~~ clause (b).
  - (v) the sanction orders shall be issued within three days of uploading of details of the State-wise fund settlement by Principal Chief Controller of Accounts.
  - (vi) the electronic Sanction (digitally signed) addressed to Central Accounting Authority containing StatewiseState-wise details shall then be uploaded on the portal of the Central Accounting Authority (Office of Principal Chief Controller of Accounts, Central Board of ExciseIndirect Taxes and Customs through login based system.
  - (vii) as the sanction letter will also contain the details of settlement, it shall be available in records of State Government for future reconciliation and audit purposes.
  - (viii) State Governments shall come to know about the fund being transferred by Centre through the sanction.
  - (ix) Copy of sanction shall also be endorsed to concerned State Accountant General.
  - (x) The Central Accounting Authority shall generate an Inter Government Advice on the basis of Sanction received from Department of Revenue and send it to Reserve Bank of India [Central Accounts Section, Nagpur] electronically within three days of issue of sanction order.
  - (xi) Reserve Bank of India shall make the necessary fund settlement between the Consolidated Fund of India and the Consolidated Fund of States of the respective State, on the basis of electronic Inter Government Advice; generate the 'Clearance Memo' and transmit the same to Central Accounting Authority and State Accounting Authorities and Accountant General.
  - (xii) The Central Accounting Authorities shall make appropriate accounting entries at the time of issuance of inter Government Advice to Reserve Bank of India.
  - (xiii) The respective State Accounting Authorities and Accountant General shall make appropriate accounting entries at the time of receipt of clearance Memo from Reserve Bank of India.

[F. No. 31013/16/2017-ST-I-  
DoR] S. R. MEENA,  
Under Secy.

## Report GST STL - 011.01

Statement of transfer of funds between Centre and State/UT based on returns, other than returns and information received from Customs authorities

[Sec 17 and 18 of IGST Act and Sec 53 of CGST/SGST Act]

State/UT -

Year -

Month -/ All

(Amount in Rs.)

Sr. No.	Month	IGST liability adjusted against SGST/UTGST ITC (including cross utilization by ISD) (1.02)	SGST/ UTGST liability adjusted against IGST ITC (1.03)	SGST/ UTGST portion of IGST collected on B2C supplies including ISD distribution to unregistered unit, exports and supplies to SEZ (1.04)	SGST/ UTGST portion of IGST for inter-State/UT supplies made to Composition taxable person/ Non-resident taxable person/UTN holders (1.05)	SGST/ UTGST portion of IGST collected on B to B supplies (including imports) where ITC is declared as ineligible, including lapsed ITC due to opting composition scheme and tax paid with cancellation application or final return (1.06)
1	2	3	4	5	6	7

SGST/ UTGST portion of IGST collected on B to B supplies where ITC remains unutilized/un-availed till the specified period (1.07)	SGST/ UTGST portion of IGST collected on supplies imported by unregistered persons (1.08)	SGST/ UTGST portion of IGST for supplies imported by Composition taxable persons/UTN-holders// Non-resident taxable persons who have received inward inter-state supplies liable to reverse charge (1.09)	SGST/ UTGST portion of IGST collected on goods/services imported by registered person (other than composition) where ITC is declared as ineligible (1.10)	SGST/ UTGST portion of IGST collected on goods imported by registered person where ITC remains unutilized till specified period (1.11)	SGST/ UTGST portion of interest related to returns paid on IGST -/ fee deposited for advance ruling (1.12)	Net Amount payable (-) by State/UT to Centre/ receivable (+) from Centre to State/UT [sum of col. 4 to 13-12 - col. 3]
8	9	10	11	12	13-12	14-13
On account of domestic transactions	On account of imports					

Comments – Consequential changes due to changes in list reports.

### Report GST STL - 011.02

List of registered persons of the State/UT who have adjusted IGST liability from ITC of SGST/UTGST and CGST (for col. 3 of 1.01.01& 02& 2.01)

[Sec 53 of CGST/SGST Act]

(Source: Forms: GSTR-3B, GSTR-6, ITC-03, REG-16/GSTR-10)

State/UT -  
Year -  
Month -

(Amount in Rs.)

Sr. No.	GSTIN	Trade name (Legal name, if not available)	Category of cross-utilization (Returns/ Other than returns)	ARN/ IGST Demand id	Tax period of return	IGST paid from CGST ITC	IGST paid from SGST/ UTGST ITC
1	2	3	4	5	6	7	8
Total							

*Note: 1. Invalid return of supplier shall not be taken into consideration for the purpose of apportionment/settlement. Invalid return of buyer, however, shall be considered in case he uses cross-utilization for payment of liability since the supplier has already made payment and revenue has accrued to the Government from supplier.*

2. *1. In case of cross-utilization of the credit for purposes other than returns, demand id reference number will be mentioned. 3.*

2. *ARN refers to Acknowledgement Reference Number of Return*

Comments – Invalid return is not being filed at present.

### Report GST STL - 011.03

List of registered persons of the State/UT who have adjusted SGST/ UTGST liability from ITC of IGST (for col. 4 of 011.01)

[Sec 18 of IGST Act]

(Source: Forms: GSTR-3B, GSTR-6, ITC-03, REG-16/GSTR-10)

State/UT -  
Year -  
Month -

(Amount in Rs.)

Sr. No.	GSTIN	Trade name (Legal name, if not available)	Category of cross-utilization (Returns/ Other than returns)	ARN/ SGST/UTGST Demand id	ARN	Tax period of return	SGST/ UTGST paid from IGST ITC	CGST paid from IGST credit
1	2	3	4	5	6	7	8	
Total								

*Note: Note: Invalid return in case of cross-utilization will also be considered for settlement.*

*In case of cross-utilization of the credit for purposes other than returns, demand id reference number will be mentioned.*

Comments – Invalid return is not being filed at present. Last column (CGST) is part of Report No. 2.02.



### Report GST STL - 011.04

List of persons registered in other State/UT who have made outward inter-State supply, including ISD distribution, to unregistered persons or units of the State/UT (including [Online Services/OIDAR services](#) supplied to unregistered persons) ~~or taxpayers who have made exports or supplies to SEZ including non-return filers up to specified period.~~ (for col. 5 of [1.01.01& 02& 2.01](#))

[Sec 17 of IGST Act]

(Source: Forms: [GSTR-3B](#), [GSTR-5](#), [GSTR-5A](#), [GSTR-6](#))

State/UT -

Year -

Month -

(Amount in Rs.)

Sr. No.	State/UT of supplier	GSTIN of supplier	Category of Supply	Trade name (Legal name, if not available)	ARN	Tax period of return	<del>GSTIN of nonreturn filers of the State, if any</del>	IGST paid	SGST/UTGST portion of IGST	CGST portion of IGST
1	2	3	4	5	6	7	8	98	109	1110
Total										

Note: Column (4) shall be given in the following categories:

Category A : Inter State supplies [\(net of credit/debit notes\)](#) made to unregistered persons or ISD distributed to unregistered units

Category B : Information relating to [online/OIDAR](#) services supplied to unregistered persons by persons located outside country.

**Comments – Category C** : ~~Details of recipient taxable persons who have to F are not filed relevant in the present return till the specified period as provided for in section 37 and 38 of the CGST/SGST Act.~~

~~Category D : Details of recipient taxable persons who have received ITC credit post filing of annual return/PROCESS.~~

~~Category E : Details of exports made with payment of tax~~

~~Category F : Details of supplies made to SEZ unit or SEZ developer with payment of tax.~~

### Report GST STL - 011.05

List of other State/UT registered persons who have made inter-State supply to composition taxable person /Non-resident taxable person/ ~~UIN holder~~ [TDS/TCS](#) of the State/UT (for col. 6 of [1.01.01& 02& 2.01](#))

[Sec 17 of IGST Act]

(Source: Forms: [GSTR-1](#), [GSTR-3B](#))

State/UT -

Year -

Month -

(Amount in Rs.)

Sr. No.	State/UT of supplier	GSTIN of supplier	Trade name (Legal name, if not available)	Category of <a href="#">persons recipient</a>	GSTIN of Recipient/ UIN	Trade name (Legal name, if not available)	ARN	Tax period of return	IGST paid	SGST/UTGST portion of IGST	CGST portion of IGST
1	2	3	4	5	6	7	8	9	10	11	12





### Report GST STL - 01.07

List of registered persons who have made inter-state inward supplies on which ITC remains unutilized till specified period (for col. 8 of 01.01 & 02.01)

[Sec 17 of IGST Act]

(Source: Forms: GSTR-3B)

State/UT -

Year -

Month -

(Amount in Rs.)

Sr. No.	GSTIN	Trade name (Legal name, if not available)	ARN	Tax period of return	Unavailed IGST ITC available for distribution	SGST/ UTGST portion of unutilized portion of IGST	CGST portion of unutilized portion of IGST
1	2	3	4	5	6	7	8
<b>Part A: (on account of domestic transactions)</b>							
<b>Sub-total (Part A)</b>							
<b>Part B: (on account of imports)</b>							
<b>Sub-total (Part B)</b>							
<b>Grand Total</b>							

*Note: This report will include the details of those recipient taxable persons who have filed the return but not claimed ITC till the specified period as provided for in section 37,38 and 44 of CGST/SGST Act*

**Report GST STL – 011.08**List of unregistered persons who have made import of goods (for col. 9 of 1.01.01 & 02 & 2.01)

[Sec 17 of IGST Act]

(Source: Forms: Bill of Entry)

State/UT -

Year -

Month -

(Amount in Rs.)

Sr. No.	Name of unregistered Person	IEC	Address	IGST paid including interest, if any	SGST/ UTGST portion of IGST	CGST portion of IGST
1	2		3	4	5	6
Total						

Note: This report will include details of persons as received from Customs authorities, if made available.

Source: Import data from Custom authorities

**Report GST STL - 011.09**List of composition taxable person/ UIN holder persons who have made import / Non-resident taxable persons who have received inward inter-State supplies liable to reverse charge/ TDS& TCS holders making imports(for col. 10 of 1.01 & 2.01 & 02.01)

[Sec 17 of IGST Act]

(Source: Forms: GSTR-4, CMP-o8, Bill of Entry)

State/UT -

Year -

Month -

(Amount in Rs.)

Sr. No.	GSTIN of importer/UIN	Trade name (Legal name, if not available)	Category of taxpayers	ARN, if any	Tax period	Goods/ Services (G/S)	IGST paid	SGST/ UTGST portion of IGST	CGST portion of IGST
1	2	3	4	5	6	7	8	9	10
Total									

Note:

1) This report will include information about import of goods as received from custom authorities.

2) Data of import of services will be as declared in return 3) Column 5 shall have following categories--

3) Column 4 shall have following categories:

(a) Category A: Composition taxable persons, and

(b) Category B - UIN holders

## Report GST STL— 01.10

List of registered Non-resident taxable persons who have

(NRTP)

(c) Category C: TDS/TCS holders

Comments – Information on RCM supplies made import on which ITC by NRTP has been included in GSTR-5 recently Import of services made by composition taxpayers is declared as ineligible also settled.

(for col. 11 of 01.01 & 02.01)

[Sec 17 of IGST Act]

State/UT—

Year—

Month—

(Amount in Rs.)

Sr. No.	GSTIN of importer	Trade name (Legal name; if not available)	ARN	Tax period of return	IGST available	SGST/UTGST portion of IGST	CGST portion of IGST
1	2	3	4	5	6	7	8
Total							



Comments – There is no source of data available for generating this report. This amount is settled vide reversal in Table 4(B)(1) of GSTR-3B in STL-1.06

#### Report GST STL - 01.11

List of registered persons who have made import on which ITC remains unutilized till specified period as provided for in section 37,38 and 44 of CGST/SGST Act (for col. 12 of 01.01 & 02.01) —

[Sec 17 of IGST Act]

							State/UT -
							Year -
							Month -
(Amount in Rs.)							
Sr. No.	GSTIN of importer	Trade name (Legal name, if not available)	ARN	Tax period of return	Unavailed IGST-ITC available for distribution	SGST/UTGST portion of unutilized portion of IGST	CGST portion of unutilized portion of IGST
1	2	3	4	5	6	7	8
Total							

Note: This report will cover the cases which were not reported by importer in his GSTR-2/ GSTR-5

#### Report GST STL - 01.12

List of registered persons who have paid interest on IGST related to returns and fee deposited for filing advance ruling application under IGST

(for col. 13.11 of 1.01.01 & 02 & 2.01)

[Sec 17 of IGST Act]

(Source: Forms: GSTR-3B, GSTR-4, GSTR-5, GSTR-5A, GSTR-7, GSTR-8, CMP-8, GSTR-10)

								State/UT -
								Year -
								Month -
(Amount in Rs.)								
Sr. No.	GSTIN	Trade name (Legal name, if not available)	ARN	Tax period of return	Interest on IGST paid	SGST/UTGST portion of interest paid on IGST	CGST portion of interest paid on IGST	Fee collected on IGST for advance ruling
1	2	3	4	5	6	7	8	
Total								

Note:

1) The interest will be apportioned among the States of recipient.

2) Fee deposited for filing advance ruling application under IGST will be apportioned to the concerned State.

Comments – Advance fee is also being paid under IGST head now.

### Report GST STL - 022.01

State/UT wise book adjustment between CGST and IGST based on returns, other than returns and information received from Customs authorities

Year -  
Month -

(Amount in Rs.)

Sr No.	State/UT	IGST Liability adjusted against CGST ITC (including cross utilization by ISD)	CGST Liability adjusted against IGST ITC	CGST portion of IGST collected on B2C supplies including ISD distribution to unregistered unit	CGST portion of IGST for <del>interStateinter-State</del> supplies made to Composition taxable person /Non-resident taxable person/ UIN holders	CGST portion of IGST collected on B to B <del>(including imports)</del> supplies where ITC is declared as ineligible, including lapsed ITC due to opting composition scheme <del>and tax paid with cancellation application or final return</del>
1	2	3	4	5	6	7

CGST portion of IGST collected on B to B supplies where ITC remains <del>unutilized-un-availed</del> till specified period		CGST portion of IGST collected on supplies imported by unregistered persons	CGST portion of IGST for supplies imported by Composition taxable persons/ / UIN holders <del>Non-resident taxable persons who have received inward inter-State supplies liable to reverse charge</del>	<del>CGST portion of IGST collected on goods/services imported by registered person (other than composition) where ITC is declared as ineligible</del>	<del>CGST portion of IGST collected on goods imported by registered person where ITC remains unutilized till specified period</del>	CGST portion of interest related to returns paid on IGST	Net Amount payable (-) by Central tax account to IGST a/c/ receivable (+) <del>from IGST from IGST</del> account to Central tax a/c [sum of col. 4 to <del>1312</del> - col. 3]
<b>8</b>		<b>9</b>	<b>10</b>	<b>11</b>	<b>12</b>	<b>1312</b>	<b>1413</b>
<u>On account of domestic transactions</u>	<u>On account of Imports</u>						
		Total					

Comments – Consequential changes.

### Report GST STL - 2.02.02

List of registered persons who have adjusted CGST liability from ITC of IGST  
(for col. 4 of 022.01)

[Sec 18(a) of IGST Act]

(Source: Forms: GSTR-3B, GSTR-6, ITC-03, REG-16/GSTR-10)

State/UT -

Year -

Month -

(Amount in Rs.)

Sr. No.	GSTIN	Trade name (Legal name, if not available)	Category of <del>crossutilization</del> utilization (Returns/Other than returns)	ARN/ Demand id	Tax period of return	CGST paid from IGST ITC
1	2	3	4	5	6	7
Total						

In case of cross-utilization of the credit for purposes other than returns, ARN of demand id will be mentioned.

### Report GST STL - 03.01

Distribution of IGST amount recovered against demand, and compounding amount paid and amount deposited  
for filing appeal [Sec 17 of IGST Act]

Year -

Month -

(Amount in Rs.)

Sr No.	State/UT	Category of IGST amount to be distributed	Amount of IGST recovered or deposited for filing appeal					Amount apportioned	
			Tax	Interest	Penalty	Compounding amount	Total	CGST portion of the IGST	SGST/ UTGST portion of the IGST
1	2	3	4	5	6	7	8	9	10
		Total							

Notes:

1) Relevant Section: Sec 79, Sec 107, Sec 112 and Sec 138 of CGST/SGST Act

2) Category mentioned in column 3 above shall be as follows :

(a) Category A : IGST amount recovered on demand under section 79 of CGST/SGST Act

(b) Category B : IGST amount deposited for filing appeal under section 107,112 of CGST/SGST Act

(c) Category C: IGST compounding amount deposited under section 138 of CGST/SGST Act



### Report GST STL - 033.02

List of registered persons from whom IGST amount recovered against demand, and compounding amount paid and amount deposited for filing appeal

(Source: Forms: DRC-03, DRC-07/DRC-08, APL-04)

State/UT -  
Year -  
Month -

(Amount in Rs.)

Sr. No.	GSTIN	Trade name (Legal name, if not available)	Order number	Order date	Category of IGST amount to be distributed	Debit entry of cash ledger	Debit entry of credit ledger	Recovery under IGST head or deposit made for filing appeal					Amount apportioned	
								Tax	Interest	Penalty	Compounding amount	Total	CGST	SGST/UTGST
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
Total														

Note:

1) Relevant Section: Sec 79, Sec 107, Sec 112 and 79 and Sec 138 of

CGST/SGST Act 2) Category mentioned in column 6 above shall be as follows :

- (a) Category A : IGST amount recovered on demand under section 79 of CGST/SGST Act
- (b) Category B : IGST amount deposited for filing appeal under section 107, 112 of CGST/SGST Act
- (c) Category C : IGST compounding amount deposited under section 138 of CGST/SGST Act

**Report GST STL - 04.01**

Distribution of IGST amount where place of supply or taxable person could not be determined  
[Sec 17 of IGST Act]

State/UT

Year -

Month -

(Amount in Rs.)

Sr. no.	Distribution of IGST where POS not known		Distribution of IGST where taxable person is not known		Total amount distributed	
	SGST/UTGST portion	CGST portion	SGST/UTGST portion	CGST portion	SGST/UTGST	CGST
1	2	3	4	5	6	7
Total						

Comments – POS is mandatory in all relevant forms. There will be no record entered without POS.

Comments – Not relevant as Temp. ID or GSTIN is mandatory.

### Report GST STL – 04.02

List of taxable persons from whom IGST has been collected and place of supply could not be known [Sec 17 of IGST Act]

(For column 2 and 3 of 4.01)

Year—  
Month—

- a) — GSTIN of supplier  
b) — Amount of IGST to be distributed .....  
c) — CGST Portion out of the amount mentioned at (b) .....  
d) — Balance amount to distributed among States/UT's (b-c) .....

— (Amount in Rs.)

Sr.No.	State/UT to whom supplies were made in previous period	Amount of supplies made to state	Ratio of supplies	SGST/UTGST portion of IGST
1	2	3	4	5
Total				

Note — Apportionment is to done in the State/UT in same proportion in which supplies were made to each state

### Report GST STL – 04.03

Distribution of IGST that has been collected where taxable person is not known

[Sec 17 of IGST Act]

(For column 4 and 5 of 4.01)

Year—  
Month—

- a) — Amount of IGST to be distributed .....  
b) — CGST Portion out of the amount mentioned at (a) .....  
c) — Balance amount to distributed among States/UT's (a-b) .....

— (Amount in Rs.)

Sr.No.	State/UT	Amount of tax collected in previous year	Ratio of Tax collected	SGST/UTGST portion of IGST
1	2	3	4	5
Total				

Note — Apportionment is to done in the ratio of tax collection in the preceding year.

**Report GST STL—055.01**

State-wise consolidated statement showing a summary wherein Integrated Tax paid by taxpayer has already been apportioned but subsequently the liability of Integrated tax of the taxpayer is reduced due to various provisions of the CGST Act, SGST Act and UTGST Act leading to a reduction in amount to be apportioned/settled to Centre (Central Tax) and from State (State Tax)/Centre (Union Territory Tax)

*[Sec 17 of IGST Act]*

State/UT/All -

Year -

Month -

(Amount in Rs.)

Sr. No.	Description	Reduction in amount	
		SGST/ UTGST	CGST
1	2	3	4
1.	Issue of credit notes by suppliers where supply not eligible for ITC as per section 17 of CGST Act, SGST Act and section 21 of UTGST Act <i>(details coming from STL 5.02)</i>		
2.	Reduction due to issue of credit notes to Composition taxable person <i>(details coming from STL 5.03)</i>		
3.	Reduction due to issue of credit notes to unregistered persons <i>(details coming from STL 5.04)</i>		
4.	Reduction due to refund of deposit made for filing appeal alongwith interest <i>(details coming from STL 5.05)</i>		
5.	Reduction on account of interest apportioned earlier on account of mismatch of ITC/Credit Note but now reclaimed <i>(details coming from STL 5.06)</i>		
61.	Amount apportioned on account of inter-State inward supplies for which ITC was declared as ineligible but now becomes eligible <i>(details coming from STL 5.072)</i>		
712.	Amount apportioned on account of recovery of outstanding dues and subsequently refunded with interest due to appeal order <i>(details coming from STL 5.08023)</i>		
83.	Reduction due to – (a) Amendment in returns, or (b) Release of refund in specified categories (c) Any other reason of the amount already apportioned <i>(details coming from STL 5.004)</i>		
	Total		

Comments – In the current return process, there is no data source for Sr. 1 to 65.



**Report GST-STL—05.02**

(for S.No. 1 of 5.01)

List of registered taxpayers who had made inter-State supply of goods or services or both and the said Integrated Tax was already apportioned as per provisions of section 17(2) of the IGST Act as the supply was not eligible for credit as per section 17 of CGST Act, SGST Act and section 21 of UTGST Act. The demand was subsequently reduced due to issuance of credit notes/ ISD Credit notes to taxpayers for the said supply

State/UT—

Year—

Month—

(Amount in Rs.)

Sr.No.	GSTIN of supplier	Trade name (Legal name, if not available)	ARN	Tax period of return	Credit note no.	Credit note date	Amount of IGST involved in the note	SGST/ UTGST portion of IGST	CGST portion of IGST
1	2	3	4	5	6	7	8	9	10
Total									

Relevant section—Section 20 and 34(2) of CGST/SGST Act

**Report GST-STL—05.03**

(for S.No. 2 of 5.01)

List of registered taxpayers who had paid Integrated Tax and the said Integrated Tax was already apportioned as the supply was made to composition dealers, and whose demand was subsequently reduced due to issuance of credit notes to composition taxpayers

State/UT—

Year—

Month—

(Amount in Rs.)

Sr.No.	GSTIN	Trade name (Legal name, if not available)	ARN	Tax period of return	Credit note no.	Credit note date	Amount of IGST involved in the note	SGST/ UTGST portion of IGST	CGST portion of IGST
1	2	3	4	5	6	7	8	9	10
Total									

Relevant section—Section 10 and 34(2) of CGST/SGST Act

**Report GST-STL—05.04**

(for S.No. 3 of 5.01)

List of registered taxpayers who had paid Integrated Tax and the said Integrated Tax was already apportioned as the supply was made to unregistered persons, and whose demand was subsequently reduced due to issuance of credit notes to un-registered persons

State/UT—

Year—

Month—

(Amount in Rs.)

Sr.No.	GSTIN of supplier	ARN	Tax period of return	Credit note no.	Credit note date	Amount of IGST involved in the note	SGST/ UTGST portion of IGST	CGST portion of IGST
1	2	3	4	5	6	7	8	9
Total								

Relevant section—Section 34(2) of CGST/SGST Act

**Report GST STL—05.05**

(for S.No. 4 of 5.01)

List of registered taxpayers who had paid Integrated Tax and the said Integrated Tax was already apportioned, and whose demand was subsequently reduced due to refund of pre-deposit and interest

State/UT—  
Year—  
Month—

(Amount in Rs.)

Sr.No.	GSTIN/ Temporary ID	Trade name (Legal name, if not available)	Appeal order no.	Appeal order date	Demand Order Number	Demand Order Date	Amount of IGST deposit made for filing appeal	SGST/ UTGST portion of IGST	CGST portion of IGST	Amount of interest accrued due to refund of predeposit	SGST/ UTGST portion of interest	CGST portion of interest
1	2	3	4	5	6	7	8	9	10	11	12	13
Total												

Relevant section—Section 107 and 112 of CGST/SGST Act along with Section 56 of CGST/SGST Act

**Report GST STL—05.06**

(for S.No. 5 of 5.01)

Reduction due to interest apportioned earlier on account of mismatch of ITC/Credit Note but now reclaimed

(List of taxpayers)

State/UT—  
Year—  
Month—

(Amount in Rs.)

Sr. No.	GSTIN	Trade name (Legal name, if not available)	Category of IGST available for distribution (mismatch of ITC/mismatch of Credit note)	Original Invoice number/Credit Note number	Date of original Apportionment	Reclaim Date	Amount of Interest reclaimed	SGST/ UTGST portion of IGST	CGST portion of IGST
1	2	3	4	5	6	7	8	9	10
Total									

Relevant Section number: Sec 42(7) and Sec 43(7) of CGST/SGST Act.

**Report GST STL - 05.07**

(for S.No. 6-1 of 5.01)

Reduction due to inter-State inward supplies for which ITC was declared as ineligible but now becomes eligible

(List of taxpayers)

(Source: Forms: ITC-01)

State/UT -

Year -

Month -

(Amount in Rs.)

Sr. No.	GSTIN	Trade name (Legal name, if not available)	ARN number	Tax Period of ARN	Invoice number in which ITC was declared ineligible, if any	Invoice date in which ITC was declared ineligible, if any	Amount of ITC declared as ineligible earlier	Amount of ITC now claimed as eligible	SGST/UTGST portion of IGST	CGST portion of IGST
1	2	3	4	5	6	7	8	9	10	11
Total										

Relevant section - Section 17(5) of CGST/SGST Act

Report GST STL - 05.038

(for S. No. 7.2 of 5.01)

Reduction due to recovery of outstanding dues and subsequently refunded due to appeal order and interest thereof (List of taxpayers)

State/UT -

Year -

Month -

(Amount in Rs.)

Sr. No.	GSTIN	Trade name (Legal name, if not available)	Demand Order Number	Demand Order date	Appeal Order Number	Appeal Order Date	Amount of outstanding dues refunded due to appeal order	SGST/UTGST portion of IGST	CGST portion of IGST	Amount of interest due to refund (col. 8)	SGST/UTGST portion of IGST	CGST portion of IGST
1	2	3	4	5	6	7	8	9	10	11	12	13
Total												

Relevant section - Sec 79, 107, 112, 117 and 118 of CGST/SGST Act along with Sec 50 of CGST/SGST Act

Report GST STL - 05.095.034

(for S. No. 8.2 of 5.01)

List of registered taxpayers where the liability of payment of Integrated Tax is reduced due to an amendment in the wrongly settled amount payable after the payment on account of rectification of return or who have claimed refund of supplies or any other reduction has been recovered

Note (added on 23.10.2024): This report can be generated only upon amendment to GSTR-3B Table 3.2 as stated in the rules above

State/UT -

Year -

Month -

(Amount in Rs.)

Sr. No.	GSTIN/UTIN	Trade name (Legal name, if not available)	ARN	Tax period of ARN	Reduction due to Amendment/Recovery of amount already apportioned-settled amount	SGST/UTGST portion of IGST	CGST portion of IGST
1	2	3	4	5	6	7	8



Total							

Relevant Section: Section 37(3), 38(5), 39(a) and 55 of CGST/SGST Act and section 16 of IGST Act

Note: Column (4) shall be given in the following categories

Category A: Reduction due to rectification of return

Category B: Reduction on account of refund to UIN holders

Category C: Reduction due to refund against exports or supplies to SEZ

Category D:

Reduction due to any other reason

### Report GST STL - 067.01

Settlement between Centre and State/UT on account of recovery made out of refund

State/UT -  
Year -  
Month -

(Amount in Rs.)

Sr. no.	GSTIN/ temporary ID	Demand order no.	Demand order date	Refund order number	Refund date	Amount of refund claimed under Act (CGST/SGST/ UTGST/IGST/CESS)				
						Tax	Interest	Penalty	Fees	Others
1	2	3	4	5	6	7	8	9	10	11

Amount of recovery made out of refund claimed (CGST/SGST/UTGST/IGST/CESS)					Net amount to be credited to State/UT		Net amount to be credited to Centre		
Tax	Interest	Penalty	Fees	Others			Central tax a/c	IGST a/c	Cess a/c
12	13	14	15	16	17	18			
Total									

Relevant Section: Section 70(1) and 54(10) of CGST/SGST Act

### Report GST STL—07.01

Consolidated Settlement Register Report for State/UT

State/UT -

Year -

Month -

(Amount in Rs.)

Sr. no.	Details	Amount to be credited	Amount to be debited	Net Settlement Amount
1.	Settlement of accounts between Centre and State/UT relating to Returns (GST STL 1.01)			
2.	Distribution Apportionment of IGST amount recovered, and compounding amount and amount of pre-deposit paid (STL 3.01)			

3.	Distribution of IGST amount where place of supply could not be determined (STL 4.01)			
43.	Reduction of the amount apportioned already due to issue of credit notes, refund of deposit made for filing amount involved in appeal or due to any other reason etc. (STL 5.01)			
5.	Settlement between Centre and State/UT on account of recovery made out of refund (STL 6.01)			
4.	Total			

### Comments – Consequential changes

#### Report GST STL - 072.02 Consolidated Settlement Register Report for Centre (Book adjustment between CGST, IGST or Cess)

State/UT /All-

Year -

Month -

(Amount in Rs.)

Sr. no.	Details	Amount Credited	Amount Debited	Net Settlement Amount
1.	Book adjustment between CGST and IGST for a State/UT relating to <u>Returns/returns</u> (STL 2.01)			
2.	<u>Distribution</u> Apportionment of IGST amount recovered, and compounding amount and amount of pre-deposit paid (STL 3.01)			
3.	Distribution of IGST amount where place of supply could not be determined (STL 4.01)			
43.	Reduction of the amount apportioned already due to issue of credit notes, refund of pre-deposit amount involved in appeal or due to any other reason etc. (STL 5.01)			
5.	Settlement between Centre and State/UT on account of recovery made out of refund (STL 6.01)			
4.	Total			

### Comments – Consequential changes

#### Notes:

- 1) Settlement of funds between Centre and States under section 53 of CGST/SGST Act and section 18 of IGST Act on cross- utilization of credit of IGST for discharging liabilities of SGST/ UTGST, CGST and vice-versa shall be made after filing of return irrespective of return status whether valid or invalid.
- 2) Apportionment of IGST will be done on the basis of valid return filed by the taxable person.
- 3) Apportionment of IGST borne on import of goods, under section 17 of IGST Act, will be done on the basis of information received from Customs authorities.
- 4) Apportionment of IGST amount collected due to issue of debit note will be done in original tables.
- 5) Month represents the month in which apportionment is being done
- 6) Tax period represents the period to which the return or the information supplied by Custom authority pertains 7) ARN refers to Application Reference Number

## New report formats

### Report GST STL: 6.01

Adjustment of funds between Centre and State due to recovery made out of refund and transfer of amount from cash ledger.

State –  
Year –  
Month –

Sr. no.	Description	Amount transferred from (-)		(Amount in ₹) Amount transferred to (+)			
		Major head	Amount	IGST	CGST	SGST/UTGST	Cess
1	2	3	4	5	6	7	8
1.	Recovery out of refund (6.02)	IGST					
		CGST					
		SGST/ UTGST					
		Cess					
2.	Transfer from cash ledger (6.03)	IGST					
		CGST					
		SGST/ UTGST					
		Cess					
3.	Total (1+2)	IGST					
		CGST					
		SGST/ UTGST					
		Cess					
4.	Net amount to be Transferred (+) / (-)	IGST to CGST					
		IGST to SGST/ UTGST					
		IGST to Cess					
		CGST to SGST/ UTGST					
		CGST to Cess					
		SGST/ UTGST to Cess					

### GST STL: 6.02

List of taxpayers from whose refund, recovery has been made

State –  
Year –  
Month –

(Amount in ₹)

Sr. No.	GSTIN / Temp. ID	Demand order no.	Demand order date	Refund order no.	Refund order date	Amount transferred out of refund sanctioned (-)		Amount transferred to (recovery made) (+)			
						Major head	Amount	IGST	CGST	SGST/UTGST	Cess
1	2	3	4	5	6	7	8	9	10	11	12
						IGST					
						CGST					
						SGST / UTGST					
						Cess					
	Total					IGST					
						CGST					
						SGST / UTGST					
						Cess					

### GST STL: 6.02 A

Adjustment of funds between Centre and State due to recovery made out of refund

State  
Year  
Month  
(Amount in ₹)

Sr. No.	Description	Amount Transferred FROM (-)			Amount Transferred TO (+)																					
		Major Head	Minor Head	Amount	IGST (MH 0008)					CGST (MH 0005)					SGST/UTGST (MH0006/0007)					Cess (MH 0009)						
					T	I	P	F	O	T	I	P	F	O	T	I	P	F	O	T	I	P	F	O		
1	Recovery out of Refund	IGST (MH 0008)	T																							
			I																							
			P																							
			F																							
			O																							
		T																								
		I																								



### GST STL: 6.03

List of taxpayers who have made inter-head transfer of amount within cash ledger

State –  
Year –  
Month –

(Amount in ₹)

Sr. No.	GSTIN / Temp. ID	ARN	ARN date	Amount transferred from (-)		Amount transferred to (+)			
				Major head	Amount	IGST	CGST	SGST/UTGST	Cess
1	2	3	4	5	6	7	8	9	10
				IGST					
				CGST					
				SGST / UTGST					
				Cess					
	Total			IGST					
				CGST					
				SGST / UTGST					
				Cess					

### GST STL: 6.03A

Adjustment of funds between Centre and State due to transfer of amount by taxpayer from cash ledger

State  
Year  
Month  
(Amount in ₹)

Sr. No.	Description	Amount Transferred FROM (-)			Amount Transferred TO (+)																					
		Major Head	Minor Head	Amount	IGST (MH 0008)					CGST (MH 0005)					SGST/UTGST (MH0006/0007)					Cess (MH 0009)						
					T	I	P	F	O	T	I	P	F	O	T	I	P	F	O	T	I	P	F	O		
1	Cash ledger transfer	IGST (MH 0008)	T																							
			I																							
			P																							
			F																							
			O																							
		CGST (MH0005)	T																							
			I																							
			P																							
			F																							
			O																							



[illegible]

**GST STL: 6.04**

Summary of the refund under SGST/UTGST released by Centre

			Year – Month-
State code	Name of State/ UT	No. of cases	Amount of refund released (₹)
1	2	3	4

**GST STL: 6.04A**

List of taxpayers whose refund under SGST/UTGST has been released by Centre



State –  
Year –  
Month –

(Amount in ₹)

Sr. No.	GSTIN / Temp. ID	Transaction ID no. (PFMS)	Transaction date (PFMS)	Reference no. (RFD-05)	Date of issue (RFD-05)	Amount of SGST/UTGST refund disbursed by Centre
1	2	3	4	5	6	7
	Total					

Comments: The report is generated separately in this Form and is forwarded to DoR but it does not form part of Settlement process hence deleted from here

### GST STL: 6.05

Summary of intra-head and inter head transfer of funds within cash ledger

No. of GST PMT-09 filed: <<100>>

Month-

(Amount in ₹)

State code	Name of State/ UT	No. of taxpayers	Major head from which transferred	Minor head from which transferred	Major head to which transferred	Minor head to which transferred	Amount transferred
1	2	3	4	5	6	7	8

**Added on 23.10.2024**

**The following Tables are reports of details relating to inter-head transfers within the cash ledger and are not part of the settlement process and hence they have not been modified here. A separate report on these will follow:**

**GST STL: 6.0605**

Summary of the amount transferred by taxpayers registered in a State to taxpayers registered in different States / UTs

State of transferor -  
Year -  
Month -  
Period – From – To –

(Amount in ₹)

State code (Transferee)	Name of State/UT (Transferee)	Amount transferred to		
		IGST to CGST	CGST to IGST	Net (IGST to CGST) [3-4]
1	2	3	4	5
Total				

**GST STL: 6.0706**

Summary of the amount received on transfer by taxpayers registered in a State from taxpayers registered in different States / UTs

State of transferee -  
Year -  
Month -

(Amount in ₹)

State code (Transferor)	Name of State/UT (Transferor)	Amount transferred from		
		IGST to CGST	CGST to IGST	Net (IGST to CGST) [3-4]
1	2	3	4	5
Total				

**GST STL: 6.0807**

List of taxpayers who have transferred amount from cash ledger to other GSTIN registered on the same PAN

Year -  
Month -

(Amount in ₹)

Sr. No.	GSTIN of transferor	GSTIN of transferee	ARN	ARN date	Amount transferred from (-)		Amount transferred to (+)	
					Major head	Amount	Major head	Amount
1	2	3	4	5	6	7	8	9
					IGST/ CGST (^)		IGST/ CGST (^)	
	Total				IGST/ CGST (^)		IGST/ CGST (^)	

**GST STL: 6.0908**

Adjustment of funds between CGST /IGST head due to transfer of amount from cash ledger  
(State/UT wise) [Distinct GSTINs](#)

State  
Year  
Month  
(Amount in ₹)

Amount transferred FROM (-)			Amount transferred TO (+)									
Major Head	Minor Head	Amount	IGST (MH 0008)					CGST (MH 0005)				
			Tax	Interest	Penalty	Fee	Others	Tax	Interest	Penalty	Fee	Others
IGST (MH 0008)	Tax											
	Interest											
	Penalty											
	Fee											
	Others											
CGST (MH0005)	Tax											
	Interest											
	Penalty											
	Fee											
	Others											
Net amount transferred (IGST to CGST) (+/-)	Tax											
	Interest											
	Penalty											
	Fee											
	Others											

**GST STL: 6.109**

Adjustment of funds between CGST /IGST head due to transfer of amount from cash ledger  
(All States /UTs) [Distinct GSTINs](#)

Year  
Month  
(Amount in ₹)

Amount transferred FROM (-)			Amount transferred TO (+)									
Major Head	Minor Head	Amount	IGST (MH 0008)					CGST (MH 0005)				
			Tax	Interest	Penalty	Fee	Others	Tax	Interest	Penalty	Fee	Others
IGST (MH 0008)	Tax											
	Interest											
	Penalty											
	Fee											
	Others											
CGST (MH0005)	Tax											
	Interest											
	Penalty											
	Fee											
	Others											
Net amount transferred (IGST to CGST) (+/-)	Tax											
	Interest											
	Penalty											
	Fee											
	Others											



**REPORT OF THE COMMITTEE SET UP TO EXAMINE ISSUES IN IGST SETTLEMENT**

**October 2024**

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## **1. Background and Terms of Reference**

1.1 Pursuant to the decision made in the 54th meeting of the GST Council held on 9th September 2024, a Committee under the Chairmanship of Additional Secretary (Revenue) was set up vide OM dated 17th September 2024. Members of the Committee are given in **Annexure 1**.

1.2 The Committee was tasked with the following mandate:

- (a) To examine the legislative provisions and rules relating to process of IGST Settlement under GST.
- (b) To examine the current process followed by GSTN in making the IGST settlement and analyse in detail any items of settlement not carried out and the reasons thereof.
- (c) To analyse and apprise the GST Council regarding the following:
  - detailed understanding of the workings and the process followed in making the IGST settlement.
  - reasons and circumstances under which there can be a positive/negative balance in the IGST account.
  - manner in which settlement may be carried out of positive or negative balances going forward.
  - suggestions to improve the process of IGST so as to arrive at a more accurate settlement to States including any amendments desired in the relevant GST laws and the rules.

## **2. Deliberations of the Committee**

2.1 The Committee met on 20th September 2024, 10th October 2024, 17th October 2024 and 29th October 2024. Members participated in hybrid mode in all the meetings.

2.2 Based on the discussions, written comments were also received from the Member representing States of Karnataka, Kerala, Tamil Nadu, Maharashtra, Uttar Pradesh and Punjab.

2.3 Based on the various deliberations and views of all the Members, this report is being submitted.

## **3. Current Legislative Framework and Rules:**

3.1 IGST settlement is carried out based on Section 17 & 18 of the Integrated Goods and Services Act, 2017 (IGST Act). The method and process of settlement is laid down in Goods and services Tax Settlement of funds Rules, 2017 (Settlement Rules).

3.2 Section 18 provides for the settlement based on cross utilisation of credit lying in CGST, SGST, UTGST and IGST account of each of the taxpayers. Relevant rules are contained in Rule 4(1)(b)(i), 4(1)(b)(ii) and 5(b).

3.3 Section 17 provides for the settlement for various items relating to final consumption of Input Tax Credit (ITC) in a particular state, like for example, B2C supplies, imports by unregistered tax persons, ineligible inputs/input services etc.

3.4 Tables showing the mapping of the current process with the relevant provisions of the Act and Rules and source of the data for each of the settlement (STL) reports are given in **Annexure 2**.



#### **4. Issues in brief raised by the Members for resolution:**

- 4.1 The Settlement Rules were drafted at the inception of the GST Regime. It was drafted with the original design of GST in mind in which the compliance was based on GSTR 1-2-3 architecture wherein all details of inputs and output supplies were to be auto drafted with little manual interventions. However, the returns were changed drastically to bring about ease of compliance. With GSTR-3B in place as summary return, many of the minute details which would have been captured in the GSTR 1-2-3 architecture are not available for making accurate settlement. Hence, there is no settlement being made in the Form 1.07, 1.11 and 1.10.
- 4.2 In July 2022, Circular no 170/02/2022-GST dated 6th July, 2022 was issued wherein the details required for settlement in Form 1.07, 1.11 and 1.10 were mandated to be captured in a summary form in GSTR 3B. This paved the way for making settlement for these items from August 2022. GSTN incorporated the items covered by these forms in another Form 1.06. These practices have to be recognised and provided for in the Rules so that the current settlement process is incorporated appropriately in the Rules and there is clarity in the process of settlement
- 4.3 It was highlighted that endeavour should be made to ensure that the settlement is done line item wise in Forms 1.07, 1.11 and 1.10 going forward so that there is transparency in settlement. It will also ensure that the capturing of data in these settlement forms are automatic and not solely based on reporting by the taxpayers. In this regard, the rules should be framed under the new invoice management system (IMS) so that there is obligation on part of the taxpayers to report correctly the items covered by these forms.
- 4.4 Many of the references in the Rules are outdated and requires to be updated. For instance, the date of annual return as per Settlement Rules is still September whereas in the parent GST Rules, date is now November. Many consequential amendments are required in the Settlement Rules.
- 4.5 The nomenclature on the Settlement Forms is not in sync with the rules and the source of the data are not explicitly mentioned on these forms. This also affects the way System Requirement Specification (SRS) document is drafted.
- 4.6 In the Settlement Form 1.08, it was noted that there have been negative settlements in the past few months. There is no clarity on what these negative settlements pertain to and whether these relate to settlements made earlier during the period in which compensation payments were due. Also, bill of entry wise data for the settlement in Form 1.08 is not available with the States.
- 4.7 While the collections from Online Information Database Access and Retrieval Services (OIDAR) Services are included in the settlement every month, taxpayer data regarding OIDAR services are not made available to the States. Similarly, there is a requirement to provided various MIS reports to the States in IGST settlement every month.

- 4.8 Further, issue of apportionment of IGST balance (positive or negative) was put forth by many Members and also by DoR. DoR pointed out that there is accumulation of negative balance in this year and hence it is important to resolve the issue of methodology of apportionment.

## **5. Approach for discussion within the Committee:**

- 5.1 Each of the settlement (STL) forms along with the source of data for these forms were discussed and examined at length. Sample data was called for from GSTN and the issues were analysed for possible solution.
- 5.2 The following objectives were kept in mind in arriving at the possible solutions for each of the issues identified for resolution:
- (a) There is transparency in the settlement process.
  - (b) Demystification of the items included in the settlement forms with sufficiently detailed data.
  - (c) Resolve the anomalies in reporting and ensure accurate reporting.
  - (d) Align the current rules to the settlement process and bring clarity in the process of settlement.
  - (e) Ensure continuous reporting of data / MIS to the States.

## **6. Analysis of the Issues and Suggestions / Recommendations of the Committee:**

### **6.1 Settlement of ITC lapsed due to not being availed within the limitation u/s 16(4) of the CGST Act**

- (a) As per the current Settlement Rules, ITC not availed till the lapse of limitation u/s 16(4) of the CGST Act is required to be settled on a yearly basis in STL 1.07 (for domestic purchases) and STL 1.11 (for imports).
- (b) Data for these forms were required to be collated from the annual return in GSTR 9.
- (c) However, since GSTR 9 is not mandatory for all taxpayers, data in these forms were not part of settlement.
- (d) According to Circular no 170/02/2022-GST dated 6<sup>th</sup> July, 2022, amounts not availed are to be disclosed in GSTR-3B in Table 4D(2) for both domestic and imports. Hence from the month of August 2022, settlement for these items is being made in STL 1.06 instead of STL 1.07 and 1.11.
- (e) Although, not provided in the current form in STL 1.06, settlement is being made in respect of such amounts.
- (f) Committee noted that under the current scheme of filing of return, the best way to capture the un-availed ITC is based on the reporting in Table 4(D)(2) in Form GSTR-3B. However, there is a need to identify these lapsed credits based on data being populated in GSTR-2B. It may become possible to accurately determine such lapsed credits under the new Invoice Management System (IMS) which is being implemented.
- (g) **Recommendations:**
  - i. Amend STL 1.07 to bring more clarity with respect to settlement done through reporting in Table 4D (2) of GSTR 3B. Reporting in STL 1.07 is to be made on

an aggregate basis for both domestic and imports which, however, are to be reflected separately in the said Form.

- ii. Law Committee to frame rules for IMS and the issue of capturing lapsed credit be addressed in the same.
- iii. Once the IMS is operational, settlement in STL 1.07 is to be done separately for domestic and imports.
- iv. Meanwhile, the current dispensation of settling such amounts may continue to be settled vide Table STL-1.06

## **6.2 Issues in Settlement relating to imports by unregistered persons in STL 1.08**

- (a) As per the current settlement rules, IGST paid on imports by unregistered persons are reported in STL 1.08.
- (b) It was observed that in STL 1.08, there have been negative settlement (or reverse settlement) in the last 2 years resulting in lesser IGST settlement to most states.
- (c) The issue was analysed in detail, and it was noted that in respect of certain bills of entry in the earlier period (particularly 2021-22 and 2022-23), IGST was settled on the basis that the same pertains to unregistered persons, whereas it was found later that such bills of entry were indeed pertaining to registered persons, and they have claimed ITC in their GST returns.
- (d) GSTN confirmed that the issue is completely resolved and all recoveries for the past period have been made. Going forward, process has been geared up to capture the GSTIN properly so that the issue is not repeated.
- (e) It was also noted that in STL 1.08, there is no Importer Exporter Code (IEC) which would enable the States to verify the settlement.
- (f) **Recommendations:**
  - i. GSTN to share sample data with States for the Bills of entries which were wrongly settled with details of month, name of person etc along with the details of the month in which the same was recovered as reverse settlement. In case of discrepancy noted, States may request for complete data from GSTN and the same shall be provided on need basis.
  - ii. Going forward the States to be provided with the details of the bills of entry as received from ICEGATE.
  - iii. Importer Exporter Code to be included in form STL 1.08.

## **6.3 Settlement in STL 1.06 and 1.10**

- (a) Currently, form STL 1.06 is being used to settle the following:
  - ineligible credits (ineligible credit on imports was to be covered by STL 1.10; however, the same is being settled vide STL-1.06)
  - lapsed credits due to time limitation envisaged u/s 16(4) of the CGST/SGST Act (supposed to be covered by STL 1.07 and 1.11)
  - lapsed credits due to composition scheme and
  - cancellation of registration.
- (b) Rules are not elaborate enough to cover all the scenarios which are currently being considered and settled vide STL 1.06.
- (c) Sources for each of the form are not clearly delineated.

- (d) Ineligible ITC on Imports are also settled in STL 1.06 instead of STL 1.10 since the source of this settlement is from Table 4B(1) of GSTR 3B and currently there is no split of domestic and imports in the same.
- (e) However, there is a need to identify these ineligible credits separately for imports and domestic based on a separate provision made in GSTR-3B to capture data relating to ineligible ITC separately for domestic and imports. It may become possible to accurately determine such lapsed credits under the new Invoice Management System (IMS) which is being implemented.
- (f) As regards cancellation of registration it was observed that there should be an automatic mechanism to settle the ITC upon cancellation of registration. It was noted that the current settlement based on return to be filed by the taxpayer does not fully capture the ITC that would accrue to the States. It was also pointed out that many of the cancellations may be involuntary where the taxpayers were found to be fake or non-genuine, in which case settlement of ITC is not appropriate. Furthermore, introducing a mechanism to allow the 'Proper Officer' to certify that the credits are correct and not fake may also be counterproductive.
- (g) It was also pointed out especially by the State of Karnataka that the reverse settlement of IGST upon identification of fake credits is also an important aspect.
- (h) **Recommendations:**
  - i. Amend the relevant Rule and Form STL 1.06 to provide for clarity on various categories of settlement contained in the form.
  - ii. Sources for all the forms (including STL 1.06) to be specified in the headings of the form.
  - iii. Law Committee to frame rules for IMS and the issue of capturing ineligible credit separately for domestic and imports be addressed in the same.
  - iv. Settle ineligible credits related to imports in STL 1.06 till the time the data is captured through IMS or GSTR-3B in which case the settlement will be made through STL 1.10.
  - v. Regarding settlement of ITC upon cancellation of registration, the current method may be followed. Committee may further deliberate on the right mechanism to have an automatic settlement of ITC which would balance the requirements of IGST settlement and the objectives of identifying fake/non-genuine taxpayers. This would also include the issue of reverse settlement of IGST upon identification of fake credits

#### 6.4 Settlement for pre-deposit and part recoveries

- (a) Issue of settlement of amount pre-deposited before filing an appeal represent part payment or recovery is covered by Rule 6 and Forms STL 3.01, 3.02 and 5.05. Other part payment/recoveries also may exist.
- (b) Place of supply is not readily available. It can't be settled to the State in which taxpayer is located as place of supply (PoS) will be another State in IGST.
- (c) Pre-deposit may also get refunded in future depending on the outcome of the appeal.
- (d) Hence it is necessary to have a formulation to settle pre-deposit at the time of deposit.
- (e) **Recommendations:**
  - i. PoS to be indicated as a mandatory field in payment challan including for part payment and pre-deposits and the same is captured in the system.

- ii. If subsequently refunded, same PoS be used so that there can be reverse settlement.

## **6.5 Settlement of collections made under “97. Other Jurisdictions”**

- (a) It was noted that there are collections made and settled under “97 Other Jurisdictions”. ‘Other territory’ as per clause (81) of section 81 of the CGST/SGST Act is a territory which is neither a part of any State or that of any Union Territory. Strictly speaking the units falling in the territorial waters (including sea-bed or subsoil underlying the same), continental shelf, EEZ or any other maritime zone of India would be covered by this and, as such, such territory of India is outside the state’s jurisdiction. A minor exception as regards territorial waters immediately adjoining a State has been provided in Section 9 of the IGST Act. Thus, it would be seen that ‘other territory’ is essentially that part of India which is neither in a State nor in any Union Territory.
- (b) Data is required to be analysed to understand the various scenarios in which revenue is accounted under “97-Other Territory”.
- (c) States has requested that there must be transparency in the amounts appearing under this code as well as the mode of settlement. Maharashtra pointed out that in the SRS, settlement of this jurisdiction is entirely taken to centre’s kitty.
- (d) **Recommendation:**
  - i. GSTN to provide sample data on entries appearing in “97. Other Territory”.
  - ii. GSTN to come out with clear guidance on what scenarios are covered by “97. Other territory”.
  - iii. Upon review of the data, Committee may evaluate and recommend if instead of “97. Other territory”, more specific classification like EEZ may be included to avoid confusion. This may be reviewed by the Committee.

## **6.6 Settlement of collections made under OIDAR**

- (a) It was noted that there needs to be more transparency in sharing of data pertaining to OIDAR tax collections.
- (b) It was noted that settlement is currently been done for OIDAR services in table STL 1.04 based on PoS reported by taxpayers in GSTR 5A.
- (c) **Recommendation:**
  - i. GSTN to share data pertaining to OIDAR (TIN of supplier, Name, PoS, IGST collected etc) as it appears in the return filed in GSTR-5A as an MIS on a monthly basis.
  - ii. States may seek further data from the jurisdictional officer for OIDAR (i.e) Bengaluru West Zone of CBIC.
  - iii. Settlement for OIDAR would be reflected in STL Form 1.04 and the rules would be amended accordingly.

## **6.7 Other Changes required in the settlement rules**

Certain other changes were identified in the Settlement Rules which requires an amendment. These are as follows:

- ii. Reference to “Goods and Services Tax Network” to be changed to “common portal” as in the parent GST Acts. Similarly reference to CBEC changed to CBIC.

- iii. R.3(2)(b) is to be deleted as the annual reports have no significance in settlement. All settlements are based on monthly returns only.
- iv. Minor changes in language – words “adjusted liability of tax from”, replaced with “discharged liability of tax by utilizing”.
- v. In R.4(b)(iii) –references to exports, supplies to SEZ, UINs have to be reworded as these supplies are entitled to refunds. Objective is to restrict it to the extent of refunds not claimed beyond the due date specified.
- vi. Settlement for IGST collected from Online Information Database Access and Retrieval Services (OIDAR) to be added in the relevant rule and in Form 1.04.
- vii. R.8(b)(v) refers to S.42 & 43 of CGST Act which stand omitted. Hence this sub-rule and Form 5.06 are required to be deleted.

Draft changes to the Settlement Rules are attached as **Annexure 3** to this report.

## **7. Methodology for apportionment of positive and negative balance in IGST Account:**

### **7.1 IGST Balance:**

- (a) It is noted that in the current year, IGST account started with a negative balance of Rs.5,500 crore. Upto Aug 2024, cumulative negative balance swelled to Rs.14,218 crore. In Sep 2024, the trend reversed and was at Rs.8,000 crore.
- (b) If the negative balance does not reverse before Nov 2024, there will be a necessity to recover the negative balance from the States.
- (c) Issue of the method to be adopted for apportionment of positive balance and recovery of negative balance was deliberated in the Committee.

### **7.2 Current method**

- (a) As discussed earlier, IGST Settlement is done on a monthly basis based on actual final consumption (in terms of the returns and other similar statements furnished by taxpayers) under various heads as provided in the Settlement rules.
- (b) Due to various timing issues in the collection of IGST and actual consumption-based apportionment, there is generally balance lying in the IGST account. It may be noted that from Feb 2018 onwards, surplus in IGST amounting to ₹ 402,000 Crores was apportioned in advance in the ratio of 50:50 to the Centre (₹ 201,000) and the States (₹ 201,000). Thereafter, as and when there were negative balance, the said negative balance was also adjusted/recovered from Centre and State in the same 50:50 ratio. Including the above adjustment of ₹ 18,000 Crores made in November 2023, an amount of ₹ 68,000 Crores has been recovered due to negative balance from time to time, out of this ₹34,000 pertain to the shares of the States. Accordingly, balance of ad-hoc advance apportionment lying with the states is ₹ 1,67,000 Crores (₹ 2,01,000 minus ₹ 34,000) as of December 2023.
- (c) While the ratio of apportionment between the Centre and the States (50:50) is specified in law, method of apportionment between the States is not specified. Although there is no clear specification in law, ad-hoc advance apportionment has been consistently distributed in a set ratio (base year revenue). Recovery adjustments from FY 2019-20 were also made consistently based on the actual settlement of the month since it reflects the actual utilization of the balance lying with the states. Recoveries made in FY 2018-19 alone were based on the base-year revenue ratio.

### **7.3 Options**

- (a) Various options were discussed on the method for apportionment and of positive balance and recovery of negative balance.
- (b) The first option is to adopt the base year revenue ratio for both apportionment of positive balance and recovery of negative balance.
- (c) The second option is to adopt the ratio of the cumulative IGST settlement ratio in the past 3 years for both apportionment of positive balance and recovery of negative balance.
- (d) The objective is to decide on a method which is demonstrably simple, equitable, uniform, transparent, and which accurately reflects the current economic realities / actual pattern of the IGST utilization amongst States. It may be noted that the base year revenue ratio has moved substantially. Advance apportionment in base year ratio and recovery based on IGST settlement ratio of the month may not reflect the actual pattern of IGST utilization over a period of time.

### **7.4 Views of the State**

- (a) Kerala, UP and Punjab supported Option 1.
- (b) Kerala also stated that recovery should be made only after the positive balance lying with the States as of the end of the compensation period is exhausted.
- (c) Karnataka stated that the positive balance in IGST account shall be apportioned to the states whenever the positive balance is over a threshold amount. Threshold can be recommended by the committee. Further, in a financial year if there is negative balance at the end of the year, it can be recovered in the first quarter of the next financial year.
- (d) Tamil Nadu stated that there should be no requirement to recover any negative balance as IGST account would even out over a period of time.
- (e) Maharashtra and Tamil Nadu pointed that recovery of negative balance should be the last resort and should be undertaken only when it is absolutely clear that the negative balance would not reverse within the financial year.
- (f) Tamil Nadu has further pointed out that VAT revenue be used as the basis for apportionment of positive and negative balance. In the alternative, TN has supported that the ratio should be IGST settlement of the immediate previous financial year and not 3 years. This has been supported by Karnataka, Maharashtra and Gujarat.

### **7.5 Recommendations:**

- i. Recovery of negative balance should be the last resort and should be undertaken only when it is absolutely clear that the negative balance would not reverse within the financial year.
- ii. Although there is no consensus on the method for apportionment, in order for the ad-hoc advance apportionment to closely mimic the actual expected IGST settlement in future period, it is not appropriate to apportion the IGST balance (positive or negative) based on base year revenue or VAT revenue. In case if GST Council decides to apportion the IGST balance in the ratio of the cumulative IGST settlement ratio, then the consensus is to adopt the IGST settlement ratio of the immediate previous financial year and the same ratio is to be adopted for recovery of negative balance as well.



- iii. Further in line with the suggestion of Karnataka, accumulated positive balance over Rs.10,000 crores may be distributed to the States as per the agreed method of apportionment. However, the negative balance shall be recovered within the same financial year by March 15th of every year and cannot be postponed to the subsequent financial year. Any balance for the last fifteen days can be settled when the figures are finalised by CCA.

## **8. Way forward and further work on other issues:**

- 8.1 It was also further discussed that the Committee should continue to work on certain issues and the approval of the GST Council may be sought for the same.
- 8.2 There were other issues raised by the Member States on various issues which were outside the mandate of the terms of reference of the Committee. However, since these issues may have a bearing on the IGST settlement, the issues were deliberated, and it was decided to refer certain issued to Law Committee.
- 8.3 States sought certain MIS reports and data on an ongoing basis, and these were found to be relevant to have a transparent system of settlement. GSTN may provide these reports on an ongoing basis. It was also requested that States may be advised to ensure that States automatically notify details of any adjudication orders of other State taxpayer with PoS.

### **8.4 Recommendations:**

- i. System Requirement Specification (SRS) document for implementing the changes recommended by the Committee may be placed before the Committee and the approval of the Committee be taken before the same is implemented.
- ii. The Committee may continue to review and examine various IT related issues faced by the States and Central formations and provide necessary directions and guidance to GSTN from time to time.
- iii. Issues which may be considered by Law Committee in a time bound manner:
  - a) Legal provision needs to be introduced for adjudication of taxpayers who have not availed/short availed IGST ITC.
  - b) Circular no 170/02/2022-GST dated 6<sup>th</sup> July, 2022 should be included as a legal provision so that it brings a binding obligation on the taxpayers.
- iv. Issues which may be considered by GSTN. GSTN to report status on these items to the Committee on an ongoing basis.
  - a) Centralised database of bill traders may be maintained.
  - b) Furnishing of settlement report to all States in the login of all CCTs.
  - c) Data on actual credit ledger balance of IGST ITC, month-wise data for all IGST in-flow, month-wise data for all IGST outflow.
  - d) Validation mechanism for Table 4(D)(2) reversal similar to summary available for undue reversal in Table 4(8)(1).

- e) Report of IGST ITC balance in ECL as of 25th of every month to be made available to States.
- f) MIS report on GSTR-2B vs. GSTR-3B.
- v. GST Council Secretariat may be advised to issue an advisory to all States to ensure that States automatically notify details of any adjudication orders of other State taxpayer with PoS.

## 9. Summary of Recommendations:

Issue	Suggestion/Recommendation	Action owner
Settlement of ITC not availed due to lapse of limitation u/s 16(4) of the CGST Act	Amend STL 1.07 to bring more clarity with respect to settlement done through reporting in Table 4D (2) of GSTR 3B. Reporting in STL 1.07 is to be made on an aggregate basis for both domestic and imports.  Law Committee to frame rules for IMS and the issue of capturing lapsed credit be addressed in the same.  Once the IMS is operational, settlement in STL 1.07 is to be done separately for domestic and imports.	DOR  LC  LC/ DoR
Issues in Settlement relating to imports by unregistered persons in STL 1.08	i. GSTN to share sample data with States for the Bills of entries which were wrongly settled with details of month, name of person etc alongwith the details of the month in which the same was recovered as reverse settlement. In case of discrepancy noted, States may request for complete data from GSTN and the same shall be provided on need basis.  ii. Going forward the States to be provided with the details of the bills of entry as received from ICEGATE.  iii. Importer Exporter Code to be included in form STL 1.08.	GSTN  GSTN  DoR
Settlement in STL 1.06 and 1.10	i. Amend the relevant Rule and Form STL 1.06 to provide for clarity on various categories of settlement contained in the form.  ii. Sources for all the forms (including STL 1.06) to be specified in the headings of the form.  iii. Law Committee to frame rules for IMS and the issue of capturing eligible credit separately for domestic and imports be addressed in the same.  iv. Settle ineligible credits related to imports in STL 1.06 till the time the data is captured through IMS or GSTR-	DoR  DoR  LC  GSTN-DoR

Issue	Suggestion/Recommendation	Action owner
	<p>3B.</p> <p>v. Regarding settlement of ITC upon cancellation of registration, the current method may be followed. Committee may further deliberate on the right mechanism to have an automatic settlement of ITC which would balance the requirements of IGST settlement and the objectives of identifying fake/non-genuine taxpayers. This would also include the issue of reverse settlement of IGST upon identification of fake credits</p>	DoR
Settlement for pre-deposit and part recoveries	<p>i. PoS to be indicated as a mandatory field in demand/SCN/payment challan and the same is captured in the system.</p> <p>ii. If subsequently refunded, same PoS be used so that there can be reverse settlement.</p>	<p>LC</p> <p>LC</p>
Settlement of collections made under “97. Other Jurisdictions”	<p>i. GSTN to provide sample data on entries appearing in “97. Other territory”.</p> <p>ii. GSTN to come out with clear guidance on what scenarios are covered by “97. Other territory”.</p> <p>iii. Upon review of the data, Committee may evaluate and recommend if instead of “97. Other territory”, more specific classification like EEZ may be included to avoid confusion. This may be reviewed by the Committee.</p>	<p>GSTN</p> <p>GSTN</p> <p>DoR</p>
Settlement of collections made under OIDAR	<p>i. GSTN to share data pertaining to OIDAR (TIN of supplier, Name, PoS, IGST collected etc) as it appears in the return filed in GSTR-5A as an MIS on a monthly basis.</p> <p>ii. States may seek further data from the jurisdictional officer for OIDAR (i.e) Bengaluru West Zone of CBIC.</p>	GSTN
Method of apportionment of IGST balance (positive or negative)	<p>i. Recovery of negative balance should be the last resort and should be undertaken only when it is absolutely clear that the negative balance would not reverse within the financial year.</p> <p>ii. Although there is no consensus on the method for apportionment, in order for the ad-hoc advance apportionment to closely mimic the actual expected IGST settlement in future period, it is not appropriate to apportion the IGST balance (positive or negative) based on base year revenue or VAT revenue. In case if</p>	<p>DoR</p> <p>DoR</p>

Issue	Suggestion/Recommendation	Action owner
	<p>GST Council decides to apportion the IGST balance in the ratio of the cumulative IGST settlement ratio, then the consensus is to adopt the IGST settlement ratio of the immediate previous financial year and the same ratio is to be adopted for recovery of negative balance as well.</p> <p>iii. Further in line with the suggestion of Karnataka, accumulated positive balance over Rs.10,000 crores may be distributed to the States as per the agreed method of apportionment. However, the negative balance shall be recovered within the same financial year by March 15th of every year and cannot be postponed to the subsequent financial year. Any balance for the last fifteen days can be settled when the figures are finalised by CCA.</p>	
Way Forward and	<p>iii. System Requirement Specification (SRS) document for implementing the changes recommended by the Committee may be placed before the Committee and the approval of the Committee be taken before the same is implemented.</p> <p>iv. The Committee may continue to review and examine various IT related issues faced by the States and Central formations and provide necessary directions and guidance to GSTN from time to time.</p> <p>v. Issues which may be considered by Law Committee in a time bound manner:</p> <ul style="list-style-type: none"> <li>• Legal provision needs to be introduced for adjudication of taxpayers who have not availed/short availed IGST ITC.</li> <li>• Circular no 170/02/2022-GST dated 6th July, 2022 should be included as a legal provision so that it brings a binding obligation on the taxpayers.</li> </ul> <p>vi. Issues which may be considered by GSTN. GSTN to report status on these items to the Committee on an ongoing basis.</p> <ul style="list-style-type: none"> <li>• Centralised database of bill traders may be maintained.</li> <li>• Furnishing of settlement report to all States in the login of all CCTs.</li> <li>• Data on actual credit ledger balance of IGST ITC, month-wise data for all IGST in-flow, month-wise data for all IGST outflow.</li> </ul>	<p>DoR</p> <p>DoR</p> <p>LC</p> <p>GSTN</p>

Issue	Suggestion/Recommendation	Action owner
	<ul style="list-style-type: none"> <li>Validation mechanism for Table 4(D)(2) reversal similar to summary available for undue reversal in Table 4(8)(1).</li> <li>Report of IGST ITC balance in ECL as of 25th of every month to be made available to States.</li> <li>MIS report on GSTR-2B vs. GSTR-3B.</li> </ul> <p>vii. GST Council Secretariat may be advised to issue an advisory to all States to ensure that States automatically notify details of any adjudication orders of other State taxpayer with PoS.</p>	GSTCS
Other changes in the rules	<p>i. Reference to “Goods and Services Tax Network” to be changed to “common portal” as in the parent GST Acts. Similarly reference to CBEC changed to CBIC.</p> <p>ii. R.3(2)(b) is to be deleted as the annual reports have no significance in settlement. All settlements are based on monthly returns only.</p> <p>iii. Minor changes in language – words “adjusted liability of tax from”, replaced with “discharged liability of tax by utilizing”.</p> <p>iv. In R.4(b)(iii) –references to exports, supplies to SEZ, UINs have to be reworded as these supplies are entitled to refunds. Objective is to restrict it to the extent of refunds not claimed beyond the due date specified.</p> <p>v. Settlement for IGST collected from Online Information Database Access and Retrieval Services (OIDAR) to be added in the relevant rule.</p> <p>vi. R.8(b)(v) refers to S.42 &amp; 43 of CGST Act which stand omitted. Hence this sub-rule and Form 5.06 are required to be deleted.</p>	DOR

## Annexure 2:

### (a) STL reports related to Cross-utilisation:

Report	Code	Frequency	Particulars	Settlement Rules	Section IGST/CGST Act
1.02	IITC	Monthly	IGST Liability adjusted against SGST/UTGST and CGST ITC (including cross utilization by ISD)	4(1)(b)(i)	Section 17 of IGST Act & 53 of CGST Act
1.03	SITC	Monthly	SGST/UTGST liability adjusted against IGST ITC	4(1)(b)(ii)	Section 17 of IGST Act
2.02	CITC	Monthly	CGST Liability adjusted against IGST ITC	5(b)	Section 17 of IGST Act
6.02		Monthly	Settlement from Cash Ledger		Section 49(10) of CGST Act & Rule 87(13) and (14) of CGST Rules

### (b) STL Reports related to Apportionment

S. No.	Row Labels	Frequency	GSTN Report	Particulars	Settlement Rules	Section IGST/CGST Act
1	B2C	Monthly	1.04	CGST/SGST portion on IGST collected on inter state supply including Input Service Distributor distribution, to B2C supplies or exports or SEZ on payment of IGST, including non filers who have Integrated Tax credit available with them	4(1)(b)(iii)(a)	17(1)(a) and 17(2) of IGST Act
2	B2BC	Monthly	1.05	CGST/SGST portion of IGST for inter-state supplies made to Composition taxable person/Non-resident taxable person/UIN holders	4(1)(b)(iii)(b)	17(1)(a) and 17(2) of IGST Act
3	B2BN	Monthly	1.06	CGST/SGST portion of IGST collected on B to B supplies where ITC is declared as ineligible, including lapsed ITC due to opting composition scheme and cancellation of registration	4(1)(b)(iii)(c)	17(1)(b) and 17(2) of IGST Act
4	B2BL	Annually	1.07	List of registered persons in a State or Union Territory who have made inter-State inward supplies on which ITC remains unutilized till end of September of the subsequent financial year	4(1)(b)(iv)(a)	17(1)(c) and 17(2) of IGST Act
5	IB2C	Monthly	1.08	CGST/SGST portion of IGST collected on import of goods and/or services by unregistered persons	4(1)(b)(iii)(d)	17(1)(d) and 17(2) of IGST Act
6	IB2BC	Monthly	1.09	CGST/SGST portion of IGST for supplies imported by Composition taxable persons/ UIN holders	4(1)(b)(iii)(e)	17(1)(d) and 17(2) of IGST Act

S. No.	Code	Frequency	GSTN Report	Particulars	Settlement Rules	Section IGST/CGST Act
7	IB2BN	Monthly	1.10	CGST/SGST portion of IGST collected on goods/services imported by registered person (other than composition) where ITC is declared as ineligible	4(1)(b)(iii)(f)	17(1)(e) and 17(2) of IGST Act
8	IB2BL	Annually	1.11	CGST/SGST portion of IGST collected on goods imported by registered person where ITC remains unutilized till end of September of the subsequent financial year	4(1)(b)(iv)(b)	17(1)(f) and 17(2) of IGST Act
9	RINT	Monthly	1.12	Interest on IGST related to returns and fee deposited for filing advance ruling application under IGST	4(1)(b)(iii)(g)	
10	IDCA_CMP	Monthly	3.02(C)	SGST/CGST portion of IGST- Compounding amount paid	Rule 6(b)	Section 17(3) of IGST Act
11	IDCA_INT	Monthly	3.02(I)	SGST/CGST portion of IGST-Interest demand paid		
12	IDCA_OTH	Monthly	3.02(O)	SGST/CGST portion of IGST-Others demand paid		
13	IDCA_PEN	Monthly	3.02(P)	SGST/CGST portion of IGST-Penalty demand paid		
14	IDCA_TAX	Monthly	3.02(T)	SGST/CGST portion of IGST-Tax demand paid		
15		Monthly	4.02	CGST/SGST portion of IGST collected where place of supply could not be determined	7(b)	1st proviso to Section 17 (2) of IGST Act
16		Monthly	4.03	CGST/SGST portion of IGST collected where taxable person making supply is not identifiable	7(c)	2nd proviso to Section 17 (2) of IGST Act
17		Monthly	5.01 - 5.09	Reduction due to issue of credit notes	8	Section 17(5) of IGST Act

**(c) Source of STL Reports**

S. No.	Code	GSTN Report	Particulars	Source of settlement reports
1	IITC	1.02	IGST Liability adjusted against SGST/UTGST and CGST ITC (including cross utilization by ISD)	GSTR-3B, GSTR-6, GSTR-10
2	SITC	1.03	SGST/UTGST liability adjusted against IGST ITC	GSTR-3B, GSTR-6, GSTR-10
3	CITC	2.02	CGST Liability adjusted against IGST ITC	GSTR-3B, GSTR-6, GSTR-10
4		6.02	Settlement from Cash Ledger	PMT-09
5	B2C	1.04	CGST/SGST portion on IGST collected on inter state supply including Input Service Distributor distribution, to B2C supplies or exports or SEZ on payment of IGST, including non filers who have Integrated Tax credit available with them	GSTR-3B, GSTR-5 and GSTR-6
6	B2BC	1.05	CGST/SGST portion of IGST for inter-state supplies made to Composition taxable person/Non-resident taxable person/UIN holders	GSTR-1 and GSTR-3B
7	B2BN	1.06	CGST/SGST portion of IGST collected on B to B supplies where ITC is declared as ineligible, including lapsed ITC due to opting composition scheme and cancellation of registration	GSTR-6, GSTR-4, GSTR-10, ITC-03, GSTR-9 & GSTR-3B
8	B2BL	1.07	List of registered persons in a State or Union Territory who have made inter-State inward supplies on which input tax credit remains unutilised till end of September of the subsequent financial year	From August'2022, settling through Table 4D(2) of Form GSTR-3B in respect of invoices declared by supplier after cutoff date.
9	IB2C	1.08	CGST/SGST portion of IGST collected on import of goods and/or services by unregistered persons	BOE
10	IB2BC	1.09	CGST/SGST portion of IGST for supplies imported by Composition taxable persons/ UIN holders	GSTR-4, GSTR-4X, CMP-08, BOE

S. No.	Row Labels	GSTN Report	Particulars	Source of settlement reports
11	IB2BN	1.10	CGST/SGST portion of IGST collected on goods/services imported by registered person (other than composition) where ITC is declared as ineligible	From August'2022, settling through Table 4B(1) of Form GSTR-3B. Table 4B(1) captures consolidated details of reversal.
12	IB2BL	1.11	CGST/SGST portion of IGST collected on goods imported by registered person where ITC remains unutilized till end of September of the subsequent financial year	Same logic as of 1.07
13	RINT	1.12	Interest on IGST related to returns and fee deposited for filing advance ruling application under IGST	GSTR-5, GSTR-4, GSTR-8, GSTR-7, GSTR-10, CMP-08, ADVRL (Advance Ruling), GSTR-3B, GSTR-5A
14	IDCA_CMP	3.02(C)	SGST/CGST portion of IGST- Compounding amount paid	DRC03, DRC07, DRC08 and APL04
15	IDCA_INT	3.02(I)	SGST/CGST portion of IGST-Interest demand paid	
16	IDCA_OTH	3.02(O)	SGST/CGST portion of IGST-Others demand paid	
17	IDCA_PEN	3.02(P)	SGST/CGST portion of IGST-Penalty demand paid	
18	IDCA_TAX	3.02(T)	SGST/CGST portion of IGST-Tax demand paid	



**Agenda Item 7(c): GSTAT Procedure Rules to regulate the procedure for functioning of the GSTAT.**

GST Appellate Tribunal (GSTAT) is a new attached office under the Department of Revenue which was established on 1<sup>st</sup> September, 2024 with Principal Bench at New Delhi and 31 state benches at 45 locations across the country.

2. The following developments have taken place till date for making the GSTAT operational:
  - i. The President of GSTAT has been appointed and he joined the post on 6th May, 2024.
  - ii. The process of appointment of the Members of the Tribunal is underway.
  - iii. 953 posts of supporting staff have been created and the process of filling up the positions is underway.
3. However, to fully operationalize the benches, certain procedures and methodologies are required to be laid out. In this regard, section 106 of the CGST Act, 2017 states that:

***106. Procedure of Authority, Appellate Authority and National Appellate Authority***

***The Authority or the Appellate Authority 2[or the National Appellate Authority] shall, subject to the provisions of this Chapter, have power to regulate its own procedure.***

Further, as per sub-section (1) of section 111 of the CGST Act, 2017 mentions that:

***Section 111. Procedure before Appellate Tribunal***

***(1) The Appellate Tribunal shall not, while disposing of any proceedings before it or an appeal before it, be bound by the procedure laid down in the Code of Civil Procedure, 1908, but shall be guided by the principles of natural justice and subject to the other provisions of this Act and the rules made thereunder, the Appellate Tribunal shall have power to regulate its own procedure.***

4. Accordingly, GSTAT Procedure Rules, 2024 has been drafted by Principal Bench, GSTAT for functioning of the GSTAT. The rules include important instructions/information related to filing of appeal, documents required, hearing of appeal, records to be maintained and pronouncement of order, etc.
5. Accordingly, the Draft rules have been prepared and are placed in Annexure-1. If approved, the same may be placed before the GST Council for consideration and approval. Once approved, the same may be vetted by Law Committee and notified with the approval of GIC.

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## **GSTAT Procedural Rules 2024**

### **Preamble**

In exercise of the powers conferred by Section 106 and 111 of the Central Goods and Services Tax Act, 2017 (CGST Act 2017), the Goods and Services Appellate Tribunal, hereinafter referred to as the GSTAT, hereby makes the following rules for regulating the procedure and functioning of the Goods and Services Tax Appellate Tribunal (GSTAT).

### **Chapter I: Preliminary**

#### **1. Short title and commencement**

- (i) These rules may be called the Goods and Services Tax Appellate Tribunal (GSTAT) Procedural Rules, 2024. They shall come into force on the date of their publication in the official Gazette.

#### **2. Definitions**

- (i) In these rules, unless the context otherwise requires:
  - (a) "Act" means the Central Goods and Services Tax Act, 2017 (CGST Act 2017) or State/Union Territory Goods and Services Tax Act 2017 (SGST/UTGST Act 2017);
  - (b) "adjudicating authority" means the adjudicating authority as defined under Section 2(4) of the CGST/SGST/UTGST Act 2017;
  - (c) "Appellate Tribunal" means the Goods and Services Tax Appellate Tribunal (GSTAT) established under Section 109 of the CGST Act 2017;
  - (d) "authorised representative" in relation to any proceedings before the Appellate Tribunal means, —
    - (i) "authorised representative" means a person authorised in writing/vakalatnama (duly stamped) by a party to present his case before the Appellate Tribunal as provided under Section 116 of the Act, to appear, plead or act on his behalf in such proceedings; Provided that a vakalatnama can be filed by an advocate within the meaning of the professional defined under the Advocates Act 1961.

or

- (ii) a person duly appointed [by the Central Government or State Government or by an officer duly authorised in this behalf] as authorised representative to appear, plead and act for the [Principal Commissioner or Commissioner] in such proceedings;
- (e) “Bench” means the Bench of the Appellate Tribunal and includes a Principal Bench –
  - (i) and a Member sitting singly;
  - (ii) Principal Bench means a Bench constituted at the principal seat of the Appellate Tribunal (at New Delhi) to which the cases arising anywhere in India may (also) be assigned;
  - (iii) State Bench means a Bench notified by the Central Government and having jurisdiction over a specified area;
- (f) “Certified copy” means the original copy of the order/documents received by the party, or a copy (including a Photostat copy) thereof duly authenticated by the concerned department, or a copy (including a Photostat copy) duly authenticated by the ‘Authorized Representative’ of the appellant/respondent;
- (g) “CGST” means Central Goods and Services Tax;
- (h) “form” means a form prescribed under Central Goods and Services Tax, State Goods and Services Tax /Union Territory Goods and Services Tax Rules 2017;
- (i) “Interlocutory application” means an application to the Appellate Tribunal in any appeal or proceeding already instituted in such Appellate Tribunal, other than a proceeding for execution of an order;
- (j) “member” means a member of the Appellate Tribunal and includes the President and a Vice-President;
- (k) “party” means a person who prefers an appeal before the Appellate Tribunal and includes respondent of any person interested in the appeal;
- (l) “prescribed” means prescribed by or under these rules;
- (m) "President" means the President of the Appellate Tribunal as per Section 109 of the Act;
- (n) “[Principal Commissioner or Commissioner]” means the [Principal Commissioner or Commissioner of CGST & Customs/SGST/UTGST] as the case may be;
- (o) "Registrar" means the Registrar of the Appellate Tribunal as per CGST, SGST /UTGST Rules 2017;



- (p) "Rules" means the Goods and Services Tax Appellate Tribunal Procedural Rules, 2024;
- (q) "Section" means a section of the Act;
- (r) "SGST" means State Goods and Services Tax;
- (s) "UTGST" means Union Territory Goods and Services Tax;
- (t) "Vice-President" means a Vice-President of the State Benches as per Section 109(7) of the Act;
- (u) All other words and expressions used in these rules but not defined herein and defined in the Act and CGST, SGST/UTGST Rules 2017 shall have the meanings respectively assigned to them in the Act and in the above-mentioned rules.

## **Chapter II: Powers and Functions**

**3. Computation of time period-** Where a period is prescribed by the Act and these rules or under any other law or is fixed by the Appellate Tribunal for doing any act, in computing the time, the day from which the said period is to be reckoned shall be excluded, and if the last day expires on a day when the office of the Appellate Tribunal is closed, that day and any succeeding day on which the Appellate Tribunal remains closed shall also be excluded.

**4. Format of order or direction or rule-** every rule, direction, order, summons, warrant or other mandatory process shall be issued in the name of the President/Member and shall be signed by the Registrar or any other officer specifically authorised in that behalf by the President, with the day, month and year of signing and shall be sealed with the official seal of the Appellate Tribunal.

**5. Official seal of the Appellate Tribunal-** The official seal and emblem of the Appellate Tribunal shall be such, as the President may from time to time specify and shall be in the custody of the Registrar.

**6. Custody of the records-** The Registrar shall have the custody of the records of the Appellate Tribunal and no record or document filed in any case or matter shall be allowed to be taken out of the custody of the Appellate Tribunal without the leave of the Appellate Tribunal.

Provided that the Registrar may allow any other officer of the Appellate Tribunal to remove any official paper or record for administrative purposes from the Appellate Tribunal.

**7. Sittings of Bench** — Subject to such general or special orders as may be made by the President, a Bench shall hold its sittings either at Headquarters or at such other place falling within its jurisdiction as may be notified by the Central Government.

**8. Sitting hours of the Appellate Tribunal-** The sitting hours of the Appellate Tribunal shall ordinarily be from 10.30 AM. to 01.30 P.M. and from 2.30 P.M. to 4.30 P.M. subject to any order made by the President and this shall not prevent the Appellate Tribunal to extend its sitting as it deems fit.

**9. Working hours of office -** (i) The office of the Appellate Tribunal shall remain open on all working days from 10:00 A.M. to 5 P.M.

(ii) The filing counter of the Registry shall be open on all working days from 10.30 AM to 5.00 P.M.

**10. Inherent powers -** Nothing in these rules shall be deemed to limit or otherwise affect the inherent powers of the Appellate Tribunal to make such orders or give such directions as may be necessary for meeting the ends of justice or to prevent abuse of the process of the Appellate Tribunal.

**11. Calendar -** The Calendar of days of working of Appellate Tribunal in a year shall be as decided by the President and Members of the Appellate Tribunal.

**12. Listing of cases -** All urgent matters filed before 12 noon shall be listed before the Appellate Tribunal on the following working day, if it is complete in all respects as provided in these rules and in exceptional cases, it may be received after 12 noon but before 3.00 P.M. for listing on the following day, with the specific permission of the Appellate Tribunal or President.

**13. Power to exempt -** The Appellate Tribunal may on sufficient cause being shown, exempt the parties from compliance with any requirement of these rules and may give such directions in matters of practice and procedure, as it may consider just and expedient on the application moved in this behalf to render substantial justice.

**14. Power to extend time -** The Appellate Tribunal may extend the time appointed by these rules or fixed by any order, for doing any act or taking any proceeding, upon such terms, if any, as the justice of the case may require, and any enlargement may be ordered, although the application therefore is not made until after the expiration of the time appointed or allowed.

**15. Powers and functions of the Registrar-** The Registrar shall have the following powers and functions, namely: -

- (a) shall be responsible for the day-to-day administration of the Appellate Tribunal;
- (b) notify the procedure of filing appeal to the Appellate Tribunal;
- (c) registration of appeals, petitions and applications and scrutiny thereof;
- (d) receive applications for amendment of appeal or the petition or application or subsequent proceedings;
- (e) receive applications for fresh summons or notices and regarding services thereof;
- (f) receive applications for short date summons and notices;
- (g) receive applications for substituted service of summons or notices;
- (h) receive applications for seeking orders concerning the admission and inspection of documents;
- (i) maintain records of proceedings and manage the registry; and
- (j) such other incidental or matters as the President may direct from time to time.

**16. Power of adjournment** - All adjournments shall normally be sought before the concerned Bench and in extraordinary circumstances, the Registrar may, if so directed by the Appellate Tribunal in chambers, at any time adjourn any matter and lay the same before the Appellate Tribunal in chambers.

**17. Delegation powers of the President** – (i) The President may assign or delegate to the Vice president of State Bench of GSTAT some of the functions required by these rules to be exercised by the President.

(ii) The President may assign or delegate to a Joint/Deputy/Assistant Registrar or to any other suitable officer all or some of the functions required by these rules to be exercised by the Registrar.

### **Chapter III: Institution of appeals - Procedure.**

#### **18. Filing of Appeals -**

- A.** An appeal to the Appellate Tribunal shall be filed online on GSTAT Portal in Form prescribed under CGST/SGST/UTGST Rules, 2017 along with the relevant documents.
- (i) the cause title shall state “In the Goods and Service Tax Appellate Tribunal” and also set out the proceedings or order of the authority against which it is preferred;
  - (ii) appeal shall be divided into paragraphs and shall be numbered consecutively and each paragraph shall contain as nearly as may be, a separate fact or allegation or point;
  - (iii) full name, parentage, GSTIN, description of each party and address, as applicable, shall also be set out at the beginning of the appeal and need not be repeated in the subsequent proceedings in the same appeal;
  - (iv) the names of parties shall be numbered consecutively and a separate line should be allotted to the name and description of each party and these numbers shall not be changed and in the event of the death of a party during the pendency of the appeal, his legal heirs or representative, as the case may be, if more than one shall be shown by sub-numbers.
- B.** Notwithstanding the number of show cause notices, bills of entry, shipping bills, refund claims/demands, letters or declarations dealt with in the decision or order appealed against, it shall suffice for purposes of these rules that the appellant files one Appeal in prescribed Form against the order or decision of the authority below, along with such number of copies thereof as provided in rule 18(E).

Explanation- In a case where the —

- (i) impugned order-in-appeal has been passed with reference to more than one orders-in-original, the prescribed Form for Appeal filed as per CGST/SGST/UTGST Rules 2017 shall be as many as the number of the orders-in-original to which the case relates in so far as the appellant is concerned;

- (ii) In case an impugned order is in respect of more than one person, each aggrieved person will be required to file a separate appeal (and common appeals or joint appeals shall not be entertained).

**C. Date of presentation of appeals.** — The Registrar or, as the case may be, the officer authorised by him, shall endorse on every Form of Appeal the date on which it is presented or deemed to have been presented under that rule and shall sign the endorsement, if the appeal is filed physically.

**D. Contents of an appeal Form.** Every Form of Appeal shall set forth concisely and under distinct heads, the grounds of appeal and such grounds shall be numbered consecutively and shall be typed in double space of the paper.

Every Form of Appeal, cross-objections, reference applications, stay applications or any other miscellaneous applications shall also be typed neatly in double spacing on the A4 size paper and the same shall be duly paged, indexed and tagged firmly with Form of Appeal in a separate folder.

Every Form of Appeal/application/Cross-objection shall be signed and verified by the appellant/applicant/respondent or the authorised representative to sign Form of Appeal/application/Cross-objection. The appellant/ applicant/ respondent or authorized representative retained by them shall certify as true copy the documents produced before the Appellate Tribunal.

**E. What to accompany Form of Appeal** — Every Form of Appeal required to be heard by a two-Member Bench shall be

(i) filed in quadruplicate and shall be accompanied by four copies, one of which shall be a certified copy of the order appealed against in the case of an appeal against the original order passed by the adjudicating authority and where such an order has been passed in appeal or revision, four copies (one of which shall be a certified copy) of the order passed in appeal or in revision and four copies of the order of the original authority along with all the relevant documents including relied upon documents.

Explanation. — “Copy” for the purpose of this rule shall mean a true copy certified by the appellant or appellant’s authorized representative to be a true copy.

In an appeal filed under the direction of the Principal Commissioner or Commissioner, one of the copies of the order appealed against shall be an attested copy instead of a certified copy.

In the case of an appeal which can be heard by a single Member, Form of Appeal shall be filed in triplicate and number of copies of the order shall be three instead of four along with all the relevant documents including relied upon documents.

Note: - As to which appeals are to be heard by single Members shall be determined by the President by separate orders in the light of the relevant statutory provisions.

(ii) Where an appeal which can be heard by a Bench is referred to or placed before a larger Bench, the appellant shall immediately furnish additional copy of the Form of Appeal as per additional number of Members of referred Bench and of the order or orders of the lower authorities along with relevant documents.

(iii) A certified copy of the decision or order appealed against along with fees as specified in rule 110(5) of the CGST/SGST/UTGST Rules 2017 shall be submitted online and a final acknowledgement, indicating the appeal number shall be issued thereafter in Form prescribed under CGST/SGST/UTGST Rules 2017, by the Registrar:

(iv) The President may further direct that in case of non-filing of the documents as specified under this Rule, the Registrar or any other authorised officer would be competent to return the specified documents or sets of documents and to receive the same back only after rectification of the defects to the satisfaction of the proper officer or the Bench as the case may be and on the return the case may be assigned a new number.

(v) The Appellate Tribunal may on its own motion direct the preparation of as many copies as may be required of all the relevant documents including relied upon documents by and at the cost of the appellant or the respondent, containing copies of such statements, papers or documents as it may consider necessary for the proper disposal of the appeal.

(vi) President may by a general or special order allow attestation of the documents filed along with appeal/application or as a part of relevant documents including relied upon documents or otherwise by a gazetted officer or such other person as may be authorised by the President to attest or certify such documents or photo copies thereof.

(vii) All relevant documents including relied upon documents shall be clearly legible, duly paged, indexed and tagged firmly.

**F. Endorsement and verification.-** At the foot of every appeal or pleading along with all the relevant documents including relied upon documents, there shall appear the name and signature of the authorised representative and every appeal or pleadings shall be signed and verified by the party concerned in the manner provided by these rules.

(i) **Translation of document.** - (a) A document other than English language intended to be used in any proceeding before the Appellate Tribunal shall be received by the Registry accompanied by a copy in English, which is agreed to by both the parties or certified to be a true translated copy by the authorised representative engaged on behalf of parties in the case;

(b) Appeal or other proceeding shall not be set down for hearing until and unless all parties confirm that all the documents filed on which they intend to rely are in English or have been translated into English and required number of copies are filed with the Appellate Tribunal.

**G. Endorsement and scrutiny of petition or appeal or document** -(i) If, on scrutiny, the appeal or document is found to be defective, such document shall, after notice to the party, be returned for compliance and if there is a failure to comply within seven days from the date of return, the same shall be placed before the Registrar who may pass appropriate orders.

(ii) The Registrar may for sufficient cause return the said document(s) for rectification or amendment to the party filing the same, and for this purpose may allow to the party concerned such reasonable time as he may consider necessary or extend the time for compliance.

(iii) Where the party fails to take any step for the removal of the defect within the time fixed for the same, the Registrar may, for reasons to be recorded in writing, decline to register the appeal or pleading or document.

**H. Registration of proceedings admitted.** - On admission of appeal, the same shall be numbered and registered in the appropriate register maintained in this behalf and its number shall be entered therein.

**I. Ex-parte amendments.** - In every appeal or application, arithmetical, grammatical, clerical and such other errors may be rectified on the orders of the Registrar without notice to Parties.

Provided that no amendments shall be allowed ex-parte after appearance of the respondents.

**J. Calling for records.** - On the admission of appeal, the Registrar shall, if so directed by the Appellate Tribunal, call for the records relating to the proceedings from the respective Bench of Appellate Tribunal or adjudicating authority and retransmit the same at the conclusion of the proceedings or at any time.

**K. Production of authorisation for and on behalf of an applicant/respondent/party.**  
- Where an appeal purported to be instituted by or on behalf of an applicant/respondent/party, the person who signs or verifies the same shall produce along with such appeal, for verification by the Registrar, a true copy of authorization letter empowering such person to do so:

Provided that the Registrar may at any time call upon the party to produce such further materials as he deems fit for satisfying himself about due authorization.

**L. Interlocutory applications.** - Every interlocutory application for stay, direction, rectification in order, condonation of delay, early hearing, exemption from production

of copy of order appealed against or extension of time prayed for in pending matters shall include all the information as per the **prescribed GSTAT FORM-01** and the requirements prescribed in that behalf shall be complied with by the applicant, besides filing an affidavit supporting the application.

- M. Procedure on production of defaced, torn or damaged documents.** - When a document produced along with any pleading appears to be defaced, torn, or in any way damaged or otherwise its condition or appearance requires special notice, a mention regarding its condition and appearance shall be made by the party producing the same in the Index of such a pleading and the same shall be verified and initialed by the officer authorized to receive the same.

**19. Grounds which may be taken in appeal** — The appellant shall not, except by leave of the Appellate Tribunal, urge or be heard in support of any grounds not set forth in the Form of Appeal, but the Appellate Tribunal, in deciding the appeal, shall not be confined to the grounds set forth in the Form of Appeal or those taken by leave of the Appellate Tribunal under these rules:

**Provided** that the Appellate Tribunal shall not rest its decision on any other grounds unless the party who may be affected thereby has had a sufficient opportunity of being heard on that ground.

**20. Rejection or amendment of Form of Appeal.** — (i) The Registrar may, in its discretion, on sufficient cause being shown, accept a Form of Appeal which is not accompanied by the documents referred to in rule 18(E) above or is in any other way defective, and in such cases may require the appellant to file such documents or, as the case may be, make the necessary amendments within such time as it may allow.

The Registrar may reject the Form of Appeal, if the documents referred to therein are not produced, or the amendments are not made, within the time-limit allowed.

The President may in his discretion authorise any officer of the Appellate Tribunal to return any Form of Appeal, application or document(s) which is/are not in accordance with the GSTAT Procedural Rules, 2024. The Officer so authorised may, however, allow the documents to be refiled after removal of the defects in the specified time.

On representation the Bench concerned may in its discretion either accept the Form of Appeal in terms of above rules but the appeal/application may not be restored to its original number unless the Bench allows it to be so restored on sufficient cause being shown.

**21. Who may be joined as respondents.** — (i) In an appeal or an application by a person other than the [Principal Commissioner or Commissioner], the [Principal Commissioner or Commissioner] concerned shall be made the respondent to the appeal or, as the case may be.

In an appeal or an application by the [(ii)Principal Commissioner or Commissioner], the other party shall be made the respondent to the appeal or, as the case may be, application.



**22. Endorsing copies to the party.** — A copy each of appeal and relevant documents along with relied upon documents shall be provided to the respondent as well as to the concerned Principal Commissioner or Commissioner, as the case may be, as soon as they are filed.

**23. Filing of Form of cross-objections, applications or replies to appeals/applications.** — Every Form of cross-objections filed as prescribed under CGST/SGST/UTGST Rules 2017, and every application made, under the provisions of the Act, shall be registered and numbered, and the provisions of these rules, relating to appeals shall, so far as may be, apply to such Form or application.

**24. Filing of Reply and other Documents by the Respondents.** - (i) Each respondent may file his reply to the petition or the application and copies of the documents, either in person or through an authorised representative, with the registrar as specified by the Appellate Tribunal within one month and on the receipt thereof.

(ii) A copy of the reply or the application and the copies of other documents shall be forthwith served on the applicant by the respondent.

(iii) To the reply or documents filed under sub-rule (i), the respondent shall specifically admit, deny or rebut the facts stated by the applicant in his petition or application and state such additional facts as may be found necessary in his reply.

**25. Filing of Rejoinder.** - Where the respondent states such additional facts as may be necessary for the just decision of the case, the Bench may allow the petitioner to file a rejoinder to the reply filed by the respondent, with an advance copy to be served upon the respondent within one month or within such time as may be specified/extended by Bench.

#### **Chapter IV: Cause list**

**26. Preparation and publication of daily cause list.** - (i) The Registrar shall prepare and publish which shall include all the information as in the prescribed Format **GSTAT REG-01** on the notice board of the Appellate Tribunal before the closing of working hours on each working day the cause list for the next working day and subject to the directions of the President, listing of cases in the daily cause list shall be in the following order of priority, unless otherwise ordered by the concerned Bench; namely; -

- (a) cases for pronouncement of orders;
- (b) cases for clarification;
- (c) cases for admission;
- (d) cases for orders or directions;
- (e) part-heard cases, latest part-heard having precedence; and
- (f) cases posted as per numerical order or as directed by the Bench;

The Registrar shall communicate to the parties the date and place of hearing of the appeal or application.

(ii) The title of the daily cause list shall consist of the number of the appeal, the day, date and time of the sitting Bench Hall number and the coram indicating the names of the, Judicial members and Technical members constituting the Bench.

(iii) Against the number of each case listed in the daily cause list, the following shall be shown, namely;-

- (a) names of the legal practitioners or authorised representative appearing for both sides and setting out in brackets the designation of the parties whom they represent;
- (b) names of the parties, if unrepresented, with their ranks in brackets.

**27. New cause list and adjournment of cases on account of non-sitting of an Appellate Tribunal** - (i) If by reason of declaration of holiday or for any other unforeseen reason, the Appellate Tribunal does not function for the day, the new daily cause list shall be prepared for the cases listed for the day.

(ii) When the sitting of a particular Bench is cancelled for the reason of inability of any Member of the Bench, the Registrar shall, unless otherwise directed, adjourn the cases posted before that Bench to a convenient date.

(iii) The adjournment or posting or directions shall be notified on the notice board.

**28. Service of Notices and processes.** - (i) Any notice or process to be issued by the Appellate Tribunal may be served by post or at the e-mail address as provided in the petition or application or in the reply;

(ii) The notice or process if to be served physically may be served in any one of the following modes as may be directed by the Appellate Tribunal; -

- (a) by hand delivery through a process server or respective authorised representative;
- (b) by registered post or speed post with acknowledgment due.

(iii) Notwithstanding anything contained in sub-rules (i), the Appellate Tribunal may after taking into account the number of respondents and their place of residence or work or service could not be effected in any manner and other circumstances, direct that notice of the petition or application shall be served upon the respondents in any other manner, including any manner of substituted service, as it appears to the Appellate Tribunal just and convenient.

(iv) A notice or process may also be served on an authorised representative of the applicant or the respondent, as the case may be, in any proceeding or on any person authorised to accept a notice or a process, and such service on the authorised representative shall be deemed to be a proper service.

## **Chapter V: Hearing of Appeal**

**29. Hearing of appeal** — On the day fixed, or on any other day to which the hearing may be adjourned, the appellant shall be heard in support of the appeal. The Appellate Tribunal shall then, if

necessary, hear the respondent against the appeal and in such a case the appellant shall be entitled to reply.

**30. Action on appeal for appellant's default** — Where on the day fixed for the hearing of the appeal or on any other day to which such hearing may be adjourned, the appellant does not appear when the appeal is called on for hearing, the Appellate Tribunal may, in its discretion, either dismiss the appeal for default or hear and decide it on merits:

**Provided** that where an appeal has been dismissed for default and the appellant appears afterwards and satisfies the Appellate Tribunal that there was sufficient cause for his non-appearance when the appeal was called on for hearing, the Appellate Tribunal shall make an order setting aside the dismissal and restore the appeal.

**31. Hearing of appeals ex parte** — Where on the day fixed for the hearing of the appeal or on any other day to which the hearing is adjourned the appellant appears and the respondent does not appear when the appeal is called on for hearing, the Appellate Tribunal may hear and decide the appeal ex parte.

**32. Continuance of proceedings after death or adjudication as an insolvent of a party to the appeal or application** — Where in any proceedings the appellant or applicant or a respondent dies or is adjudicated as an insolvent or in the case of a company, is being wound up, the appeal or application shall abate, unless an application is made for continuance of such proceedings by or against the successor-in-interest, the executor, receiver, liquidator or other legal representative of the appellant or applicant or respondent, as the case may be:

**Provided** that every such application shall be made within a period of sixty days of the occurrence of the event:

**Provided** further that the Appellate Tribunal may, if it is satisfied that the applicant was prevented by sufficient cause from presenting the application within the period so specified, allow it to be presented within such further period as it may deem fit.

**33. Production of additional evidence** — (i) The parties to the appeal shall not be entitled to produce any additional evidence, either oral or documentary, before the Appellate Tribunal, but if the Appellate Tribunal is of opinion that any documents should be produced or any witness should be examined or any affidavit should be filed to enable it to pass orders or for any sufficient cause, or if adjudicating authority or the appellate or revisional authority has decided the case without giving sufficient opportunity to any party to adduce evidence on the points specified by them or not specified by them, the Appellate Tribunal may, for reasons to be recorded, allow such documents to be produced or witnesses to be examined or affidavits to be filed or such evidence to be adduced.

(ii) The production of any document or the examination of any witness or the adducing of any evidence under sub-rule (i) may be done either before the Appellate Tribunal or before such authority as the Appellate Tribunal may direct.

(iii) Where any direction has been made by the Appellate Tribunal to produce any documents or to examine any witnesses or to adduce any evidence before any authority, the authority shall comply with the directions of the Appellate Tribunal and after such compliance send the documents, the record of the deposition of the witnesses or the record of evidence adduced, to the Appellate Tribunal.

(iv) The Appellate Tribunal may, of its own motion, call for any documents or summon any witnesses on points at issue, if it considers necessary to meet the ends of justice.

**34. Production of Evidence by Affidavit** - (i) The Appellate Tribunal may direct the parties to give evidence, if any, by affidavit.

(ii) Notwithstanding anything contained in sub-rule (i), where the Appellate Tribunal considers it necessary in the interest of natural justice, it may order cross-examination of any deponent on the points of conflict either through information and communication technology facilities such as video conferencing or otherwise as may be decided by the Appellate Tribunal, on an application moved by any party.

**35. Adjournment of appeal** — The Appellate Tribunal may, on such terms as deem fit and at any stage of the proceedings, adjourn the hearing of the appeal.

**36. Proceedings to be open to public** — The proceedings before the Appellate Tribunal shall be open to the public:

**Provided** that the Appellate Tribunal may, if deem fit, order at any stage of the proceedings of any particular case that the public generally or any particular person shall not have access to, or be or remain in, the room or building used by the Appellate Tribunal.

**37. Procedure for filing of and disposal of interlocutory Application** — The provisions of the rules regarding the filing of interlocutory applications shall, in so far as may be, apply to the filing of applications under this rule (*mutatis mutandis*).

**38. Appeal referred to larger Bench** – In case of different opinion of Members of Bench while hearing an appeal, the appeal shall be referred to larger Bench by the President, as it deems fit, for disposal of the appeal.

**39. Order to be signed and dated** - Every order of the Appellate Tribunal shall be in writing and shall be signed and dated by the Members constituting the Bench concerned. Last date of hearing of the matter shall be typed on the first page of the order. If the order is dictated on the Bench, the date of dictation will be the date of the final order. If the order is reserved, the date of final order will be the date on which the order is pronounced.

In cases, where gist of the decision is pronounced without the detailed order, the last para of the detailed order shall specify the date on which the gist of the decision was pronounced. In such cases, the date of the final order shall be the date on which all the Members of the Bench sign the order. If they sign on different dates, the last of the dates will be the date of the order.

**40. Publication of orders** — Such of the orders of the Appellate Tribunal as are deemed fit for publication in any authoritative report or the press, may be released for such publication on such terms and conditions as the Appellate Tribunal may lay down.

## **Chapter VI: RECORD OF PROCEEDINGS**

**41. Court Diary** —(i) Diaries shall be kept by the Court Officer which shall include all the information as given in form **GSTAT REG-02** as may be specified in each appeal or petition or application and they shall be written legibly;

(ii) The diary in the main file shall contain a concise history of the appeal or petition or application, the substance of the order passed thereon and in execution proceedings, it shall contain a complete record of all proceedings in execution of order or direction or rule and shall be checked by the Deputy/Assistant Registrar and initiated once in a fortnight.

**42. Order sheet** — (i) The Court officer of the Bench shall maintain order sheet which shall include all the information as prescribed in **GSTAT FORM-02** in every proceedings and shall contain all orders passed by the Appellate Tribunal from time to time;

(ii) All orders passed by the Appellate Tribunal shall be in English and the same shall be signed by the Members of the Appellate Tribunal constituting the Bench:

Provided that the routine orders, such as call for of the records, put up with records, adjourned and any other order as may be directed by the Member of the Tribunal shall be signed by the Court officer of the Bench;

(iii) The order sheet shall also contain the reference number of the appeal or petition or application, date of order and all incidental details including short cause title thereof.

**43. Maintenance of court diary** — (i) The Court officer of the Bench shall maintain legibly /on GSTAT portal a Court Diary, wherein he shall record the proceedings of the court for each sitting with respect to the applications or petitions or appeals listed in the daily cause list;

(ii) The matters to be recorded in the court Diary shall include details as to whether the case is adjourned or part-heard or heard and disposed of or heard and orders reserved, as the case may be, along with dates of next sitting wherever applicable.

**44. Statutes or citations for reference.** —The parties or authorised representative or legal practitioners shall, before the commencement of the proceedings for the day, furnish to the Court officer a list of law journals, reports, statutes and other citations, which may be needed for reference or photocopy of full text thereof.

**45. Calling of cases in court.** —Subject to the orders of the Bench, the Court officer shall call the cases listed in the cause list in the serial order.

**46. Regulation of court work.** — (i) When the Appellate Tribunal is holding a sitting, the Deputy/ Assistant Registrar shall ensure –

(a) that no inconvenience or wastage of time is caused to the Bench in making available the services of Court officer or stenographer or peon or attender;

(b) the Court officer shall ensure that perfect silence is maintained in and around the Court Hall and no disturbance whatsoever is caused to the functioning of the Bench and that proper care is taken to maintain dignity and decorum of the court.

(ii) When the Bench passes order or issues directions, the Court officer shall ensure that the records of the case along with proceedings or orders of the Bench are transmitted immediately to the Deputy/Assistant Registrar and the Deputy/Assistant Registrar shall verify the case records received from the Court Officer with reference to the cause list and take immediate steps to communicate the directions or orders of the Bench.

## **Chapter VII: MAINTENANCE OF REGISTERS**

**47. Registers to be maintained.** —The following Registers shall be maintained online/offline and posted on a day-to-day basis by such ministerial officer or officer of the Registry may, subject to any order of the President, –

- (a) register of un-numbered petitions or appeals (**GSTAT-REG-03**);
- (b) register of petitions or appeals (**GSTAT-REG-04**); and
- (c) register of interlocutory applications(**GSTAT-REG-05**);

**48. Arrangement of records in pending matters.** —The record of appeal or petition shall be divided into the following four parts and shall be collated and maintained –

- (a) main file: (Petition being kept separately);
- (b) miscellaneous application file;
- (c) process file; and
- (d) execution file

**49. Contents of main file.** —The main file shall be kept in the following order and it shall be maintained as permanent record till ordered to be destroyed under the rules –

- (a) index;
- (b) order sheet;
- (c) final order or judgment;
- (d) Form of Appeal or petition, as the case may be, together with any schedule annexed thereto;
- (e) counter or reply or objection, if any;
- (f) (i) oral evidence or proof of affidavit;
- (ii) evidence taken on commission; and

- (iii) documentary evidence;
- (g) written arguments.

**50. Contents of process file.** —The process file shall contain the following items; namely –

- (a) index;
- (b) power of attorney or vakalatnama;
- (c) summons and other processes and affidavits relating thereof;
- (d) applications for summoning witness;
- (e) letters calling records; and
- (f) all other miscellaneous papers such as postal acknowledgements.

**51. Contents of Execution file.** —The execution file shall contain the following items, namely-

- (a) index;
- (b) the order sheet;
- (c) the execution application;
- (d) all processes and other papers connected with such execution proceedings;
- (e) transmission of order to civil court, if ordered; and
- (f) result of execution;

**52. File for miscellaneous applications** —For all miscellaneous applications there may be only one file with a title page prefixed to it and immediately after the title page, the diary, the miscellaneous applications, supporting affidavit, the order sheet and all other documents shall be filed.

**53. Preservation of Record** — (i) All necessary documents and records relating to petitions or applications dealt with by the Appellate Tribunal shall be stored or maintained as provided in these rules and other physical records kept in a record room shall be preserved for a period of five years after the passing of the final order;

(ii) Notwithstanding anything contained in sub-rule (i) the record of the petitions or applications dealt with by the Appellate Tribunal including the orders and directions passed by the Appellate Tribunal, shall be maintained by the Registry of the Appellate Tribunal for a period of fifteen years after the passing of the final order.

**54. Retention, Preservation and Destruction of Records.** — (i) The Record Keeper or any other officer so designated shall be responsible for the records consigned to the Record Room. He shall scrutinize the records received by him within three days and prepare an index in prescribed Format;

(ii) On the expiry of the period for preservation of the records specified under rule 53, the Registrar shall weed out the record.

## **Chapter VIII: INSPECTION OF RECORD**

**55. Inspection of the records.** - The applicant to any case or their authorised representative may be allowed to inspect the record of the case by making an application in writing in prescribed **GSTAT-FORM-03** to the Registrar and by paying the fee prescribed as per **Schedule of Fee**.

**56. Grant of inspection.** - Inspection of records of a pending or decided case before the Appellate Tribunal shall be allowed only on the order of the Registrar.

**57. Application for grant of inspection.** - (i) Application for inspection of record under rule 55, shall be presented at Registry between 10.30 AM to 01:30 PM on any working day and two days before the date on which inspection is sought, unless otherwise permitted by the Registrar;

(ii) The Registry shall submit the application with its remarks before the Registrar, who shall, on consideration of the same, pass appropriate orders;

(iii) Inspection of records of a pending case shall not ordinarily be permitted on the date fixed for hearing of the case or on the preceding day.

**58. Mode of inspection.** - (i) On grant of permission for inspection of the records, the Deputy/Assistant Registrar shall arrange to procure the records of the case and allow inspection of such records on the date and time fixed by the Registrar between 10.30 AM and 12.30 PM and between 2.30 PM and 4.30 PM in the immediate presence of an officer authorised in that behalf by the Registrar;

(ii) The person inspecting the records shall not in any manner cause dislocation, mutilation, tampering or damage to the records in the course of inspection;

(iii) The person inspecting the records shall not make any marking on any record or paper so inspected and taking notes;

(iv) The person supervising the inspection, may at any time prohibit further inspection, if in his opinion, any of the records are likely to be damaged in the process of inspection or the person inspecting the records has violated or attempted to violate the provisions of these rules and shall immediately make a report about the matter to the Registrar and seek further orders from the Registrar and such notes shall be made in the Inspection Register.

**59. Maintenance of register of inspection.** - The Deputy/Assistant Registrar shall cause to maintain a Register **as per GSTAT REG-06** for the purpose of inspection of documents or records and shall obtain therein the signature of the person making such inspection on the Register as well as on the application on the conclusion of inspection.



**Chapter IX:**  
**Appearance of authorised representative**

**60. Appearance of authorised representative** - Subject to as hereinafter provided, no legal practitioner or authorised representative shall be entitled to appear and act, in any proceeding before the Appellate Tribunal unless he files into Appellate Tribunal vakalatnama or Memorandum of Appearance or letter of authorisation which shall include all the information as prescribed in **GSTAT FORM-04** as the case may, duly executed by or on behalf of the party for whom he appears.

**61. Consent for engaging or change of authorised representative (Duly stamped as per the respective High Court Rules)** - A legal practitioner or authorised representative proposing to file a Vakalatnama or Memorandum of Appearance or letter of authorisation as the case may be, in any pending case or proceeding before the Appellate Tribunal in which there is already a legal practitioner or authorised representative on record, shall do so only with the written consent of the legal practitioner or the authorised representative on record or when such consent is refused, with the permission of the Appellate Tribunal after revocation of Vakalatnama or Memorandum of Appearance as the case may be, on an application filed in this behalf, which shall receive consideration only after service of such application on the counsel already on record.

**62. Restrictions on appearance** - A legal practitioner or the authorised representative as the case may be, who has tendered advice in connection with the institution of any case or other proceeding before the Appellate Tribunal or has drawn pleadings in connection with any such matter or has during the progress of any such matter acted for a party, shall not, appear in such case or proceeding or other matter arising there from or in any matter connected therewith for any person whose interest is opposed to that of his former client, except with the prior permission of the Appellate Tribunal.

**63. Restriction on party's right to be heard** - The party who has engaged a legal practitioner or authorised representative to appear for him before the Appellate Tribunal may be restricted by the Appellate Tribunal in making presentation before it.

**64. Empanelment of special authorised representatives by the Appellate Tribunal** - (i) The Appellate Tribunal may draw up a panel of authorised representatives or valuers or such other experts as may be required by the Appellate Tribunal to assist in proceedings before the Appellate Tribunal;

(ii) The President may call upon any of the persons from panel under sub-rule (i) for assistance in the proceedings before the Bench, if so required;

(iii) The remuneration payable and other allowances and compensation admissible to such persons shall be specified in consultation with the Appellate Tribunal.

**65. Professional dress for the authorised representatives.** - While appearing before the Appellate Tribunal, the authorised representatives shall wear the same professional dress as prescribed in their Code of Conduct.

## **Chapter X: AFFIDAVITS**

**66. Title of affidavits.** - Every affidavit shall be titled as 'Before the Goods and Services Tax Appellate Tribunal (GSTAT).' followed by the cause title of the appeal or application or other proceeding in which the affidavit is sought to be used.

**67. Form and contents of the affidavit.** - The affidavit shall conform to the requirements of order XIX, rule 3 of Civil Procedure Code, 1908 (5 of 1908).

**68. Persons authorised to attest.** - Affidavits shall be sworn or affirmed before an advocate or notary, who shall affix his official seal.

**69. Affidavits of illiterate, visually challenged persons.** - Where an affidavit is sworn or affirmed by any person who appears to be illiterate, visually challenged or unacquainted with the language in which the affidavit is written, the attester shall certify that the affidavit was read, explained or translated by him or in his presence to the deponent and that he seemed to understand it, and made his signature or mark in the presence of the attester which shall include all the information as prescribed in **GSTAT FORM-05**.

**70. Identification of deponent.** - If the deponent is not known to the attester, his identity shall be testified by a person known to him and the person identifying shall affix his signature in token thereof.

**71. Annexures to the affidavit.** - (i) Document accompanying an affidavit shall be referred to therein as Annexure number and the attester shall make the endorsement thereon that this is the document marked putting the Annexure number in the affidavit;

(ii) The attester shall sign therein and shall mention the name and his designation.

## **Chapter XI: DISCOVERY, PRODUCTION AND RETURN OF DOCUMENTS**

**72. Application for production of documents, form of summons.** -(i) Except otherwise provided hereunder, discovery or production and return of documents shall be regulated by the provisions of the Code of Civil Procedure, 1908 (5 of 1908);

(ii) An application for summons to produce documents shall be on plain paper setting out the document the production of which is sought, the relevancy of the document and in case where the production of a certified copy would serve the purpose, whether application was made to the proper officer and the result thereof;

(iii) A summons for production of documents in the custody of a public officer other than a court shall include all the information as Prescribed in **GSTAT FORM-06** and shall be addressed to the

concerned Head of the Department or such other authority as may be specified by the Appellate Tribunal.

**73. *Suo motu* summoning of documents.** - Notwithstanding anything contained in these rules, the Appellate Tribunal may, *suo motu*, issue summons for production of public document or other documents in the custody of a public officer.

**74. Marking of documents.** - (i) The documents when produced shall be marked as follows:

(a) If relied upon by the appellant's or petitioner's side, they shall be numbered as 'A' series;

(b) If relied upon by the respondent's side, they shall be marked as 'B' series;

(c) The Appellate Tribunal exhibits shall be marked as 'C' series.

(ii) The Appellate Tribunal may direct the applicant to deposit with the Appellate Tribunal through online mode a sum sufficient to defray the expenses for transmission of the records.

**75. Return and transmission of documents.** - (i) An application for return of the documents produced shall be numbered and no such application shall be entertained after the destruction of the records;

(ii) The Appellate Tribunal may, at any time, direct return of documents produced subject to such conditions as it deems fit.

## **Chapter XII:**

### **EXAMINATION OF WITNESSES AND ISSUE OF COMMISSIONS**

**76. Procedure for examination of witnesses, issue of Commissions** - The provisions of the Orders XVI and XXVI of the Code of Civil Procedure, 1908 (5 of 1908), shall *mutatis mutandis* apply in the matter of summoning and enforcing attendance of any person and examining him on oath and issuing commission for the examination of witnesses or for production of documents.

**77. Examination in camera.** - The Appellate Tribunal may in its discretion examine any witness in camera.

**78. Form of oath or affirmation to witness.** - Oath shall be administered to a witness in the following form:

*"I do swear in the name of God/solemnly affirm that what I shall state shall be truth, the whole truth and nothing but the truth".*

**79. Form of oath or affirmation to interpreter.** - Oath or solemn affirmation shall be administered to the interpreter in the following form before the Bench Officer or the Court Officer as the case may be, as taken for examining a witness:

*“I do swear in the name of God/solemnly affirm that I will faithfully and truly interpret and explain all questions put to and evidence given by witness and translate correctly and accurately all documents given to me for translation.”*

**80. Officer to administer oath.** - The oath or affirmation shall be administered by the Court officer.

**81. Form recording of deposition.** - (i) The Deposition of a witness shall be recorded in prescribed **GSTAT FORM-07**;

(ii) Each page of the deposition shall be initialed by the Members constituting the Bench;

(iii) Corrections, if any, pointed out by the witness may, if the Bench is satisfied, be carried out and duly initialed. If not satisfied, a note to the effect be appended at the bottom of the deposition.

**82. Numbering of witnesses** - The witnesses called by the applicant or petitioner shall be numbered consecutively as PWs and those by the respondents as RWs.

**83. Grant of discharge certificate** - Witness discharged by the Appellate Tribunal may be granted a certificate in prescribed **GSTAT FORM-08** by the Registrar.

**84. Witness allowance payable** - (i) Where the Appellate Tribunal issues summons to a Government servant to give evidence or to produce documents, the person so summoned may draw from the Government travelling and daily allowances admissible to him as per rules;

(ii) Where there is no provision for payment of Travelling Allowances and Daily Allowance by the employer to the person summoned to give evidence or to produce documents, he shall be entitled to be paid as allowance, (a sum in the opinion of the Registrar sufficient to defray the travelling and other expenses considering unemployed or retired person diet money in addition to T.A.), having regard to the status and position of the witness;

(iii) The party applying for the summons shall deposit with the Registrar the amount of allowance as estimated by the Registrar well before the summons is issued;

(iv) If the witness is summoned as a court witness, the amount estimated by the Registrar shall be paid as per the directions of the Appellate Tribunal;

(v) The aforesaid provisions would govern the payment of bhatta to the interpreter as well.

**85. Records to be furnished to the Principal Commissioner or Commissioner** - (i) The Principal Commissioner or Commissioner shall be furnished by the Appellate Tribunal with such of the records of the case as the Appellate Tribunal considers necessary for executing the Commission;

(ii) Original documents shall be furnished only if a copy does not serve the purpose or cannot be obtained without unreasonable expense or delay and delivery and return of records shall be made under proper acknowledgement.

**86. Taking of specimen handwriting, signature etc.** -The Principal Commissioner or Commissioner may, if necessary, take specimen of the handwriting, signature or fingerprint of any witness examined before him.

### **Chapter XIII: DISPOSAL OF CASES AND PRONOUNCEMENT OF ORDERS**

**87. Disposal of Cases.** - On receipt of an application, petition, appeal etc, the Appellate Tribunal, after giving the parties a reasonable opportunity of being heard, pass such orders thereon as it thinks fit:

**Provided** that the Appellate Tribunal, after considering an appeal, may summarily dismiss the same, for reasons to be recorded, if the Appellate Tribunal is of opinion that there are no sufficient grounds for proceedings therewith.

**88. Operative portion of the order.** - All orders or directions of the Bench shall be stated in clear and precise terms in the last paragraph of the order.

**89. Corrections.** - Every Member of the Bench who has prepared the order shall initial all corrections and affix his initials at the bottom of each page.

**90. Power to impose Costs.** - The Appellate Tribunal may, in its discretion, pass such order in respect of imposing costs on the defaulting party as it may deem fit.

**91. Pronouncement of Order.** - (i) The Appellate Tribunal, after hearing the applicant and respondent, shall make and pronounce an order either at once or, as soon as thereafter as may be practicable but not later than thirty days from the final hearing excluding vacations or holidays;

(ii) Every order of the Appellate Tribunal shall be in writing and shall be signed and dated by the President or Member or Members constituting the Bench which heard the case and pronounced the order;

(iii) A certified copy of every order passed by the Appellate Tribunal shall be given to the parties;

(iv) The Appellate Tribunal, may transmit order made by it to any court for enforcement, on application made by either of the parties to the order or *suo motu*;

(v) Every order or judgment or notice shall bear the seal of the Appellate Tribunal.

**92. Pronouncement of order by any one member of the Bench –**

(i) Any Member of the Bench may pronounce the order for and on behalf of the Bench;

(ii) When an order is pronounced under this rule, the Court officer shall make a note in the order sheet, that the order of the Bench consisting of President or Members was pronounced in open court on behalf of the Bench.

**93. Authorising any member to pronounce order** (i) If the Members of the Bench who heard the case are not readily available or have ceased to be Members of the Appellate Tribunal, the President may authorise any other Member to pronounce the order on his behalf after being satisfied that the order has been duly prepared and signed by all the Members who heard the case;

(ii) The order pronounced by the Member so authorised shall be deemed to be duly pronounced;

(iii) The Member so authorised for pronouncement of the order shall affix his signature in the order sheet of the case stating that he has pronounced the order as provided in this rule;

(iv) If the order cannot be signed by reason of death, retirement or resignation or for any other reason by anyone of the Members of the Bench who heard the case, it shall be deemed to have been released from part heard and listed afresh for hearing.

**94. Recusal** - (1) For the purpose of maintaining the high standards and integrity of the Appellate Tribunal, the President or a Member of the Appellate Tribunal shall recuse himself:-

(a) in any cases involving persons with whom the President or the Member has or had a personal, familial or professional relationship;

(b) in any cases concerning which the President or the Member has previously been called upon in another capacity, including as advisor, representative, expert or witness; or

(c) if there exists other circumstances such as to make the President or the Member's participation seem inappropriate.

(2) The President or any Member recusing himself may record reasons for recusal:

**Provided** that no party to the proceedings or any other person shall have a right to know the reasons for recusal by the President or the Member in the case.

**95. Enlargement of time.** - Where any period is fixed by or under these rules, or granted by Appellate Tribunal for the doing of any act, or filing of any document or representation, the Appellate Tribunal may, in its discretion from time to time in the interest of justice and for reasons to be recorded, enlarge such period, even though the period fixed by or under these rules or granted by the Appellate Tribunal may have expired.

**96. Rectification of Order.** - (i) Any clerical or arithmetical mistakes in any order of the Appellate Tribunal or error therein arising from any accidental slip or omission may, at any time, be corrected by the Appellate Tribunal on its own motion or on application of any party by way of rectification.

(ii) An application under sub-Rule (i) may be made online which shall include all the information as prescribed in **GSTAT FORM-01** within one month from the date of the final order for rectification of the final order.

**97. General power to amend.** – The Appellate Tribunal may, within a period of thirty days from the date of completion of pleadings, and on such terms as to costs or otherwise, as it may think fit, amend any defect or error in any proceeding before it; and all necessary amendments shall be made for the purpose of determining the real question or issue raised by or depending on such proceeding.

**98. Making of entries by Court officer.** - Immediately on pronouncement of an order by the Bench, the Court officer shall make necessary endorsement on the case file regarding the date of such pronouncement, the nature of disposal and the constitution of the Bench pronouncing the order and he shall also make necessary entries in the court diary which shall include all the information as prescribed in **GSTAT REG-02** maintained by him.

**99. Transmission of order by the Court officer.** - (i) The Court officer shall immediately on pronouncement of order, transmit the order with the case file to the Deputy/ Assistant Registrar;

(ii) On receipt of the order from the Court officer, the Deputy/Assistant Registrar shall after due scrutiny, satisfy himself that the provisions of these rules have been duly complied with and in token thereof affix his initials with date on the outer cover of the order;

(iii) The Deputy/Assistant Registrar shall thereafter cause to transmit the case file and the order to the Registrar for taking steps to prepare copies and their communication to the parties.

**100. Format of order.** - (i) All orders shall be neatly and fairly typewritten in double space on one side only on durable foolscap folio paper of metric A-4 size (30.5 cm long and 21.5 cm wide) with left side margin of 5 cm and right-side margin of 2.5 cm. Corrections, if any, in the order shall be carried out neatly and sufficient space may be left both at the bottom and at the top of each page of the order to make its appearance elegant;

(ii) Members constituting the Bench shall affix their signatures in the order of their seniority from right to left.

**101. Indexing of case files after disposal.** - After communication of the order to the parties or authorised representative, the official concerned shall arrange the records with pagination and prepare in the Index Sheet in Format prescribed by the Appellate Tribunal. He shall affix initials and then transmit the records with the Index initials to the records room.

**102. Copies of orders in library.** - (i) The officer in charge of the Registry shall send copies of every final order to the library of the Appellate Tribunal;

(ii) Copies of all orders received in each month shall be kept at the library in a separate folder, arranged in the order of date of pronouncement, duly indexed and stitched;

(iii) At the end of every year, a consolidated index shall also be prepared and kept in a separate file in the library;

(iv) The order folders and the indices may be made available for reference in the library to the authorised representative.

**Chapter XIV:**  
**Goods and Services Tax Appellate Tribunal Orders**

**103. Register of Appeals, Petitions, etc.-** (i) A Register in **prescribed GSTAT REG-07 & 08** shall be maintained in regard to appeals, petitions, etc., against the orders of the Appellate Tribunal to the Hon'ble Supreme Court and Hon'ble High Courts and necessary entries therein be promptly made by the judicial branch;

(ii) The register shall be placed for scrutiny by the President/Vice President, as the case may be, in the first week of every month.

**104. Placing of order of Hon'ble Supreme Court and Hon'ble High Courts before the Appellate Tribunal** - Whenever an interim or final order passed by the Hon'ble Supreme Court/Hon'ble High Courts in an appeal or other proceeding preferred against a decision of the Appellate Tribunal is received, the same shall forthwith be placed before the President and same Bench of Members for information and kept in the relevant case file and immediate attention of the Registrar shall be drawn to the directions requiring compliance.

**105. Registrar to ensure compliance of Hon'ble Supreme Court or Hon'ble High Courts orders** - It shall be the duty of the Registrar to take expeditious steps to comply with the directions of the Hon'ble Supreme Court/Hon'ble High Courts matter pertains to the Appellate Tribunal.

**106. Fees** — (i) In respect of the several matters, there shall be paid fees as prescribed in the **Schedule of Fees** appended to these rules;

**Provided** that no fee shall be payable or shall be liable to be collected on a petition or application filed or reference made by any departmental authority connected with a matter in question before the Appellate Tribunal.

(ii) In respect of every interlocutory application, there shall be paid fees as prescribed in Schedule of Fees of these rules:

**Provided** that no fee shall be payable or shall be liable to be collected on a petition or application filed or reference made by any departmental authority connected with a matter in question before the Appellate Tribunal.

(iii) In respect of a petition or appeal or application filed or references made before the Principal Bench or the Bench of the Appellate Tribunal, fees referred to in this Part shall be paid by means of a bank demand draft or Indian Postal Order drawn in favour of the Pay and Accounts Officer, Ministry of Finance, New Delhi, as the case may be or as decided by the President.

**107. Award of costs in the proceedings** — (i) Whenever the Appellate Tribunal deems fit, it may award cost for meeting the legal expenses of the respondent of defaulting party.



(ii) The Appellate Tribunal may in suitable cases direct appellant or respondent to bear the cost of litigation of the other side, and in case of abuse of process of court, impose exemplary costs on defaulting party.

**108. Dress for the Members** — The dress for the Members shall be such as the President may prescribe.

**109. Dress for the parties** — Every authorised representative other than a relative or regular employee of a party shall appear before the Appellate Tribunal in his professional dress, if any, and, if there is no such dress, —

- (i) if a male, in a close-collared black coat, or in an open-collared black coat, with white shirt and black tie; or
- (ii) if a female, in a black coat over a white sari or any other white dress :

**Provided** that during the summer season from 15th April to 31st August, the authorised representatives may, when appearing before a Bench of the Appellate Tribunal, dispense with the wearing of a black coat.

Explanation. - For the purpose of this Rule, the expression, “regular employee of a party” shall not include a departmental officer who is appointed as an authorised representative.

**110. Removal of difficulties and issue of directions.**- Notwithstanding anything contained in the rules, wherever the rules are silent or not provisions is made, the President may issue appropriate directions to remove difficulties and issue such orders or circulars to govern the situation or contingency that may arise in the working of the Appellate Tribunal.

**111. Inspection by the President** – The President, Principal Bench, or any Judicial or Technical Member of the Principal Bench, nominated by the President, shall have the authority to inspect the office and proceedings of the State Benches, as per procedure & Rules for travel and inspection decided by the President and the Member of the Appellate Tribunal.

**GSTAT FORM -01**  
[See rule 18(L) and 37]

**Interlocutory Application to the Appellate Tribunal**

1. GSTIN/ Temporary ID /UIN –
2. Name of the appellant –
3. Address of the appellant –
4. Original Appeal Number-                      Date-
5. Date of last hearing –
6. Name of the representative –
7. Purpose of the Interlocutory application –
8. Whether the appellant wishes to be heard in person? -
9. Statement of facts -
10. Grounds of appeal -
11. Prayer -

Place:

Date:

**Signature**  
Name of the Applicant:  
Designation /Status:

**GSTAT FORM -02 - ORDER SHEET**

**[See rule 42]**

(in Appeal)

No..... Registrar

Appellate Tribunal

(Appellant)

Vs

(Respondent)

Sl. No., or Order and date	Brief order, mentioning Reference, if necessary	How complied with & date of compliance
1.	Form of Appeal presented by hand/ received by post/ Online from Appellant on.....has been registered. It is in order ..... It is not in order for the reasons stated. 1. 2. 3. 4.	For Deputy/ Assistant Registrar
2.	A copy of Order be sent to the respondent/appellant	For Deputy/Assistant Registrar  Dispatched on.....

**Format of Indexing**  
**[See rule 54 & 101]**

1. Appeal No.-
2. Appellants' Name(s), (GSTIN, if any) and Address –
3. Respondent name(s), (GSTIN, if any) and Address –
4. No. of Order in Appeal –
5. Period of dispute –
6. Section under which original order passed –
7. State Jurisdiction –
8. Bench to which assigned and whether single member case-
9. Name of Members -
10. Date of Hearings -
11. Interim Order, if any with date –
12. Date of final appeal order -
13. Nature of order allowed, partly allowed or dismissed –
14. Remarks –

**GSTAT FORM-03 - INSPECTION**  
**[See rule 55]**

**Application to the Registrar for inspection of records**

1. GSTIN/ Temporary ID /UIN –
2. Name of the appellant –
3. Address of the appellant –
4. Original Appeal/Order Number -                      Date-
5. Grounds of inspection –
6. Purpose of inspection –
7. Details of payment -
8. Detail of documents for inspection –
  - (i) .....
  - (ii) .....
  - (iii) .....
9. Remarks, if any -

Place:

Date:

**Signature**

Name of the Applicant:

Designation /Status:

<b><u>SCHEDULE OF FEES</u></b>			
<b>S.No.</b>	<b>Relevant Section/Rules</b>	<b>Nature of application / petition</b>	<b>Fees</b>
1.	Rule 55 of GSTAT Procedural Rules 2024	Application for Inspection of Records	5,000/-
2.	Rule 106(ii) of GSTAT procedural Rules 2024	Interlocutory Applications	5000/-
3.	Rule 110(5) of CGST/SGST/UTGST Rules 2017	Appeals to GSTAT	As per rule
4.	Application under any other provisions specifically not mentioned herein above		5,000/-
5.	Fee for obtaining certified true copy of final order passed to parties other than the concerned parties under Rule		5/- per page

**GSTAT FORM-04**  
**(see rule 60)**  
**Memorandum of appearance**

To  
The Registrar,  
The Goods and Services Tax Appellate Tribunal

In the matter of ..... Petitioner.  
Vs.  
.....Respondent  
(Appeal No. ....of 20.....)

Sir,

Please take notice that I, ....., authorised representative/ practising Chartered Accountant/practising Cost Accountant/ legal practitioner, duly authorised to enter appearance, and do hereby enter appearance, on behalf of ..... petitioner/ respondent/ Registrar/ Government of ..... in the above-mentioned petition.

\*A copy of the authorisation/vakalatnama passed by the Appellant/Respondent authorising me to enter appearance and to act for every purpose connected with the proceedings for the said party is enclosed, duly signed by me for identification.

Yours sincerely,

Dated ..... day of .....

Address:

Enclosure: as aforesaid Tele No.:

**GSTAT FORM-05**

**BEFORE THE GOODS AND SERVICES TAX APPELLATE TRIBUNAL**

**[See Rule 69]**

Certification when deponent is unacquainted with the language of the affidavit or is blind or illiterate.

Contents of the affidavit were truly and audibly read over/translated into ..... language known to the deponent and he seems to have understood the same and affixed his Left Thumb Impression/Signature/Mark.

(Signature)

Name and designation with date.



**GSTAT FORM-06 - SUMMONS**  
**BEFORE THE GOODS AND SERVICES TAX APPELLATE TRIBUNAL**  
**[See Rule 72]**

To,  
.....

Whereas the Appellate Tribunal suo motu or on consideration of the request made by Shri/ Smt/ M/s .....(Appellant/Respondent) having been satisfied that production of the following documents or records under your control or custody is necessary for proper decision of the above case, you are hereby directed to cause production of the said documents/records before this Tribunal /forward duly authenticated copies thereof on or before the .....day of.....20.....

(Enter description of documents requisitioned)

“By Order of Appellate Tribunal”

Registrar

**GSTAT FORM-07**  
**[See Rule 81]**  
**BEFORE THE GOODS AND SERVICES TAX APPELLATE TRIBUNAL**

**Appeal No..... of 20.....**

**Deposition of Petitioner's Witness/Respondent's Witness**

1. Name :

2. Father's/Mother's/Husband's Name :

3. Age :

4. Occupation :

5. Place of Residence and address :

6. Name of the Officer administering the

Oath / affirmation :

7. Name of the Interpreter if any, duly

Sworn/ solemnly affirmed :

Duly sworn/ solemnly/ affirmed

Examination-in-chief: By

Date:

.....

Cross-examination: By

.....

Re-examination, if any:

.....

**(Signature of the witness on each page)**

Statement of witness as recorded was read over/translated to the witness, who admitted it to be  
correct.

Signature of the Member of the Appellate Tribunal with date

**GSTAT FORM-08**  
**[See Rule 83]**  
**CERTIFICATE OF DISCHARGE**

Certified that ..... appeared before this Appellate Tribunal as a witness/in/Appeal No. ....of 20....., on behalf of the appellant or respondent as Court witness on this .....day of ....20..... and that he was relieved at .....on..... He was paid/not paid any T.A. and D.A. or allowance of Rs.....

**Date : Signature of the Registrar**

**(Seal of the Appellate Tribunal)**

**CAUSE LIST- GSTAT REG-01****[See rule 26]****Date:**

<b>Sl. No.</b>	<b>Court No. &amp; Time</b>	<b>Name of the Members</b>	<b>Appeal No.</b>	<b>Interlocutor y Application/ Main Application</b>	<b>Purpose</b>	<b>Section</b>	<b>Name of Parties</b>	<b>Name of AR for Petitioner/ Appellant</b>	<b>Name of counsel for Respondent</b>	<b>Remarks</b>

**GSTAT REG-02 - COURT DIARY****[See rule 41 & 98]**

Sl. No.	App eal No.	Appel lant/ Respo ndent	Time at which sitting of Bench commen ced	Time at which the Bench rose for lunch break	Time at which Bench re- assem bled	Time at whic h the Benc h finall y rose for the day	Wheth er the judgem ent is dictate d in the open court, if so by which Membe r and Which SPS/P A took dictatio n	If not, Mem ber to who m the case is assign ed for passi ng the order	Wheth er the matter is part- heard, if so the next date given for hearin g	Wheth er order is reserv ed, if so, the date of pronou nceme nt of the order	Whether matter is adjourne d with date then the next date of hearing	Init ials of Gaz ette d Off icer	Re m ar ks
<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>	<b>8</b>	<b>9</b>	<b>10</b>	<b>11</b>	<b>12</b>	<b>13</b>	<b>14</b>

**GSTAT-REG-03 - Register of Provisional Appeals**  
[See rule 47(a)]

Sl. No.	Prov. Appeal No.	Appellant's Name(s) and Address	Respondent name(s) and Address	No. of Order in Appeal	State Jurisdiction	Appeal accepted or rejected with date	Payment of fee	Remarks
1	2	3	4	5	6	7	8	9

**GSTAT-REG-04- Register of Appeals**  
[See rule 47(b)]

Sl. No.	Appeal No.	Appellants' Name(s) and Address	Respondent name(s) and Address	No. of Order in Appeal	Period of dispute	Section under which original order passed	State Jurisdiction	Bench to which assigned and whether single member case	Interim Order, if any with date	Date of final appeal order	Nature of order allowed, partly allowed or dismissed	Remarks
1	2	3	4	5	6	7	8	9	10	11	12	13

**GSTAT-REG-05 - Register of Interlocutory Appeals**  
[See rule 47(c)]

Sl. No.	Original Appeal No.	No. of Interlocutory Appeal	Appellant's Name(s) and Address	Respondent Name(s) and Address	Bench for which application/appeal filed	Date of order in interlocutory application	Order-whether allowed or dismissed, with date	Remarks
1	2	3	4	5	6	7	8	9

**GSTAT-REG-06- Register of Inspection**

**[See rule 59]**

S1. No.	No. of Applic ation with date	Name of Applicant and Address	No. of Appeal related, if any	Applicatio n dismissed / allowed with date	Payment of Fee	Date of Inspection & conclusion	Signature of the applicant	Inspection Supervisory Officer	Remar ks
1	2	3	4	5	6	7		8	9

**GSTAT REG- 07-SUPREME COURT**  
[See Rule 103]

Court No.	No. of Appeal Before the GSTAT	No. of Order in Appeal	Name of the Applicant/ Respondent	Date of dispatch of records to GSTAT	Date of receipt of records at GSTAT	Appeal of dismissed/ allowed with date	Interim Direction If any, with date	Final order in the appeal with date	Direction If any, for compliance by the Appellate Tribunal	Steps Taken for compliance	Remark
1	2	3	4	5	6	7	8	9	10	11	12

**GSTAT REG-08 – HIGH COURT**  
[See Rule 103]

Court No.	No. of Appeal Before the GSTAT	No. of Order in Appeal	Name of the Applicant/ Respondent	Date of dispatch of records to GSTAT	Date of receipt of records at GSTAT	Appeal of dismissed/ allowed with date	Interim Direction If any, with date	Final order in the appeal with date	Direction If any, for compliance by the Appellate Tribunal	Steps Taken for compliance	Remark
1	2	3	4	5	6	7	8	9	10	11	12



**Agenda Item 7(d): Relaxation in the eligibility criteria for selection to the post of Technical Member (State) of Goods and Services Tax Appellate Tribunal (GSTAT) for officers of the state of Goa.**

Post the recommendations of the GST Council, relaxation regarding eligibility criteria for selection of Technical Member (State) was conveyed to the State of Goa vide letter F. No. A 50050/102/2023-CESTAT-DOR dated 08.05.2024.

2. In this regard, it may be noted that the search for the Technical Member (State) of the respective State Benches is to be carried out by the concerned State. The eligibility for the Technical Member (State) is governed by section 110(1)(d) of the CGST Act which states as follows:-

A person shall not be qualified for appointment as-

*a Technical Member (State), unless he is or has been an officer of the State Government or an officer of All India Service, not below the rank of Additional Commissioner of Value Added Tax or the State goods and services tax or such rank, not lower than that of the First Appellate Authority, as may be notified by the concerned State Government, on the recommendations of the Council and has completed twenty-five years of service in Group A, or equivalent, with at least three years of experience in the administration of an existing law or the goods and services tax or in the field of finance and taxation in the State Government:*

*Provided that the State Government may, on the recommendations of the Council, by notification, relax the requirement of completion of twenty-five years of service in Group A, or equivalent, in respect of officers of such State where no person has completed twenty-five years of service in Group A, or equivalent, but has completed twenty-five years of service in the Government, subject to such conditions, and till such period, as may be specified in the notification.*

3. In this regard, a proposal was earlier received from Government of Goa which was duly brought before the GST Council for recommendations and as per the recommendations, the following approval was conveyed:

*"Proposal of the State of Goa for notifying an officer of the Commercial Tax Department of Goa, who has completed at least twenty-five years of service in the Government, as Gazetted Officer, to be eligible for the appointment as Technical Member (State) in the State Bench".*

4. Thereafter, another request was received from Government of Goa to relax the eligibility criteria of Technical Member (State) by replacing "an officer of the Commercial Tax Department of Goa" with "an officer of the Government of Goa". The following rationale has been provided by the State:

- i. the highest-level post under the Commercial Tax Department in State of Goa is of State Tax officer (STO) (Group 'B' Gazetted) and all other higher posts i.e. Deputy Commissioner of State Tax (Level 10, Gr. A Gazetted) and Additional Commissioner of State Tax (Level 11,

Gr. A Gazetted) are filled from the Goa Civil Services. The post of Commissioner of State Tax is filled from IAS Cadre.

- ii. Hence, any State Tax officer (STO), after rendering service as an STO for 5 years may get promotion to GCS holding the post of Junior Scale Officer (JSO) of GCS, even if he is posted as Deputy Commissioner of State Tax in this department, he belongs to Goa Civil service (GCS) and not Commercial Tax Department as such.
  - iii. Therefore, the relaxation for eligibility criteria of 25 years in Group 'A' was proposed to consider as 25 years of service in Group 'A' and Group B' under the Government of Goa and not in Commercial Tax Department of Government of Goa.
  - iv. However, the approval for the proposal of relaxation is received for notifying an "officer of the Commercial tax Department of Goa, who has completed at least of 25 years of service in the Government as Gazetted Officer" to be eligible for the appointment as Technical Member (State) in the State Bench.
  - v. It may therefore not be possible to find any Officer of Commercial Tax Department with 25 years' service as Gazetted Officer, because after promotion from the post of STO, the Officer goes into Goa Civil Service under Department of Personnel, Govt. of Goa. Similarly, it may not happen that after induction into GCS, the Officer may be posted under Commercial Tax Department continuously for such a long period.
5. It may be seen from section 110(1)(d) of the CGST Act that for an officer of the State Government to be nominated, the law provides that the officer should have ***"at least three years of experience in the administration of an existing law or the goods and services tax or in the field of finance and taxation in the State Government."***
6. Accordingly, approval of GST Council is sought for the proposal of Government of Goa for replacing the wordings **"an officer of the Commercial Tax Department of Goa"** with **"an officer of the Government of Goa"**. Accordingly, the revised wordings of the approval would stand amended as below:
- "Proposal of the State of Goa for notifying an officer of the Government ~~Commercial Tax Department~~ of Goa, who has completed at least twenty-five years of service in the Government, as Gazetted Officer, to be eligible for the appointment as Technical Member (State) in the State Bench"***
7. The approval would be subject to other terms and conditions as mentioned in section 110(1)(d) of the CGST Act.

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**Agenda Item 7(e): Relaxation in eligibility conditions for appointment of Technical Member (State) in GSTAT for the State of Jharkhand.**

In context of the GST Appellate Tribunal, it may be noted that where there are in-sufficient number of officers eligible for the post of the Technical Member (State) in the State, the criteria may be relaxed in accordance with the provisions of section 110(1)(d) and proviso thereof of the CGST Act, 2017. In this context, representation has been received from State of Jharkhand seeking such relaxation. Request letter of Jharkhand attached as **Annexure – 1**.

2. Section 110(1)(d), which provides for relaxation in the qualification for Technical Member (State), is as follows:

*110. (1) A person shall not be qualified for appointment as—*

a. ...

*(d) a Technical Member (State), unless he is or has been an officer of the State Government or an officer of All India Service, not below the rank of Additional Commissioner of Value Added Tax or the State goods and services tax or such rank, not lower than that of the First Appellate Authority, as may be notified by the concerned State Government, on the recommendations of the Council and has completed twenty-five years of service in Group A, or equivalent, with at least three years of experience in the administration of an existing law or the goods and services tax or in the field of finance and taxation in the State Government:*

*Provided that the State Government may, on the recommendations of the Council, by notification, relax the requirement of completion of twenty-five years of service in Group A, or equivalent, in respect of officers of such State where no person has completed twenty-five years of service in Group A, or equivalent, but has completed twenty-five years of service in the Government, subject to such conditions, and till such period, as may be*

*specified in the notification.*

3. Accordingly, Jharkhand state had requested for relaxations in the qualification of Technical Member (State) in respect of the number of years in Government be considered in place of number of years in Group A; and in respect of notifying the Joint Commissioner as the rank of officer eligible for Technical Member State in Jharkhand. State has confirmed that there is no officer currently meeting the present criteria. State has also verbally confirmed that the present first Appellate Authority in the State is of the rank of Joint Commissioner.

4. In light of the above, and as the process of appointment of Members of the GSTAT are to be expedited, approval of GST Implementation Committee was sought on the proposal. The request sought was for a period of ten years, and the details of the same is placed below:

- i. To notify an officer of the Commercial Tax Department of Jharkhand, who has completed ***at least twenty-five years of service in the Government, as Gazetted Officer***, to be eligible for the appointment as Technical Member (State); and
- ii. To notify the rank of an officer of the State of Jharkhand, not below the rank of “Joint Commissioner of State Tax”, as a minimum qualifying rank of the officer who shall be

eligible for Technical Member (State) subject to other conditions of section 110(1)(d) of the CGST Act, 2017.

5. The same was approved by GIC [attached as **Annexure – 2**], subject to post-facto approval of the GST Council, and was conveyed to the State. Accordingly, the Agenda Note is placed for post-facto approval of the GST Council on Relaxation of eligibility criteria of Technical Member (State) for GST Appellate Tribunal for the State of Jharkhand, as detailed in para 4, earlier provided by the GIC. The said relaxation is applicable for a period of ten years and is subject to the other terms and conditions of section 110(1)(d) of the CGST Act, 2017.

\*\*\*\*\*

झारखण्ड सरकार  
वाणिज्य-कर विभाग।

पत्र संख्या-वाकर/संशोधन/04/2023 (खण्ड-1)- 715 /राँची, दिनांक-30/05/2024

प्रेषक,

विप्रा भाल  
सचिव,  
वाणिज्य-कर विभाग,  
झारखण्ड, राँची।

सेवा में,

सचिव,  
माल और सेवा कर परिषद्  
भारत सरकार, नई दिल्ली।

विषय GST Tribunal में Technical Member (State) के चयन हेतु अहर्ता संबंधी प्रावधानों को शिथिल करने के सम्बन्ध में।


महोदय,

उपर्युक्त विषय के संबंध में कहना है कि केन्द्र सरकार द्वारा CGST Act, 2017 की धारा 109 (4) के तहत प्रदत्त शक्ति के आधार पर अधिसूचना संख्या-एस0ओ0 4073(E) F.No. A 50050/150/2018-CESTAT-DOR दिनांक 14.09.2023 द्वारा माल और सेवा कर अपीलीय अधिकरण (GSTAT) झारखण्ड राज्य हेतु राँची में एक बेंच को अधिसूचित किया गया है।

पुनः सीजीएसटी अधिनियम के धारा 110 की उपधारा (1) के खण्ड (घ) में Technical Member (State) की नियुक्ति हेतु उनकी योग्यता के संबंध में वर्णित प्रावधान निम्न प्रकार है:-

"Section 110- (1)(d) a Technical Member (State), unless he is or has been an officer of the State Government or an officer of All India Service, not below the rank of Additional Commissioner of Value Added Tax or the State goods and services tax or such rank, not lower than that of the First Appellate Authority, as may be notified by the concerned State Government, on the recommendations of the Council and has completed twenty-five years of service in Group A, or equivalent, with at least three years of experience in the administration of an existing law or the goods and services tax or in the field of finance and taxation in the State Government:

Provided that the State Government may, on the recommendations of the Council, by notification, relax the requirement of completion of twenty-five years of service in Group A, or equivalent, in respect of officers of such State where no person has completed twenty-five years of service in Group A, or equivalent, but has completed twenty-five years of service in the Government, subject to such conditions, and till such period, as may be specified in the notification."





उल्लेखनीय है कि झारखण्ड राज्य में वाणिज्य-कर विभाग में कार्यरत सेवा संवर्ग के अनुरूप कोई भी पदाधिकारी 25 वर्षों का कार्यकाल ग्रुप 'ए' सेवा संवर्ग के रूप में पूरी नहीं कर पाये हैं। साथ ही, विभाग में कार्यरत कोई भी पदाधिकारी नियमित अपर आयुक्त (Additional Commissioner) के रूप में कार्यरत नहीं हैं।

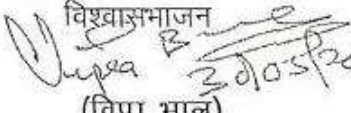
उपर्युक्त परिस्थिति में झारखण्ड वित्त सेवा संवर्ग का कोई भी पदाधिकारी Technical Member (State) के लिए अहर्ता पूरी नहीं कर पा रहे हैं।

उपरोक्त के आलोक में झारखण्ड राज्य के लिए GST Tribunal में Technical Member (State) के चयन हेतु अहर्ता में निम्नवत् शिथिलीकरण अपेक्षित है:-

1. 25 वर्षों की ग्रुप-ए की सेवा शर्त के स्थान पर सरकारी सेवा में कुल 25 वर्ष की सेवा अवधि पूरी करता हो।
2. अपर आयुक्त के स्थान पर अपर आयुक्त या संयुक्त आयुक्त का प्रतिस्थापन।

उपर्युक्त शिथिलीकरण अगले 10 वर्षों तक के लिए रखी जाय।

अतः अनुरोध है कि उपर्युक्त प्रस्तावों के अनुमोदन हेतु जीएसटी परिषद के समक्ष आवश्यक कार्रवाई हेतु रखने की कृपा की जाय।

विश्वासभाजन  
  
(विप्रा भाल)  
सचिव।

11/25/24, 5:43 PM

Email

Email

Ankur Gautam

**Fwd: GIC Agenda Note on "Request for relaxation in the eligibility criteria for selection to the post of Technical Member (State) in GSTAT-Jharkhand" - Approval reg.**

**From :** KULDEEP Chaudhary <kuldeep.parcha@nic.in> Fri, Nov 22, 2024 03:34 PM  
**Subject :** Fwd: GIC Agenda Note on "Request for relaxation in the eligibility criteria for selection to the post of Technical Member (State) in GSTAT-Jharkhand" - Approval reg. 📎 1 attachment  
**To :** Ankur Gautam <ankur.gautam@nic.in>  
**Cc :** Vikash Kumar <vikashkumar.irs@gov.in>

Urgent On file.

===== Forwarded message =====

From: Manoj Kumar Singh <dir-coord-dor@gov.in>  
 To: "KULDEEP Chaudhary" <kuldeep.parcha@nic.in>  
 Date: Fri, 22 Nov 2024 15:25:11 +0530  
 Subject: Fwd: GIC Agenda Note on "Request for relaxation in the eligibility criteria for selection to the post of Technical Member (State) in GSTAT-Jharkhand" - Approval reg.  
 ===== Forwarded message =====

Director(Vigilance & Coord.)  
 Department of Revenue  
 Ministry of Finance

**From:** "Shri Naval Kishore Ram" <jsrev@nic.in>  
**To:** "Manoj Kumar Singh" <dir-coord-dor@gov.in>  
**Cc:** "KULDEEP Chaudhary" <kuldeep.parcha@nic.in>  
**Sent:** Friday, November 22, 2024 3:12:03 PM  
**Subject:** Fwd: GIC Agenda Note on "Request for relaxation in the eligibility criteria for selection to the post of Technical Member (State) in GSTAT-Jharkhand" - Approval reg.

**From:** "GST Council Secretariat" <gstc.secretariat@gov.in>  
**To:** "Shri Naval Kishore Ram" <jsrev@nic.in>, <ceo@gstn.org.in>  
**Cc:** "Pankaj Kumar Singh" <pankajksingh@nic.in>, "Sumidaa Devi B" <sumidaadevi.b@gov.in>, "Shaifali" <shaifali.singh@gov.in>, "Vikash Kumar" <vikashkumar.irs@gov.in>, "RESHMA R KURUP" <r.kurup@gov.in>  
**Sent:** Friday, November 22, 2024 2:20:25 PM

<https://email.gov.in/h/printmessage?id=55000&tz=Asia/Kolkata&xim=1>

1/2



**Subject:** GIC Agenda Note on "Request for relaxation in the eligibility criteria for selection to the post of Technical Member (State) in GSTAT-Jharkhand" - Approval reg.

Sir/Madam,

1. The undersigned is directed to convey the approval of members of the GIC and concurrence of the Hon'ble Union Finance Minister (Chairperson, GST Council) for GIC agenda having subject - Request for relaxation in the eligibility criteria for selection to the post of Technical Member (State) in GSTAT-Jharkhand
2. The same is shared for information and further necessary action at your end.
3. This issues with the approval of the competent authority.

Thanks and Regards  
Vineet Kumar  
Superintendent  
--

**GST Council Secretariat**

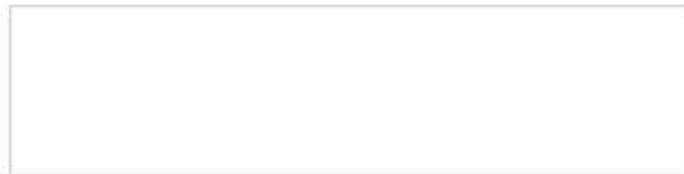
5th Floor, Tower II, Jeevan Bharti Building  
Janpath Road, Connaught Place, New Delhi-110 001  
Email: [gstc\[dot\]secretariat\[at\]gov\[dot\]in](mailto:gstc[dot]secretariat[at]gov[dot]in)  
Telephone No. : 011-23762656



पेड़ बचाओ ... कृपया इस ई-मेल को तब तक प्रिंट न करें जब तक आपको आवश्यकता न हो।



**Save a tree...Please don't print this e-mail unless you really need to.**



**Agenda Note dated 16.10.24.pdf**  
1 MB



F. No. A-50050/102/2023-CESTAT-DOR-DOR  
Government of India  
Ministry of Finance  
Department of Revenue  
\*\*\*\*\*

North Block, New Delhi - 110001



To,  
The,  
Under Secretary,  
GST Council Secretariat,  
5<sup>th</sup> Floor, Tower-2, Jeevan Bharti Building,  
Janpath Road, Connaught Place,  
New Delhi - 110001

Madam/Sir,

Subject: Relaxation in the eligibility criteria for selection to the post of Technical Member (State) in Goods and Services Tax Appellate Tribunal (GSTAT)-reg.

Kindly refer to the subject.

2. In this regard, I am directed to forward the Agenda Note on relaxing the eligibility criteria for selection to the post of Technical Member (State) in GSTAT, which is to be placed before GST Implementation Committee (GIC) subject to approval of GST Council.
3. This carries the approval of the competent authority.

Yours faithfully,

(Kuldeep Chaudhary)  
Under Secretary to the Government of India  
Tel: 011-23095369

Copy to:

The Commissioner,  
GST Policy Wing,  
North Block, New Delhi - 110001

## Agenda Note

### GST Implementation Committee

#### **Introduction – Status Update**

The GST Council in its 52<sup>nd</sup> meeting held on 07.10.2023, recommended amendments in Section 110 of the CGST Act to align the provisions of the CGST Act, 2017 ( *in respect of Appointment of President and Member of the proposed GST Appellate Tribunals*) with the provisions of the Tribunal Reforms Act, 2021. Accordingly, the said amendments were carried out vide Central Goods and Services Tax (2<sup>nd</sup> Amendment), 2023 and the same was enacted on 28.12.2023.

2. Thereafter, post the notification for the constitution of the Principal Bench and the State Benches of GSTAT, the President of the GSTAT was appointed. Thereafter, the process of search, selection and appointment of 63 Judicial Members, 32 Technical Member (Centre) and 1 Technical Member (State), to be done by the Centre, has also been initiated which is likely to be completed soon.

3. In addition to the above, work on search and selection of Technical Member (State) for the 31 State Benches is being carried out by the States vide the respective State level ScSCs constituted for the same. The States are required to formulate their respective ScSCs and carry out the process for selection of a panel of 2 names for each post of Technical Member (State); which will then be sent to the Appointments Committee of the Cabinet for selection and appointment of the 31 Technical Members (State).

#### **Approval of the GST Implementation Committee sought on Relaxation regarding eligibility of Technical Member (State) earlier provided by the GIC**

4. In this context, representation has been received from State of Jharkhand informing that they have observed that there are in-sufficient number of officers eligible for the post of the Technical Member (State) in the State, and therefore, the criteria may be relaxed in accordance with the provisions of section 110(1)(d) and proviso thereof of the CGST Act, 2017. Section 110(1)(d), which provides for relaxation in the qualification for Technical Member (State), is as follows:

110. (1) A person shall not be qualified for appointment as—

a. ...

(d) a Technical Member (State), unless he is or has been an officer of the State Government or an officer of All India Service, not below the rank of Additional Commissioner of Value Added Tax or the State goods and services tax or such



*rank, not lower than that of the First Appellate Authority, as may be notified by the concerned State Government, on the recommendations of the Council and has completed twenty-five years of service in Group A, or equivalent, with at least three years of experience in the administration of an existing law or the goods and services tax or in the field of finance and taxation in the State Government:*

*Provided that the State Government may, on the recommendations of the Council, by notification, relax the requirement of completion of twenty-five years of service in Group A, or equivalent, in respect of officers of such State where no person has completed twenty-five years of service in Group A, or equivalent, but has completed twenty-five years of service in the Government, subject to such conditions, and till such period, as may be*

*specified in the notification.*

5. Accordingly, Jharkhand state had requested for relaxations in the qualification of Technical Member (State) in respect of the number of years in Government be considered in place of number of years in Group A; and in respect of notifying the Joint Commissioner as the rank of officer eligible for Technical Member State in Jharkhand. State has confirmed that there is no officer currently meeting the present criteria. State has also verbally confirmed that the present first Appellate Authority in the State is of the rank of Joint Commissioner.

6. In light of the above, approval of GST Implementation Committee is sought for the following proposals for a period of ten years:

- i. To notify an officer of the Commercial Tax Department of Jharkhand, who has completed **at least twenty-five years of service in the Government, as Gazetted Officer**, to be eligible for the appointment as Technical Member (State); and
- ii. To notify the rank of an officer of the State of Jharkhand, not below the rank of "Joint Commissioner of State Tax", as a minimum qualifying rank of the officer who shall be eligible for Technical Member (State) subject to other conditions of section 110(1)(d) of the CGST Act, 2017.

7. Agenda note placed for the perusal and approval of GIC please. The same shall be placed before the GST Council in its next meeting.

\*\*\*\*\*



झारखण्ड सरकार  
वाणिज्य-कर विभाग।

(172)

पत्र संख्या-चाकर/संशोधन/04/2023 (खण्ड-1)- 715 / रॉची, दिनांक-30/05/2024

प्रेषक,

विप्रा भाल  
सचिव,  
वाणिज्य-कर विभाग,  
झारखण्ड, रॉची।

सेवा में,

सचिव,  
माल और सेवा कर परिषद्  
भारत सरकार, नई दिल्ली।

विषय GST Tribunal में Technical Member (State) के चयन हेतु अहर्ता संबंधी प्रावधानों को शिथिल करने के सम्वन्ध में।

महोदय,

उपर्युक्त विषय के संबंध में कहना है कि केन्द्र सरकार द्वारा CGST Act, 2017 की धारा 109 (4) के तहत प्रदत्त शक्ति के आधार पर अधिसूचना संख्या-एस03ओ0 4073(E) F.No. A 50050/150/2018-CESTAT-DOR दिनांक 14.09.2023 द्वारा माल और सेवा कर अपीलीय अधिकरण (GSTAT) झारखण्ड राज्य हेतु रॉची में एक बेंच को अधिसूचित किया गया है।

पुनः सीजीएसटी अधिनियम के धारा 110 की उपधारा (1) के खण्ड (घ) में Technical Member (State) की नियुक्ति हेतु उनकी योग्यता के संबंध में वर्णित प्रावधान निम्न प्रकार है:-

"Section 110- (1)(d) a Technical Member (State), unless he is or has been an officer of the State Government or an officer of All India Service, not below the rank of Additional Commissioner of Value Added Tax or the State goods and services tax or such rank, not lower than that of the First Appellate Authority, as may be notified by the concerned State Government, on the recommendations of the Council and has completed twenty-five years of service in Group A, or equivalent, with at least three years of experience in the administration of an existing law or the goods and services tax or in the field of finance and taxation in the State Government;

Provided that the State Government may, on the recommendations of the Council, by notification, relax the requirement of completion of twenty-five years of service in Group A, or equivalent, in respect of officers of such State where no person has completed twenty-five years of service in Group A, or equivalent, but has completed twenty-five years of service in the Government, subject to such conditions, and till such period, as may be specified in the notification."



उल्लेखनीय है कि झारखण्ड राज्य में वाणिज्य-कर विभाग में कार्यरत सेवा संवर्ग के अनुरूप कोई भी पदाधिकारी 25 वर्षों का कार्यकाल ग्रुप 'ए' सेवा संवर्ग के रूप में पूरी नहीं कर पाये हैं। साथ ही, विभाग में कार्यरत कोई भी पदाधिकारी नियमित अपर आयुक्त (Additional Commissioner) के रूप में कार्यरत नहीं हैं।

उपर्युक्त परिस्थिति में झारखण्ड वित्त सेवा संवर्ग का कोई भी पदाधिकारी Technical Member (State) के लिए अहर्ता पूरी नहीं कर पा रहे हैं।

उपरोक्त के आलोक में झारखण्ड राज्य के लिए GST Tribunal में Technical Member (State) के चयन हेतु अहर्ता में निम्नवत् शिथिलीकरण अपेक्षित है:-

1. 25 वर्षों की ग्रुप-ए की सेवा शर्त के स्थान पर सरकारी सेवा में कुल 25 वर्ष की सेवा अवधि पूरी करता हो।
2. अपर आयुक्त के स्थान पर अपर आयुक्त या संयुक्त आयुक्त का प्रतिस्थापन।

उपर्युक्त शिथिलीकरण अगले 10 वर्षों तक के लिए रखी जाय।

अतः अनुरोध है कि उपर्युक्त प्रस्तावों के अनुमोदन हेतु जीएसटी परिषद के समक्ष आवश्यक कार्रवाई हेतु रखने की कृपा की जाय।

विश्वासभाजन  
26/05/2021  
(विप्रा भाल)  
सचिव।

**Agenda Item 7(f): Status Report of GoM on restructuring Compensation Cess.**

1. GST Council in its 54th GST Council Meeting held on 09.09.2024 in New Delhi recommended to constitute a Group of Ministers (GoM) to make taxation proposal to replace the Compensation Cess after its abolition. Accordingly, a Group of Ministers has been constituted under the chairmanship of Hon'ble Union Minister of State for Finance [OM for constitution of GoM on restructuring of Compensation Cess].
2. The First and second meeting of the GoM have taken place on 16.10.2024 and 12.12.2024 respectively. Deliberations were primarily on the following issues:
  - i. Recommendation on the treatment of the levy and collection of Cess under the present law for FY 2025-26 and manner of distribution of surplus, if any, at the end March 2026 by which the current levy would lapse.
  - ii. Recommendation on the future course of action post abolition of Cess (i.e. after 31.03.2026).
3. On the issue of levy and collection of cess for the FY 2025-26, the GoM recommends that the Cess at the present rates should be continued until 31.03.2026. As regards the surplus or excess collection, if any of Cess remaining in the Cess Account at the end of the transition period after meeting the obligations of back to back loan (including interest thereon), the GoM agreed that the same be distributed between the Centre and the States in the ratio of 50:50 as provided under section 10(3) of the GST Compensation to Cess Act, 2017
4. The Ministers felt that more time is required to examine the second issue (i.e) the future course of action post abolition of Cess as it requires analysis of Constitutional, Legal and operational issues of impact on State revenues. Accordingly, GoM decided to seek an extension of time upto June 30, 2025 from the GST Council.
5. Accordingly, the GoM's recommendation in para 3 above and the proposal in para 4 for extension of tenure of GoM on restructuring Compensation Cess upto 30<sup>th</sup> June 2025 are placed before the GST Council for approval.

\*\*\*\*\*



**OFFICE OF THE GOODS & SERVICES TAX COUNCIL  
SECRETARIAT**

5th Floor, Tower-II, Jeevan Bharti Building, Connaught Place, New Delhi-110001

407/GoMonCompensatonCess/GTSC/2024

September 25, 2024

**OFFICE MEMORANDUM**

**Subject: Constitution of Group of Ministers (GoM) on restructuring Compensation Cess**

In its 54<sup>th</sup> Meeting held on 09.09.2024 in New Delhi, the GST Council discussed the need for a comprehensive deliberation on compensation cess.

2. In the aforesaid meeting, the GST Council recommended to constitute a GoM to make taxation proposal to replace the compensation cess after its abolition. Accordingly, a Group of Ministers is hereby constituted with the following composition:

S No	Name	Designation and State	Position
1	Sh. Pankaj Chaudhary	Union Minister of State for Finance, Government of India	<b>Convenor</b>
2	Smt. Ajanta Neog	Minister of Finance and Women and Child Development, Assam	Member
3	Sh. Om Prakash Choudhary	Minister of Finance, Chhattisgarh	Member
4	Sh. Kanubhai Desai	Minister of Finance and Energy, Gujarat	Member
5	Sh. Krishna Byre Gowda	Minister of Revenue, Karnataka	Member
6	Sh. Jagdish Devda	Deputy Chief Minister and Minister of Finance, Madhya Pradesh	Member
7	Sh. Harpal Singh Cheema	Minister of Finance, Punjab	Member
8	Sh. Thangam Thennarasu	Minister of Finance and Human	Member

		Resources Management, Tamil Nadu	
9	Sh. Suresh Kumar Khanna	Minister of Finance and Parliamentary Affairs, UP	Member
10	Smt. Chandrima Bhattacharya	Minister of Finance, West Bengal	Member

3. The Terms of Reference of the GoM is to make taxation proposal to replace compensation cess after its abolition.
4. The GoM is to submit the report by 31<sup>st</sup> December 2024.
5. Department of Revenue shall provide necessary secretarial assistance to the GoM.

This issues with the approval of the competent authority.

Signed by Reshma R Kurup

Date: 25-09-2024 17:28:45

RESHMA R KURUP  
UNDER SECRETARY

To,

The Hon'ble Members of the GoM.

Copy to:

1. PS to Hon'ble Minister of Finance, Government of India, North Block, New Delhi;
2. PS to Hon'ble Minister of State (Finance), Government of India, North Block, New Delhi;
3. The Nodal Officers of the States of Assam, Chhattisgarh, Gujarat, Karnataka, Madhya Pradesh, Punjab, Tamil Nadu, Uttar Pradesh, West Bengal with the request to intimate the Hon'ble Minister regarding their nomination as Members of the Group of Minister on restructuring Compensation Cess.
4. PPS to The Revenue Secretary, North Block, New Delhi
5. PPS to Chairman, CBIC, North Block, New Delhi
6. PPS to Additional Secretary (Revenue), North Block, New Delhi
7. PPS to Joint Secretary (Revenue), North Block, New Delhi
8. PPS to Joint Secretary (TPRU), Jeevan Bharti Building, New Delhi
5. Nodal officers of all the States.

UNDER SECRETARY



## **Agenda Item 8: Issues recommended by GSTN.**

### **Agenda Item 8(a): B2C e-Invoicing.**

1. In the 54th meeting of the GST Council held on 9th September 2024, the Council had provided in-principle approval for the implementation of B2C e-Invoicing in India on a voluntary basis, for States willing to implement such a project.
2. GSTN is in the advanced stages of developing the proof of concept. Given that B2C e-Invoicing is a large-scale initiative, it is imperative to assess and evaluate the various technology options and implementation methodologies adopted for B2C e-invoicing in other countries in order to learn from such global experience, identify best practices, and integrate these insights into India's B2C e-Invoicing framework.
3. In order to facilitate this evaluation, it is proposed that GSTN conduct a global technology and policy framework evaluation of B2C e-Invoicing implementation in other countries. For this purpose, a few delegations comprising representatives from GSTN, the Department of Revenue, CBIC, and commercial tax departments of States/UTs may visit countries like South Korea, Brazil, Chile, the Russian Federation, Mexico, Saudi Arabia, etc to carry out the evaluation. To maximize knowledge-sharing and insights, it is proposed that each delegation visiting a specific country would include new members.
4. Accordingly, approval of the Council is sought for the above proposal.

\*\*\*

### **Agenda Item 8(b): Successful Rollout of IMS.**

1. In the 54th meeting of the GST Council, it was informed that the IMS (Invoice Management System) would be rolled out by GSTN as an optional facility. In this regard, GSTN has informed that the functionality has been rolled out for the return period of October, 2024 and is now live on the GST portal.

2. GSTN has made available the following features in the IMS:

- i . **Actions (Accept/Reject/Pending):** Taxpayers can take these actions from October 15, 2024, on records saved in GSTR-1/IFF/1A by the supplier taxpayer until the recipient taxpayer files their corresponding GSTR-3B.
- ii. **Deemed Accepted:** At the time of GSTR-2B generation, a record would be considered "Deemed Accepted" if no action is taken on that record in IMS.
- iii. **GSTR-2B Generation:** Based on actions taken, the first GSTR-2B for the October 2024 period was generated on 14 November 2024.
- iv. **Recomputing GSTR-2B:** Taxpayers can take actions on the draft GSTR-2B and recompute it based on changed actions anytime until filing GSTR-3B.
- v. **User Adoption:** Approximately 5.26 lakh taxpayers have used IMS to take some action on the records uploaded (as of 20 November 2024).
- vi. **Supplier View:** The Supplier View of IMS is available on the UI, allowing suppliers to see the actions taken by their recipients on records/invoices reported in GSTR-1/1A/IFF.

3. The October GSTR-3B has been successfully filed by taxpayers using IMS. GSTN continues to provide support to taxpayers in navigating any IMS-related difficulties. Further, the following enhancements are in the pipeline for IMS and would be rolled out successively:

- i. **Handling of Credit Notes:** Taxpayers would have the option to keep credit notes pending until a specified time. Additionally, for cases where ITC has not been availed or has been permanently reversed, taxpayers would be given the option to not decrease the ITC on accepting the credit note.
- ii. **Offline Tool:** An offline tool would be introduced to handle bulk data
- iii. **Rejected Section in GSTR-2B:** A new section in GSTR-2B would display all rejected records by recipient taxpayers.
- iv. **Supplier View for GSPs:** Extension of Supplier View functionality to GSPs.

### **4. Proposal before the GST Council**

The updated status on the successful rollout of IMS along with the proposed enhancements is submitted for information of the GST Council.

\*\*\*

**Agenda Item 9: Performance Report of Competition Commission of India (CCI), State Level Screening Committee (SLSC), Standing Committee (SC) and DG (Anti-Profiteering) for 2<sup>nd</sup> Quarter (July-September) of the F.Y 2024-25 for information of the GST Council.**

The performance report of Anti-profiteering authorities at various levels for the 2<sup>nd</sup> Quarter (July to September, 2024) of the Financial Year 2024-25 are as under:

**2.1 Performance of Competition Commission of India (CCI):**

Opening Balance	No. of Investigation Reports received from DGAP during the quarter	Disposal of Cases (During Quarter)				Closing Balance
		Total Disposal during the Quarter	No. of cases where Profiteering established	No. of cases where Profiteering not established	No. of cases referred back to DGAP	
Quarter 1 <sup>st</sup> July, 2024 to 30 <sup>th</sup> September, 2024						
53	3	10	4	2	4*	46

\*2 out of 4 cases which pertain to real estate sector have been sent back to DGAP for re-investigation for re-working the profiteered amount in terms of judgement dated 29.01.2024 of Hon'ble Delhi High Court and remaining 2 cases which pertain to non-real estate sector have been sent back to DGAP for re-investigation on case specific issues.

**2.2 Performance of DG (Anti-profiteering):**

Opening Balance (No. of cases)	Receipt	Disposal	Mode of disposal of cases		Closing Balance (No. of cases)
			Report to CCI confirming profiteering	Report to CCI for closure action	
Quarter 1 <sup>st</sup> July, 2024 to 30 <sup>th</sup> September, 2024					
141	18	3	0	3	156

**2.3 Performance report of the Standing Committee on Anti-profiteering:**

Opening Balance (No. of cases)	Receipt	Disposal	Closing Balance (No. of cases)
<b>Quarter 1<sup>st</sup> July, 2024 to 30<sup>th</sup> September, 2024</b>			
128	63	97	94

## 2.4 Performance report from the State Level Screening Committee:

Opening  Balance (No. of cases)	Receipt	Disposal		Closing
		Cases referred to Standing Committee	Cases Rejected	Balance (No. of cases)
Quarter 1 <sup>st</sup> July, 2024 to 30 <sup>th</sup> September, 2024				
175	70	4	162	79
*Report from the Kerala State Screening has not been received # The Opening Balance stands revised from 173 to 175 (closing balance of 1 <sup>st</sup> quarter of 2024-25 was 173), as the Karnataka SLSC has now reported 2 cases, which were not reported earlier				

3. During the quarter, CCI has undertaken the following activities/initiatives-

### **The Quarterly Performance report for the 2<sup>nd</sup> quarter (July - September) of the F.Y 2024-25 is submitted as under:-**

i. The mandate to examine profiteering was vested with Competition Commission of India (CCI) w.e.f. 01.12.2022, as per the Notification No. 23/2022- Central Tax dated 23.11.2022 issued by Central Board of Indirect Taxes and Customs, Department of Revenue, Ministry of Finance. The required quorum in the CCI to proceed with the anti-profiteering matters was restored w.e.f. 23.05.2023 with the joining of the Chairperson. Proceedings in anti-profiteering cases had commenced w.e.f. 22.06.2023 and the CCI had passed 54 orders in anti-profiteering cases till 30.09.2024.

ii. W.e.f. 01.10.2024, the Principal Bench of the Goods and Services Tax Appellate Tribunal (**GSTAT**) has been empowered to examine profiteering as per the Notification No. 18/2024- Central Tax dated 30.09.2024 issued by Central Board of Indirect Taxes and Customs, Department of Revenue, Ministry of Finance.

iii. 6 Final Orders and 2 Interim Orders have been passed by the CCI during the quarter ending on 30.09.2024. As on 30.09.2024, 46 cases of anti-profiteering were pending with CCI. During the quarter ending on 30.09.2024, 2 cases of real estate sector viz. M/s Lotus Realtech and M/s Royale Urban Space LLP have been sent back to the DGAP for re- investigation for re-working the profiteered amount in terms of judgement dated 29.01.2024 of Hon'ble Delhi High Court.

iv. Six Ordinary meetings of the CCI were held during the quarter ending on 30.09.2024. Therefore, a total of 42 Ordinary meetings were held by the CCI w.e.f. 01.12.2022 till 30.09.2024.

- v. 1 hearing in a case was accorded by the CCI during the quarter ending on 30.09.2024. In total 44 hearings were given by the CCI w.e.f. 01.12.2022 till 30.09.2024.
- vi. W.e.f. 01.12.2022 till 30.09.2024, 149 complaints have been forwarded to the respective Authorities for further necessary action. For the quarter ending on 30.09.2024, out of 11 complaints, 6 complaints relating to profiteering in terms of Section 171 of the CGST Act, 2017 were forwarded to respective Screening Committees/Standing Committee for further action/examination and 5 complaints which related to other GST/Enforcement issues were forwarded to the Jurisdictional State & Central GST Commissioners/Chief Commissioners for necessary action.
4. Accordingly, the Performance Report of Competition Commission of India (CCI), State Level Screening Committee (SLSC), Standing Committee (SC) and DG (Anti-Profiteering) for 2<sup>nd</sup> Quarter (July-September) of the F.Y 2024- 25 are placed before the GST Council for information.

\*\*\*

**Agenda Item 10: Ad-hoc Exemption Orders issued under section 25 (2) of the Customs Act, 1962 to be placed before the Council for information**

In the 26th GST Council meeting held on 10<sup>th</sup> March, 2018, it was decided that all *ad-hoc* exemption orders issued with the approval of Hon'ble Finance Minister as per the guidelines contained in Circular No. 09/2014-Customs dated 19<sup>th</sup> August, 2014, as was the case prior to the implementation of GST, shall be placed before the GST Council for information.

2. The details of the *ad-hoc* exemption orders issued recently are as follows:

Order No.	Date	Remarks
AEO No. 6 of 2024	18.10.2024	Request from MEA for <i>ad-hoc</i> exemption from export duty under Section 25 (2) of the Customs Act, 1962 for humanitarian assistance to Zimbabwe, Malawi, Zambia and Namibia in the form of food grains
AEO No. 7 of 2024	27.11.2024	Request for <i>ad-hoc</i> exemption for import of instruments for implementation of pilot project on Glacial Lake Outburst Flood (GLOF) risk in Sikkim

3. This is placed for the information of GST Council.

**F. No. 462/07/2024-Cus.V**  
**Ad-hoc Exemption Order No. 6 of 2024**  
**Issued under section 25(2) of the Customs Act, 1962**

**Government of India**  
**Ministry of Finance**  
**Department of Revenue**

Room no. 227A, North Block, New Delhi – 110001

Dated the 18th October 2024

To,

The Chief Commissioner of CGST and Customs,  
Nagpur Zone

Madam/Sir,

**Subject: Request from MEA for ad-hoc exemption from export duty under Section 25 (2) of the Customs Act, 1962 for humanitarian assistance to Zimbabwe, Malawi, Zambia and Namibia in the form of food grains – reg.**

The undersigned is directed to refer to a request received from Ministry of External Affairs (MEA) for ad-hoc exemption from export duty under Section 25 (2) of the Customs Act, 1962 for humanitarian assistance to Zimbabwe, Malawi, Zambia and Namibia in the form of food grains. Copy of MEA's letter No. Q/RRC/124/08/2024 dated 23.08.2024 is enclosed.

2. MEA has informed that Government of India is providing urgent humanitarian assistance to below mentioned countries with the approval of the Hon'ble Minister of External Affairs and Foreign Secretary:

S.No.	Country	Commodity	Quantity
1	Malawi	Non-Basmati White Rice	1000 MT
2	Zimbabwe	Non-Basmati White Rice	1000 MT
3	Zambia	Yellow Maize	2500 MT
4	Namibia	Non-Basmati White Rice	1000 MT
		Yellow Maize	1000 MT

3. In view of the exceptional circumstances, the Central Government in exercise of the powers conferred by sub-section (2) of Section 25 of the Customs Act, 1962 (52 of 1962), being satisfied that it is necessary in the public interest so to do, hereby exempts the Non-Basmati

*Sanjeev Kumar*  
18/10/24

**F. No. 462/07/2024-Cus.V**  
**Ad-hoc Exemption Order No. 6 of 2024**  
**Issued under section 25(2) of the Customs Act, 1962**

White Rice mentioned in para 2 above, from the whole of the duty of Customs leviable thereon which is specified in the Second Schedule to the Customs Tariff Act, 1975, subject to the condition that the goods will be used as relief material for humanitarian assistance in the aforementioned countries and will not be put to other use. The port of export may ensure that the conditions prescribed for waiving of export duty are fulfilled.

4. An undertaking that the goods covered by this Order will be used solely for the purpose of relief material for humanitarian assistance in the aforementioned countries and shall not be put to any other use shall be submitted by the applicant to the jurisdictional Commissioner of Customs of the port of export for claiming benefit of exemption under this Order.

5. Any infringement of conditions of this Order should be brought to the notice of the Commissioner of Customs of the port of export for taking further necessary action such as realisation of Customs duty on the subject goods, penal action for such violations, etc.

6. The export of goods exempted by this order shall be completed within six months of the date of this order.

Enclosures: Annexure in 04 pages.

Yours faithfully,

*Sanjeet Kumar*  
18/10/24  
(Sanjeet Kumar)

Under Secretary to the Govt. of India

Copy to:

- Comdt. (JG) Pankaj Mishra, OSD (RRC), Ministry of External Affairs, South Block, New Delhi-110011. (Email: osd.rrc@mea.gov.in).
- Commissioner of Customs, Nagpur, GST Bhawan, Telangkhedi Road, Civil Lines, Nagpur-440001 (commr-customsnagpur@gov.in).
- Principal Director (Customs), Central Receipt Audit Wing, Office of the Comptroller & Auditor General, 10, Bahadur Shah Zafar Marg, New Delhi-110 002.
- Guard File.

Yours faithfully,

*Sanjeet Kumar*  
18/10/24  
(Sanjeet Kumar)

Under Secretary to the Govt. of India



**F.No. 461/07/2023-Cus V**  
**Ad hoc Exemption Order No. 7 of 2024**  
**Issued under Section 25(2) of the Customs Act, 1962**

**Government of India**  
**Ministry of Finance**  
**Department of Revenue**

Room No. 227A, North Block, New Delhi – 110001

Dated: 27 November 2024

To,

The Chief Commissioner of Customs  
Delhi Zone

Sir,

**Subject: Request for Ad hoc exemption for import of instruments for implementation of pilot project on Glacial Lake Outburst Flood (GLOF) risk in Sikkim-reg.**

The undersigned is directed to refer to a request dated 24.09.2024 (copy enclosed) received from the Under Secretary to the Government of India, Ministry of Home Affairs, Disaster Management Division (DMD) seeking exemption from payment of customs duty in terms of Section 25 (2) of Customs Act, 1962, for the goods received as donation from Switzerland for the pilot project on the subject matter.

2.1 It has been informed that:

- i. National Disaster Management Authority (NDMA) is implementing a Pilot Project on Glacial Lake Outburst Flood (GLOF) risk, in collaboration with the Swiss Development Cooperation (SDC) in Sikkim.
- ii. The equipment for early warning system at two locations i.e. South Lhonak and Shako Cho Lake, in Sikkim were installed in 2023.
- iii. NDMA has now informed that Indian experts and SDC team will be visiting for replacement of the Monitoring Station with a Pressure Probe at South Lhonak Lake and the inclusion of a Pressure Probe for AWS installed at Shako Cho Lake.

2.2 DMD has requested for exemption of customs duty for the above mentioned two instruments proposed to be imported from Switzerland as donation in connection with the subject pilot project. The project will help in building capacity among concerned States/UTs, organizations of our country for mitigation of GLOF.

3. In view of the exceptional circumstances as mentioned above, the Central Government in exercise of the powers conferred by sub-section (2) of Section 25 of the Customs Act, 1962 (52 of 1962), being satisfied that it is necessary in the public interest so to do, hereby exempts the subject goods from the whole of the duty of Customs leviable thereon which is specified in the First Schedule to the Customs Tariff Act, 1975, and, whole of the Integrated Tax leviable thereon under sub-section (7) of section 3 of the Customs Tariff Act,

Page 1 of 2

Sanjeet Kumar  
27/11/24

**F.No. 461/07/2023-Cus V**  
**Ad hoc Exemption Order No. 7 of 2024**  
**Issued under Section 25(2) of the Customs Act, 1962**

1975 (where applicable), subject to the end use for the purpose being imported and in compliance of the provisions of the Customs Act, 1962.

4. An undertaking to comply with the conditions mentioned in Para 3 above shall be submitted to the jurisdictional Commissioner of Customs of the port of import for claiming benefit of exemption under this Order.

5. Any infringement of this Order should be brought to the immediate notice of the Commissioner of Customs of the port of import for taking further necessary action such as realization of Customs duty on the subject goods, penal action for such violations, etc.

6. The import of goods exempted by this order shall be completed within six months of the date of this order.

Enclosures: Annexure in 24 pages.

Yours faithfully,

*Sanjeet Kumar*  
27/11/24  
(Sanjeet Kumar)

Under Secretary to the Govt. of India

Copy to:

- The Under Secretary to the Government of India, Ministry of Home Affairs, Disaster Management Division.
- Principal Director (Customs), Central Receipt Audit Wing, Office of the Comptroller & Auditor General, 10, Bahadur Shah Zafar Marg, New Delhi-110 002.
- Guard File.

Yours faithfully,

*Sanjeet Kumar*  
27/11/24  
(Sanjeet Kumar)

Under Secretary to the Govt. of India

Page 2 of 2

## **Addendum to Agenda Volume-II of the 55<sup>th</sup> Meeting of the GST Council**

### **Agenda Item 11: Report of Group of Ministers on Life and Health Insurance.**

1. The issue of GST on life and health insurance policies was placed before the GST Council in its 54th Meeting held on 09th September 2024 at New Delhi. After detailed deliberations, the GST Council recommended to constitute a Group of Ministers (GoM) to holistically look into the issues pertaining to GST on life insurance and health insurance.
2. A Group of Ministers (GoM) on Life and Health Insurance was constituted in compliance of the recommendation of the GST Council with Sh. Samrat Choudhary, Hon'ble Deputy Chief Minister, Bihar as its Convenor. The other member states of the GoM are Uttar Pradesh, Rajasthan, West Bengal, Karnataka, Kerala, Andhra Pradesh, Goa, Gujarat, Meghalaya, Punjab, Tamil Nadu, and Telangana.
3. The terms of reference for the GoM on Life and Health Insurance were as follows:
  - i. To examine and review the present tax structure of GST on life and medical insurance; and
  - ii. To suggest GST rates on
    - a. health / medical insurance including individual, group, family floater and other medical insurance for various categories like senior citizens, middle class, persons with mental illness, etc;
    - b. life insurance including term insurance, life insurance with investment plans, whether individual or group; and
    - c. re-insurance of the above.
4. The GoM held its meeting on the 19th October, 2024 at New Delhi.
5. The GoM undertook a comprehensive examination of the GST framework concerning life and health insurance policies. GoM reviewed the existing tax structure, its financial impact as well as its impact on various demographic groups, including senior citizens.
6. The report of the Group of Ministers on Life and Health Insurance is proposed to be placed before the GST Council.

\*\*\*

**Annexure to Agenda Item 11 of the 55th GSTCM**



# Report of Group of Ministers (GoM) on Life and Health Insurance

December, 2024

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## A. Background:

### A.1 Constitution of Group of Ministers:

The issue of GST on life and health insurance policies was placed before the GST Council in its 54th Meeting held on 09th September 2024 at New Delhi. After detailed deliberations, the GST Council recommended to constitute a Group of Ministers (GoM) to holistically look into the issues pertaining to GST on life insurance and health insurance. Accordingly, a Group of Ministers (GoM) on Life and Health Insurance was constituted vide OM dated 15th September 2024 based on the recommendation of the GST Council. The members of the GoM are Bihar, Uttar Pradesh, Rajasthan, West Bengal, Karnataka, Kerala, Andhra Pradesh, Goa, Gujarat, Meghalaya, Punjab, Tamil Nadu, and Telangana.

### A.2 Terms of Reference:

The terms of reference for the GoM on Life and Health Insurance are:

- (i) To examine and review the present tax structure of GST on life and medical insurance; and
- (ii) To suggest GST rates on
  - a. health / medical insurance including individual, group, family floater and other medical insurance for various categories like senior citizens, middle class, persons with mental illness, etc;
  - b. life insurance including term insurance, life insurance with investment plans, whether individual or group; and
  - c. re-insurance of the above.

## B. Overview of the insurance sector in India

The insurance industry plays a pivotal role in ensuring financial security for individuals and businesses alike. As a vital component of the economy, insurance provides protection against life's uncertainties, offering a financial safety net for health, life and assets. For individuals, insurance mitigates personal risks and ensures financial stability for families in times of illness or death. For businesses, it aids in risk management and business continuity, fostering a more resilient economy.

### B.1 Number of insurers

In India, as per the provisions of the Insurance Act, 1938, life insurers can only offer life insurance products, while general insurers can offer non-life insurance products, such as health, motor, fire, marine, etc. At present there are 26 life insurers, 27 general insurers, 7 stand-alone health insurers, 1 Indian reinsurer and 11 foreign reinsurer branches operating in India.

**Table 1: Insurance companies operating in India**

Type of Insurer	Public Sector	Private Sector	Total
Life	1	25	26
General	6	21	27

Stand-alone Health	-	7	7
Re-insurers	1	11	12
<b>Total</b>	<b>8</b>	<b>64</b>	<b>72</b>

The detailed list of all insurers is placed at **Annexure-A**.

## B.2 Important facets of the Indian insurance market

India's insurance sector has experienced significant growth in recent years, with the government and regulators introducing several reforms aimed at boosting penetration and expanding coverage. Despite this, the sector continues to face challenges in terms of insurance penetration<sup>1</sup> and density<sup>2</sup>. As of 2021, insurance penetration in India stood at 4.2%, which is significantly lower than the global average of 7%. Similarly, insurance density in India was USD 91, compared to the global average of USD 874.

Life insurance remains the dominant segment of the insurance market, contributing to over 76% of total insurance premiums in 2021. Life insurance policies provide long-term security, offering both savings and protection, and have traditionally been seen as a savings instrument by the Indian public.

The health insurance sector, though still under-penetrated, has seen rapid growth due to increasing healthcare costs and rising awareness of the need for medical coverage. The growth has been expedited with the rapid ascent of new diseases and global pandemics such as COVID-19. With government-backed schemes like Ayushman Bharat and efforts from insurers, health insurance coverage is expanding across various demographic segments.

## B.3 Insurance Penetration and Density

Insurance penetration and density are crucial metrics for evaluating the development of a country's insurance sector.

Insurance penetration is defined as the ratio of total insurance premium to the country's Gross Domestic Product (GDP), expressed as a percentage. This metric indicates how deeply insurance is integrated into the economy, reflecting the extent of coverage and the role of insurance in financial stability.

On the other hand, insurance density is calculated by dividing the total insurance premium by the population, resulting in a per capita premium figure. This metric provides insights into the average amount spent on insurance by each individual in a country, highlighting the accessibility and affordability of insurance products.

Together, these metrics offer a comprehensive view of the insurance market's maturity and help identify areas for growth and improvement. High penetration and density levels typically signify a well-

---

<sup>1</sup> Insurance penetration is defined as the ratio of total insurance premium to the country's Gross Domestic Product (GDP), expressed as a percentage.

<sup>2</sup> Insurance density is calculated by dividing the total insurance premium by the population, resulting in a per capita premium figure.



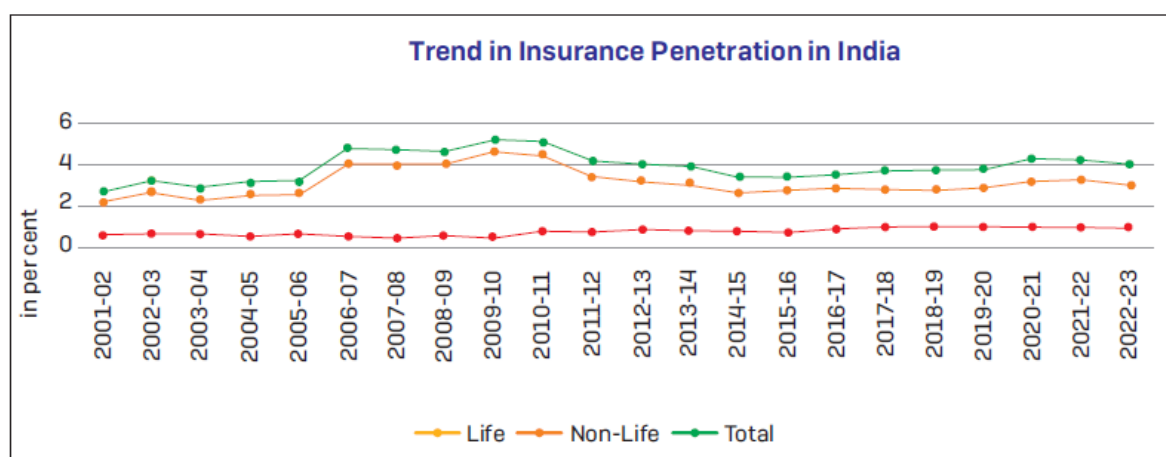
developed insurance sector, whereas lower levels may indicate potential for expansion and greater awareness of insurance products among the population.

The insurance penetration of Life Insurance sector in India has reduced from 3.2 per cent in 2021-22 to 3 per cent in 2022-23 and the same for Non-Life Insurance sector remained at 1 per cent in both these years. As such, India's overall insurance penetration reduced to 4 per cent in 2022-23 from the level of 4.2 percent in 2021-22.

In 2022-23, the life insurance density increased to USD 70 from USD 69 in 2021-22. Whereas non-life insurance density remained stable at 20. In 2022-23, the overall insurance density in India increased from USD 91 in 2021-22 to USD 92 in 2022-23.

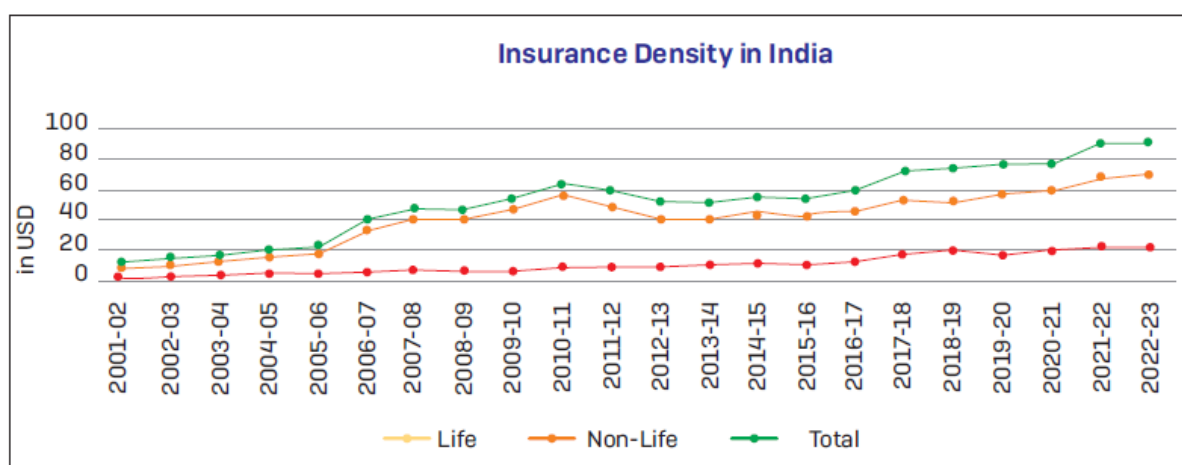
The long-term trend in the insurance penetration and insurance density of India is provided in the following charts:

**Chart 1: Long term trend of insurance penetration in India**



Source: Swiss Re, Sigma World Insurance Report, various issues (Penetration - in per cent)

**Chart 2: Long term trend of insurance density in India**

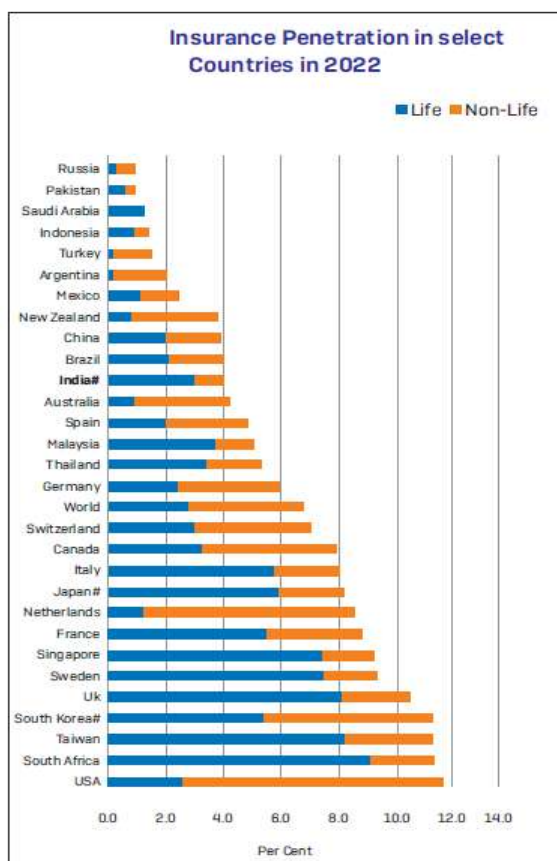


Source: Swiss Re Sigma World Insurance Report, Various issues (Density In USD)

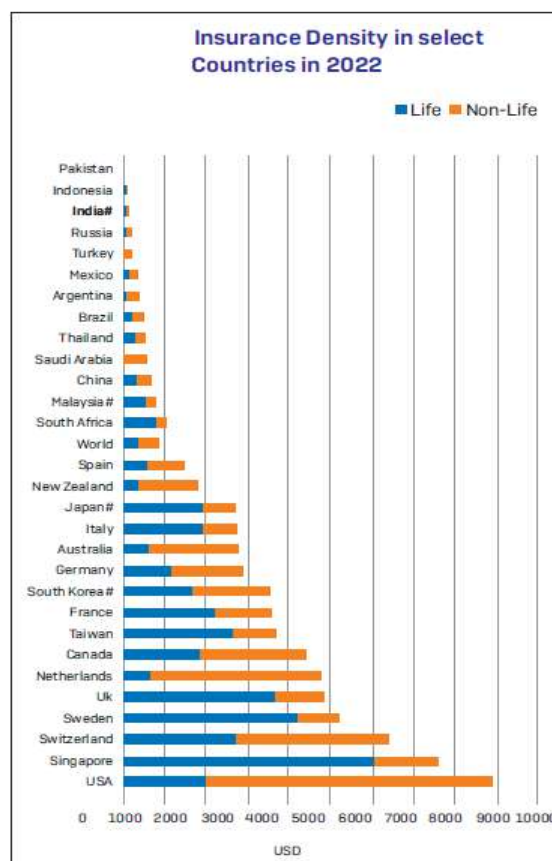
## B.4 Global comparison

Below charts highlight India's insurance penetration and density compared with other countries for the year 2022:

**Chart 3: Insurance penetration and density across countries in 2022**



# Data Relates to financial year  
Note: Insurance Penetration is measured as percentage of Insurance premium to GDP



# Data Relates to financial year  
Note: Insurance Density is measured as ratio of Insurance premium to population  
Source: Swiss Re Sigma World Insurance Report (No 03/2023)

Certain key observations emerge out of the above data which are detailed below:

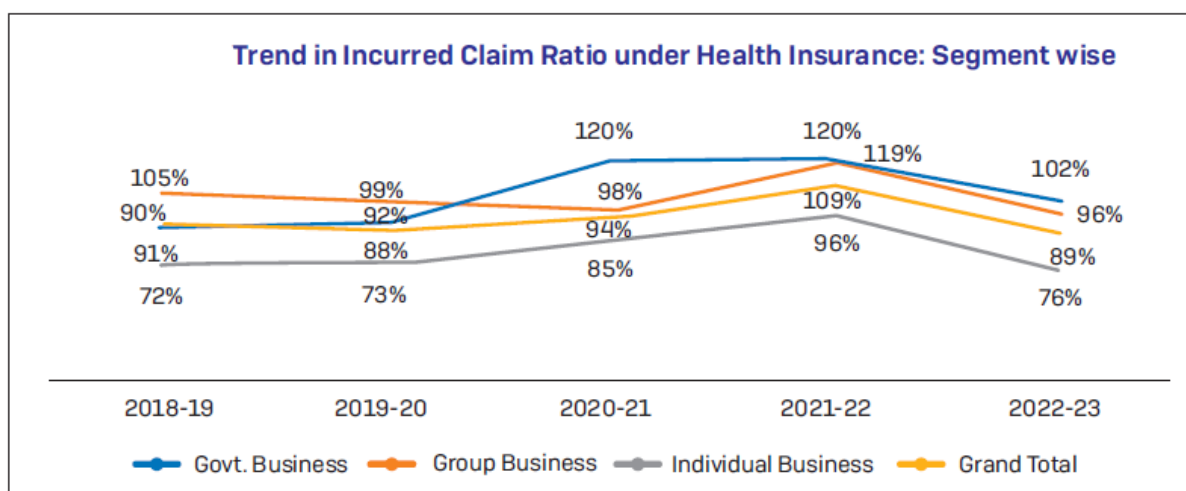
1. **Insurance Penetration:** India's overall insurance penetration is relatively low compared to many developed countries. This suggests that a significant portion of the population remains uninsured or underinsured. Further, the life insurance penetration is higher than non-life insurance penetration. This could be attributed to factors like cultural preferences, government policies, and awareness campaigns promoting life insurance.
2. **Insurance Density:** India's insurance density is also lower than many other developed and developing countries. This indicates that the average insurance premium per person is still relatively low. Here also, life insurance density is again higher than non-life insurance density, consistent with the trend in penetration.

## B.5 Incurred Claims Ratio

The Incurred Claims Ratio (ICR) is a key metric in the insurance industry, especially for health insurance. It essentially reflects the proportion of premiums an insurer has used to settle claims within a financial year. ICR is calculated by dividing the net claims settled by an insurance company by the net premiums collected during the same period. ICR provides insights into an insurer's financial health and operational efficiency.

The trend in incurred claims ratio under health insurance business of different segments is shown in the chart below:

**Chart 4: Trend in incurred claims ratio in health insurance**



It can be seen from the chart that the health insurance sector was under extreme stress for both FY 2020-21 and 2021-22, in as much as the incurred claims ratio for all segments except the individual segment was either above or close to 100 percent. This means that the insurers were paying out in claims an amount more than what they were collecting as premium. This can be explained partially on account of the fact that these were COVID years and there was an associated spike in hospitalizations across segments. The ratios have recovered in FY 2022-23 but are still very high in all segments except the individual business segment.

## C. Types of insurance policies / products

### C.1 Life Insurance

Life Insurance is a financial cover for a contingency linked with human life, like death, disability, accident, retirement etc. due to natural and accidental causes. When human life is lost or a person is disabled permanently or temporarily, there is loss of income to the household. Though human life cannot be valued, a monetary sum could be determined based on the loss of income in future years. Hence, in life insurance, the Sum Assured (or the amount guaranteed to be paid in the event of a loss) is by way of a 'benefit'. Life Insurance products provide a definite amount of money in case the life insured dies during the term of the policy or becomes disabled on account of an accident.

### C.1.1 Individual Life Insurance Policies:

1. **Term Insurance Plan:** Term life insurance offers protection for a fixed period, such as 10, 20 or 30 years. It provides financial security in the form of a sum assured to insured's nominee in case of insured's death during the policy term. It is purely focussed on life coverage without any savings or investment elements. The distinctive feature of this plan is the coverage offered at nominal premium rates.
2. **Unit Linked Insurance Plan (ULIP):** Unit Linked Insurance Plan or ULIP is a type of life insurance product that offers dual benefits of investment and life insurance. In ULIP, a portion of the premiums paid is directed towards ensuring insurance coverage, while the rest of the premium is invested into various investment instruments e.g.: equity funds, debt funds and other securities. ULIPs help to grow money and meet long-term goals of policy holders. The returns received depend on the performance of the funds chosen.
3. **Endowment Policy:** An endowment plan is a type of insurance plan that offers life insurance cover as well as long-term savings with assured returns. Under endowment insurance, if the insured meets an untimely demise, their beneficiary is entitled to the sum assured. However, if the policyholder outlives the policy term, then they receive the accumulated savings corpus (plus bonuses, if any) as a maturity benefit. Whole Life, money back are types of endowment plans.
4. **Annuity Plans:** An annuity is a contract between policyholder and an insurance company that requires the insurer to make payments to the insured, either immediately or in the future. They provide pension to the beneficiary.

### C.1.2 Group Life Insurance Policies:

1. **Group Life Insurance for Employers:** Group life insurance policies cover a group of people under one single plan, often provided by employers as part of the employee benefits package. The main advantage of group life insurance is that it provides coverage at lower premiums compared to individual policies. However, the coverage only continues as long as one is part of the group or organization. This is a cost-effective option for those who don't have individual life insurance but want basic life cover while employed.
2. **Group Life Insurance for Resident Welfare Associations (RWAs):** Group Life Insurance Plans can be extended to RWAs, where all residents of a housing society or community are covered under a single master policy. This type of policy provides basic life insurance coverage to all the members, usually at a lower cost than individual policies. It could also cover accidental death or critical illness, and in case of the death of a member, their family may receive the sum assured.
3. **Group Life Insurance for Professional Associations:** Professional organizations, trade unions, or membership-based associations may offer group life insurance to their members. This type of coverage helps provide basic life protection to professionals working in the same industry or sector.

## C.2. Health Insurance

A health insurance policy is a contract between an insurer and an individual / group in which the insurer agrees to provide specified health insurance cover at a particular “premium” subject to terms and conditions specified in the policy. This also covers hospitalization due to accident. Health insurance may be availed for inland or overseas treatment.

### C.2.1 Individual Health Insurance Policies

1. **General individual health insurance plan:** A general health insurance policy covers, fully or partly, the actual cost of the treatment for hospital admissions during the policy period. A wider coverage may also be purchased for various hospitalization expenses, including expenses before and after hospitalization for some specified period. Such policies may be available on individual sum insured basis, or on a family floater basis where the sum insured is shared across the family members.
2. **Hospital Cash Policy:** A hospital daily cash benefit policy provides a fixed daily sum insured for each day of hospitalization. There may also be coverage for a higher daily benefit in case of ICU admissions or for specified illnesses or injuries. A hospital cash benefit may also be clubbed with a general individual health insurance policy as described in point (1) above.
3. **Critical Illness policy:** A Critical Illness benefit policy provides a fixed lump sum amount to the insured in case of diagnosis of a specified illness or on undergoing a specified procedure. This amount is helpful in mitigating various direct and indirect financial consequences of a critical illness. Usually, once this lump sum is paid, the plan ceases to remain in force.
4. **Family floater policies:** Family floater is one single policy that takes care of the hospitalization expenses of one's entire family. The policy has one single sum insured, which can be utilised by any/all insured persons in any proportion or amount subject to maximum or overall limit of the policy sum insured. For reporting purposes, family floater policies are reported under the category of individual policies only.
5. **Personal Accident:** Such policies provide financial protection in the event of an accident, accidental death, permanent and partial disabilities, and temporary total disabilities. They also cover medical expenses, including hospitalisation, treatment, surgery, and ambulance charges. Some of these policies offers worldwide coverage also.
6. **Other products:** There are also other types of products, which offer lump sum payment on undergoing a specified surgery (Surgical Cash Benefit), and others catering to the needs of specified target audience like senior citizens or persons with mental illness.

### C.2.2 Group health insurance policies

A group health insurance policy has the advantages of standardised coverage and very competitive premium rates. Groups – for this purpose - can be employer-employee groups or non employer-employee groups as defined by IRDA's group insurance guidelines. (Examples

are holders of the same credit card, savings bank account holders of a bank or members of the same social or cultural association and so on.)

Where an employer buys a group insurance policy for its employees, the employer is treated as the master policyholder with the employees being treated as the beneficiaries. In such cases, the employer shall issue confirmation of insurance protection to individual employees with clear reference to the group insurance policy; the claims of individual persons insured thereunder may be paid through the employer. Further, the master policy shall be made available for guidance to all the insured members of the group.

In non-employer-employee cases, the individual group member would be treated as the insured beneficiary and the master policyholder will only be the holder of the policy. In such cases, the insurer shall issue a certificate of insurance to the members of the group, who are insured.

## D. Data related to insurance sector:

### D.1 Health Insurance

#### D.2.1 Number of policies

A total of 2.81 crore health insurance policies were in force as on 31-Mar-2023. Out of these, 2.15 crore are individual policies, and 0.65 crore are group policies.

**Table 2: Number of health insurance policies as on 31-Mar-2023**

Segment	Description	Number
Individual	Senior Citizen	10,75,968
	Non-Senior Citizen	2,04,43,399
	Total (Individual)	2,15,19,367
Group	Total (Group)	65,88,297
<b>Total (Individual + Group)</b>		<b>2,81,07,664</b>

As far as GST Revenue from health insurance is concerned, for FY 2022-23, a total of Rs. 16,206 crore was paid in GST of which 55% (Rs. 8913 crores) was paid in cash and the rest 45% in ITC. Out of the net GST collection of Rs. 8,913 crores in cash, Rs. 3495 crores was collected on individual plans, whereas Rs 5418 crores was collected on group plans.

**Table-3**

<b>GST Cash Collection (Rs. Crores) (FY 2022-23)</b>	
Individual Health Insurance	3495
Group Health Insurance	5418

Health re-insurance	916
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In addition to the above, a total of Rs. 916 crore was also been collected in cash on health reinsurance services supplied domestically.

### D.2.2 Segment wise premium collections

Health insurance products vary immensely in terms of the coverage offered. This is captured in the table below:

**Table-4**

<b>FY 2023-24 (Individual Health insurance premiums) (% contribution)</b>			
<b>Coverage</b>	<b>Per cent premium contribution</b>		<b>Slab wise contribution</b>
	<b>Senior citizen</b>	<b>Other than senior citizen</b>	
0<Coverage<=5lakhs	11%	42%	53%
5lakhs<Coverage<=10lakhs	5%	25%	30%
10lakhs<Coverage<=20lakhs	1%	7%	9%
20lakhs<Coverage<=30lakhs	1%	3%	4%
30lakhs<Coverage<=50lakhs	0%	2%	2%
Above 50lakhs	0%	2%	2%
<b>Total</b>	<b>18%</b>	<b>82%</b>	<b>100%</b>

As can be seen from the above, more than 80% of the premium collected on individual health insurance comes from those plans which have a coverage up to Rs 10 lakhs. Also, the senior citizen policies contribute about 18% of the total individual health insurance policy premiums.

### D.2.3 State-wise premium collections

The place of supply of insurance is the location of the insured. Therefore, the revenue accruing to each state from health insurance policies will come from the policies purchased by individuals/groups located in that State. Accordingly, data was collected from insurance companies on the premium collected from individuals/entities in each State/UT. According to the data Maharashtra is the largest contributor to health insurance premiums with a share of 22.88%. The biggest contributors are the following:

**Table-5**

State	% contribution to health insurance premiums
Maharashtra	29.44%
Karnataka	10.93%
Tamil Nadu	9.84%
Gujarat	7.11%
Delhi	6.43%

The detailed data for health insurance, including state-wise percentage premium collections, is presented in **Annexure-B**.

## D.2 Life Insurance

### D.2.1 Number of policies

A total of 31.36 crore life insurance policies were in force as on 31-Mar-2023. Out of these, an overwhelming majority, i.e. 30.71 crores (98%) are those where there is some investment/savings element. 27.27 crores of these 30.71 crore policies with some investment/saving component have been sold by the Life Insurance Corporation (LIC) alone. Only about 2% of the policies are pure term policies where there is no investment/savings component.

**Table 6: Number of life insurance policies in different segments**

Term Life Insurance	Individual	65,23,289
	Group	49,202
	Total	65,72,491
Other Life Insurance	Individual	30,69,71,470
	Group	1,44,662
	Total	30,71,16,132
Total Life Insurance	Individual	31,34,94,759
	Group	1,93,864
	Total	31,36,88,623

As far as GST Revenue from life insurance is concerned, for FY 2022-23, a total of Rs. 21,275 crores was paid in GST of which 42% (Rs. 9022 crores) was paid in cash and the rest 58% in ITC. Out of the net GST collection of Rs. 9,022 crores in cash, only a about 2%, i.e. Rs. 202 crores was collected on



individual term plans. The largest contributor to GST cash collections from life insurance was group life insurance from which Rs. 3,805 crores was collected in cash.

**Table-7**

<b>GST Cash Collection (Rs. Crores) (FY 2022-23)</b>		
Term Life Insurance	Individual	202
	Group	1608
	Total	1810
Other Life Insurance	Individual	3407
	Group	3805
	Total	7212
Total Life Insurance	Individual	3609
	Group	5413
	Total	9022

In addition to the above, a total of Rs. 528 crores has also been collected in cash on life reinsurance services supplied domestically. Also, a sum of Rs. 85 crores has been collected in cash on import of reinsurance services pertaining to pure term individual life plans on which the GST would have been paid by the recipient, i.e. the domestic insurer on RCM basis. The reinsurance import numbers for other categories of life insurance are currently not available.

### D.2.2 Segment wise premium collections

Life insurance products vary immensely in terms of the coverage offered, i.e. the sum assured. This is captured in the table below:

**Table-8**

<b>FY 2023-24 (Individual Life insurance premiums) (% contribution)</b>			
Sum Assured	%age contribution		Slab wise contribution
	Pure term life insurance	Other than pure term	
0<Sum Assured<=50lakhs	0.66%	88.98%	89.64%
50lakhs<Sum Assured<=1Crore	0.90%	4.43%	5.33%
1Crore<Sum Assured<=2Crore	0.49%	2.12%	2.61%

2Crore<Sum Assured<=5Crore	0.28%	1.39%	1.67%
Above 5Crore	0.13%	0.62%	0.75%
Total	2.46%	97.54%	100.00%

As can be seen from the above, approximately 90% of the premium paid on individual life insurance plans (both pure term and other than pure term) have coverage or sum assured of less than 50 lakhs. However, one noticeable difference between the pure term and the non pure term category is that the most popular segment in pure term life insurance is between 50 lakh to 1 crore sum assured, the whereas the most popular segment in the non pure term category is below 50 lakh coverage. This is likely because non term plans would be bought from an investment point of view, rather than a risk point of view.

### D.2.3 State-wise premium collections

The place of supply of insurance is the location of the insured. Therefore, the revenue accruing to each state from life insurance policies will come from the policies purchased by individuals/groups located in that State. Accordingly, data was collected from insurance companies on the premium collected from individuals/entities in each State/UT. According to the data Maharashtra is the largest contributor to life insurance premiums with a share of 23.18%. The other 4 biggest contributors are the following:

**Table-9**

State	% contribution to life insurance premiums
Maharashtra	23.18%
Tamil Nadu	8.69%
Karnataka	7.64%
Uttar Pradesh	6.94%
Delhi	6.93%

The detailed data for life insurance, including state-wise percentage premium collections, is presented in **Annexure-C**.

## E. Indirect taxes on insurance:

### E.1 Tax structure during service tax regime

#### E.1.1 Life Insurance

Service Tax was levied on the service provided or to be provided to a policy holder or any person by an insurer under the taxable category `life insurance service` since 16.08.2002 [Section 65 (105) (zx)]

of the Finance Act, 1994]. The rate of tax was 5% ad valorem. At the time of transition to GST, the said rate was 15%.

Service tax was levied on that portion of the service which pertained to the risk element. In the case of composite policies (risk plus saving) life insurer could at his option pay 1% of the total premium towards discharge of service tax liability. This would not be applicable in case an insurance policy is towards risk only or where the premium gives details of risk premium and other premium separately.

In 2011, the option to pay tax at 1% was replaced with a more elaborate structure for composite life insurance policies. Investment or savings component, where determinable, continued to be excluded. However, where it was not possible to segregate the percentage of premium paid by the policyholder between risk cover and the investment/savings, Service Tax was liable to be paid on 25% of the value of premium charged in the first year and on 12.5% of value of premium charged in subsequent years. These rates were computed on the basis of industry figures.

Life insurance schemes of the Government like the Janashree Bima Yojna, Aam Aadmi Bima Yojna, Varishtha Pension Bima Yojna, Pradhan Mantri Jeevan Jyoti Bima Yojna, Pradhan Mantri Jan Dhan Yojna and the Atal Pension Yojna were exempted from Service Tax.

A similar structure has been adapted under the GST regime.

### E.1.2 Health Insurance

Health insurance, which falls under general insurance, became taxable as a service as early as 1st July, 1994, by virtue of section 65(105)(d) of Finance Act, 1994. Any health insurance service, provided by an insurer for a consideration, was subjected to service tax, in the hands of the service provider, since the year 1994. The rate of tax was 5% ad valorem charged on the total amount of premium received by the insurer from the policy holders. At the time of transition to GST, the said rate was 15%.

Exemption was available to Jan Arogya Bima Policy, Universal Health Insurance Scheme, Niramaya Health Insurance scheme, Rashtriya Swasthya Bima Yojana and scheme for insurance of tribals under the service tax regime. The said exemptions have been carried forward under the GST regime. In addition, Government sponsored insurance schemes have also been exempted.

## E.2 Tax structure in present GST regime

### E.2.1 Life Insurance

The rate of tax applicable to life insurance services is the standard rate, i.e. 18%. This is by virtue of the following entry in Notification No. 11/2017-CT(R) dated 28.06.2017:

**Table-10**

Sl. No.	Chapter, Section or Heading	Description of Service	Rate (per cent.)	Condition
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15	<b>Heading 9971</b> (Financial and related services)	(vii) Financial and related services other than (ii), (iii), (v), and (vi) above.	9	-
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The following exemptions, pertaining to the life insurance business, currently exist under GST:

**Table-11**

Sl. No.	Chapter, Section or Heading	Description of Service	Rate (per cent.)	Condition
28	Heading 9971 or Heading 9991	Services of life insurance business provided by way of annuity under the National Pension System regulated by the Pension Fund Regulatory and Development Authority of India under the Pension Fund Regulatory and Development Authority Act, 2013 (23 of 2013).	Nil	Nil
29	Heading 9971 or Heading 9991	Services of life insurance business provided or agreed to be provided by the Army, Naval and Air Force Group Insurance Funds to members of the Army, Navy and Air Force, respectively, under the Group Insurance Schemes of the Central Government.	Nil	Nil
29A	Heading 9971 or 9991	Services of life insurance provided or agreed to be provided by the Naval Group Insurance Fund to the personnel of Coast Guard under the Group Insurance Schemes of the Central Government. Inserted by Notn. No. 02/2018 dated 25-01-2018	Nil	Nil
29B	Heading 9971 or 9991	Services of life insurance provided or agreed to be provided by the Central Armed Police Forces (under Ministry of Home Affairs) Group Insurance Funds to their members under the Group Insurance Schemes of the concerned Central Armed Police Force. Inserted by Notn. No. 21/2019 dated 30.09.2019 w.e.f. 01.10.2019	Nil	Nil

30	Heading 9971 or 9991	Services by the Employees' State Insurance Corporation to persons governed under the Employees' State Insurance Act, 1948 (34 of 1948).	Nil	Nil
36	Heading 9971 or 9991	Services of life insurance business provided under following schemes- a. Janashree Bima Yojana; b. Aam Aadmi Bima Yojana; c. Life micro-insurance product as approved by the Insurance Regulatory and Development Authority, having maximum amount of cover of two lakhs rupees; d. Varishtha Pension Bima Yojana; e. Pradhan Mantri Jeevan Jyoti Bima Yojana; f. Pradhan Mantri Jan Hanigan; g. Pradhan Mantri Vaya Vandana Yojana.	Nil	Nil
36A	Heading 9971 or 9991	Services by way of reinsurance of the insurance schemes specified in serial number 35 or 36 or 40.	Nil	Nil
39	Heading 9971 or 9985	Services by the following persons in respective capacities – a. business facilitator or a business correspondent to a banking company with b. respect to accounts in its rural area branch; c. any person as an intermediary to a business facilitator or a business correspondent with respect to services mentioned in entry (a); or d. business facilitator or a business correspondent to an insurance company in a rural area.	Nil	Nil
40	Heading 9971 or 9991	Services provided to the Central Government, State Government, Union territory under any insurance scheme for which total premium is paid by the Central Government, State Government, Union territory.	Nil	Nil

Under GST, rule 32(4) of the CGST Rules, 2017 provides for the valuation to be adapted in the case of life insurance business. The premium paid in life insurance policies represents two portions – risk coverage and savings. GST is only on the risk portion of the premium and not on the savings portion, as shown below:

**Table-12**

<b>S.N.</b>	<b>Circumstances</b>	<b>Value as per the rules</b>
1	Policies where amount of investment/ saving is intimated to policyholder at the time of supply of service	Gross premium charged (-) amount allocated for investment/ saving as intimated
2	Term life insurance policies (with only risk element)	Full value
3	Single premium annuity policies other than (1 & 2)	10% of single premium charged (Effective rate becomes 1.8%)
4	In all other cases	25% of the premium in first year (Effective rate is 4.5%) and 12.5% of the premium in subsequent years (Effective rate is 2.25%)

Moreover, services provided by an insurance agent to any person carrying on insurance business is under reverse charge by virtue of the following entry in Notification No. 13/2017 – Central Tax (Rate) dated 28-Jun-2017

**Table-13**

<b>Sl. No.</b>	<b>Category of Supply of Services</b>	<b>Supplier of Service</b>	<b>Recipient of Service</b>
7	Services supplied by an insurance agent to any person carrying on insurance business	An insurance agent	Any person carrying on insurance business, located in the taxable territory.

It is also noteworthy that under Section 17(5)(b) of the CGST Act, ITC in relation to health and life insurance is not allowed except where it is obligatory for an employer to provide the same to its employees under any law for the time being in force. Except for the COVID period, when certain temporary instructions/guidelines were issued by the Government of India mandating employers to provide health insurance, no universally applicable laws exist in India which make it obligatory upon employers to provide life or health insurance to their employees. As a result, for the most part, the input tax credit of the GST paid by organizations on health and life policies for their employees, i.e. group insurance policies is blocked.

### **E.2.2 Health Insurance**

The rate of tax applicable to health insurance services is the standard rate, i.e. 18%. This is by virtue of the following entry in Notification No. 11/2017-CT(R) dated 28.06.2017:

**Table-14**

Sl. No.	Chapter, Section or Heading	Description of Service	Rate (per cent.)	Condition
15	<b>Heading 9971</b> (Financial and related services)	(vii) Financial and related services other than (ii), (iii), (v), and (vi) above.	9	-

Unlike life insurance, wherein a specific valuation mechanism has been provided, the entire amount of premium paid for health insurance is the taxable value. Therefore GST, at the rate of 18% is charged on the entire amount of premium paid in health insurance policies.

The following exemptions, pertaining to the health insurance business, currently exist under GST:

**Table-15**

Sl. No.	Chapter, Section or Heading	Description of Service	Rate (per cent.)	Condition
30	Heading 9971 or 9991	Services by the Employees' State Insurance Corporation to persons governed under the Employees' State Insurance Act, 1948 (34 of 1948).	Nil	Nil
35	Heading 9971 or 9991	Services of general insurance business provided under following schemes- a. .... b. .... c. Scheme for insurance of tribals; d. .... e. .... f. .... g. .... h. .... i. Jan Arogya Bima Policy; j. .... k. .... l. .... m. Universal Health Insurance Scheme n. .... o. .... p. ....	Nil	Nil

		q. Niramaya Health Insurance Scheme implemented by the Trust constituted under the provisions of the National Trust for the Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999 (44 of 1999)		
36 A	Heading 9971 or 9991	Services by way of reinsurance of the insurance schemes specified in serial number 35 or 36 or 40.	Nil	Nil
39	Heading 9971 or 9985	Services by the following persons in respective capacities – a. business facilitator or a business correspondent to a banking company with respect to accounts in its rural area branch; b. any person as an intermediary to a business facilitator or a business correspondent with respect to services mentioned in entry (a); or c. business facilitator or a business correspondent to an insurance company in a rural area.	Nil	Nil
40	Heading 9971 or 9991	Services provided to the Central Government, State Government, Union territory under any insurance scheme for which total premium is paid by the Central Government, State Government, Union territory.	Nil	Nil

## F. Important studies on the insurance sector in India

### F.1 NITI Aayog Report

In October 2021, NITI Aayog released an insightful report titled “Health Insurance for India’s Missing Middle,” which shed light on the significant gaps in health insurance coverage experienced by various segments of the Indian population. This report highlights the challenges faced by those who do not fall within the safety net of existing health insurance schemes, emphasizing the necessity for targeted policy interventions to address these disparities.

The report presents a detailed analysis of the current health insurance landscape in India. It identifies three main categories of health coverage among the population:

1. **Ayushman Bharat-Pradhan Mantri Jan Arogya Yojana (PMJAY):** Launched in September 2018, this ambitious initiative seeks to provide comprehensive hospitalization coverage (up to



Rs. 5 lakhs) to the most vulnerable sections of society. As a result, around 50% of the Indian population, i.e. approximately 70 crore individuals, benefits from this scheme. The program is designed to ensure that economically disadvantaged individuals have access to necessary healthcare services without the burden of exorbitant costs. Recently, the Government of India has extended the benefits under this scheme to all senior citizens (those above the age of 70) irrespective of the income level.

2. **Social Health Insurance and Private Insurance:** An additional 20% of the population, i.e. around 25 crore individuals, is covered through various forms of social health insurance and private voluntary health insurance. This group includes employees in the organized sector and those who can afford private insurance options.
3. **The Missing Middle:** Alarming, around 30% of the population is uncovered by any health insurance scheme. This segment, referred to as the “missing middle,” is characterized by individuals who earn too much to qualify for government-sponsored schemes like PMJAY but too little to afford private health insurance.

The missing middle is not a monolithic entity; rather, it comprises a diverse array of groups that span all expenditure quintiles. The report emphasized the importance of recognizing the heterogeneity within this population segment:

- **Geographical Distribution:** The missing middle is distributed across both urban and rural areas. In rural settings, this group is predominantly concentrated in the top two expenditure quintiles, while in urban areas, it primarily exists within the top three quintiles. This indicates that even relatively better-off individuals may still lack adequate health coverage.
- **Occupational Composition:** The missing middle predominantly includes self-employed individuals in both agricultural and non-agricultural sectors in rural areas. In urban settings, the group encompasses a broad array of occupations, ranging from informal labourers to semi-formal and formal workers. This diversity highlights the varied circumstances and needs of those who fall within this category.

The report identified that the existence of a substantial uninsured population poses significant challenges to the overall healthcare system in India. Individuals in the missing middle often face financial barriers when seeking medical care, leading to delayed treatment, increased out-of-pocket expenses, and ultimately, poorer health outcomes. Additionally, the gaps in health insurance coverage contribute to increased healthcare disparities across different population segments.

## F.2 Parliamentary Standing Committee

The 66th Report of the Standing Committee on Finance emphasized the urgent need to rationalize the rate of GST on insurance products, particularly health and term insurance, which is currently set at 18%. The report highlighted that high GST rate significantly contributes to the overall premium burden, making insurance less accessible and deterring individuals from purchasing policies. To address this issue, the Committee recommended a reduction in GST rates applicable to health insurance products, especially retail policies for senior citizens, microinsurance policies (up to Rs. 5 lakh as per PMJAY) and term insurance policies. The rationale behind this recommendation was to make insurance more

affordable and encourage greater uptake among consumers, aligning with the government's vision of "Insurance for All" by 2047.

## G. International practice

### G.1 Treatment of taxation on Life Insurance

Life insurance is generally exempt across VAT jurisdictions. The details of the applicable VAT treatment, compared with the standard rate/practice of taxation, is attempted to be captured in the following table:

**Table-16**

Country	Standard Rate of VAT	Taxation of life insurance and reinsurance
United Kingdom	20%	Insurance and reinsurance transactions are <b>exempt</b> from VAT. Input tax credit is not available for inward supplies used in making supplies of insurance. Life insurance and reinsurance is exempt from Insurance Premium Tax (IPT) also.
Australia	10%	Life insurance and reinsurance is <b>exempt</b> . This is because life insurance policies involve a significant element of saving and are in the nature of a financial service. Therefore, life insurance is treated in the same manner as other financial services under the GST. Input tax credit is not available for inward supplies used in making supplies of insurance.
Singapore	9%	Premiums arising from life insurance and reinsurance contracts are <b>exempt</b> from GST.
South Africa	15%	Premiums paid on life insurance and reinsurance policies are <b>exempt</b> from VAT. This is akin to the treatment to most financial services in South Africa.
Japan	10%	Insurance transactions are <b>exempt</b> without the right to deduct input taxes.
Malaysia	8% (Service Tax)	Life insurance premiums paid by business organizations are <b>taxable</b> at the standard rate while those paid by individuals or families are <b>not subject to service tax</b> .
Indonesia	11%	All insurance services are <b>exempt</b> .

## G.2 Treatment of taxation on Health Insurance

Unlike life insurance, the GST/VAT treatment of health insurance is varied across major jurisdictions. The relevant details are captured in the table below:

**Table-17**

Country	Standard Rate of VAT	Taxation of health insurance and reinsurance
United Kingdom	20%	Insurance and reinsurance transactions are <b>exempt</b> from VAT. Input tax credit is not available for inward supplies used in making supplies of insurance. However, medical insurance is leviable to Insurance Premium Tax (IPT) at the rate of 12%. At the same time, insurance contracts providing coverage for critical illness, permanent health insurance (such as income replacement) and other long term policies which provide for care of the chronically sick are exempt from IPT as well. Also, all reinsurance is exempt from IPT.
Australia	10%	Private health insurance is <b>GST-free</b> , i.e. zero-rated. This treatment is in line with the general treatment of health services under GST.
Singapore	9%	The provision of general insurance contracts (including health insurance) is a taxable supply of services. The GST-registered insurance company is required to charge and account for GST at the prevailing GST rate on the general insurance premiums unless the supply qualifies as an international service and can be zero-rated. Reinsurance contracts of general insurance policies are exempt.
South Africa	15%	Health insurance premiums are subject to the standard 15% VAT rate.
Japan	10%	Insurance transactions are <b>exempt</b> without the right to deduct input taxes.
Malaysia	8% (Service Tax)	Health insurance premiums paid by business organizations are <b>taxable</b> at the standard rate while those paid by individuals or families are <b>not subject to service tax</b> .
Indonesia	11%	All insurance services are <b>exempt</b> .

## H. Past discussions in GST Council

**37th GST Council Meeting (Sep 20, 2019):** The GST Council rejected a request to reduce the GST rate on pure term life insurance premiums from 18% to 5%. The decision was based on concerns over significant revenue loss and the fact that the effective tax rate on premiums was already low, ranging from 1.8% to 4.5%. Additionally, an exemption would lead to complications such as blocked Input Tax Credit (ITC) and increased compliance burdens for insurance companies.

**47th GST Council Meeting (Jun 28-29, 2022):** During this meeting, the GST Council rejected a request to remove GST on life and health insurance, citing that such an exemption would distort the tax structure and lead to cascading input taxes. The Council decided to exempt only specific services provided by the Department of Posts, such as postcards and envelopes weighing less than 10 grams, while maintaining taxation on life insurance to prevent revenue leakage.

## I. Options (with revenue implication)

### I.1 Life Insurance

The following are the various options available for rationalizing the rate of GST on life insurance, and reinsurance thereof, along with their revenue implications calculated on the basis of data of FY 2022-23:

**Table-18**

Option	Insurance Revenue Implication (₹ crore)	Reinsurance Revenue Implication (₹ crore)
Exempting all individual term life insurance premiums	202	96
Exempting all individual life insurance premiums (both term and non-term plans)	3,609	296
Exempting all term life insurance premiums (individual plus group plans)	1,810	185
Exemption all life insurance premiums (individual plus group plans)	9,022	613

Detailed calculations are provided in **Annexure-C**.

### I.2 Health Insurance

The following are the various options available for rationalizing the rate of GST on health insurance, and reinsurance thereof, along with their revenue implications calculated on the basis of data of FY 2022-23:

**Table-19**

<b>Option</b>	<b>Insurance Revenue Implication (₹ crore)</b>	<b>Reinsurance Revenue Implication (₹ crore)</b>
Exempting all individual health insurance premiums	3,495	359
Exempting premiums paid by senior citizens and up to ₹5 lakhs coverage	2,110	N.A.
Exempting premiums paid only by senior citizens	645	N.A.
Reducing GST on all individual health insurance services to 5% w/o ITC	1,730	359
Reducing GST on all individual health insurance services to 12%	2,118	166
Reducing GST on all individual health insurance services to 5%	4,589	359

Detailed calculations are provided in **Annexure-B**.

## **J. Deliberations in the GoM Meeting**

The meeting of the Group of Ministers (GoM) on Life and Health Insurance was convened under the convenorship of Sh. Samrat Choudhary, Hon'ble Deputy Chief Minister of Bihar on 19th October 2024 at New Delhi. The members from thirteen(13) States, participated through both in-person attendance and video conferencing facilities.

Present in person were:

- i. Sh. Suresh Kumar Khanna, Hon'ble Minister of Finance, Parliamentary Affairs, Uttar Pradesh;
- ii. Smt. Chandrima Bhattacharya, Hon'ble Finance Minister, West Bengal;
- iii. Sh. Krishna Byre Gowda, Hon'ble Minister for Revenue, Karnataka;
- iv. Sh. Kanubhai Desai, Hon'ble Minister for Finance, Gujarat;
- v. Sh. K. N. Balagopal, Hon'ble Minister for Finance, Kerala;
- vi. Sh. Thangam Thennarasu, Hon'ble Minister for Finance and Environment & Climate Change, Tamil Nadu;
- vii. Sh. Krishan Kumar Vishnoi, Hon'ble State Minister, Rajasthan;
- viii. Sh. Mallu Bhatti Vikramarka, Hon'ble Deputy Chief Minister and Minister for Finance, Telangana;
- ix. Sh. SS Gill, Commissioner of State Taxes, representing Goa on behalf of Dr. Pramod P. Sawant, Hon'ble Chief Minister, Goa.

Participating via video conference were:

- i. Sh. Payyavula Keshav, Hon'ble Minister for Finance, Planning, Commercial Taxes and Legislative Affairs, Andhra Pradesh;
- ii. Sh. Harpal Singh Cheema, Hon'ble Finance Minister, Punjab; and
- iii. Shri Ramakrishna Chitturi, Commissioner of State Taxes, Meghalaya, representing Sh. Conrad K. Sangma, Hon'ble Chief Minister of Meghalaya.

Officers from the Tax Research Unit (TRU) and the Department of Financial Services (DFS) were also present to provide technical support.

The meeting began with a welcome address by Sh. Samrat Choudhary, Hon'ble Deputy Chief Minister, Bihar. Thereafter, a detailed presentation (**Annexure-D**) was made by Sh. Sachin Jain, Joint Secretary, TRU-II after which the deliberations began, which are summarized below:

## J.1 Life Insurance

The discussion on life insurance saw a range of perspectives from different states. Sh. Harpal Singh Cheema, Hon'ble Finance Minister, Punjab opposed exempting group insurance, considering it a business-to-business transaction. Sh. Payyavula Keshav, Hon'ble Minister for Finance, Planning, Commercial Taxes and Legislative Affairs, Andhra Pradesh advocated for a 5% rate on individual term life insurance without too many distinctions. Smt. Chandrima Bhattacharya, Hon'ble Finance Minister, West Bengal proposed exempting all individual term life insurance policies. Sh. Krishna Byre Gowda, Hon'ble Minister for Revenue, Karnataka recommended exempting all individual term life policies. He also suggested that status quo should be maintained in respect to group insurance. Sh. Kanubhai Desai, Hon'ble Minister for Finance, Gujarat cautioned against differentiating between individual and group policies to avoid switching from one category to the other and suggested limiting benefits to lower classes. He also agreed with the overall view of the other members of GoM. Sh. K. N. Balagopal, Hon'ble Minister for Finance, Kerala supported exempting pure term life individual policies. Sh. Thangam Thennarasu, Hon'ble Minister for Finance and Environment & Climate Change, Tamil Nadu agreed to exempt individual term plans without Input Tax Credit but not long-term savings plans. He stated that exempting group life insurance plans may not be currently feasible. Sh. Suresh Kumar Khanna, Hon'ble Minister of Finance, Parliamentary Affairs, Uttar Pradesh advocated for a complete exemption to individual term life insurance. He further stated that status quo should be maintained with respect to those life insurance plans in which involve a savings or investment component. Sh. Krishan Kumar Vishnoi, Hon'ble State Minister, Rajasthan supported exemption to individual term life insurance. Sh. SS Gill, Commissioner of State Taxes, Goa (on behalf of Dr. Pramod P. Sawant, Hon'ble Chief Minister, Goa) proposed exempting both individual and group term life insurance. Sh. Mallu Bhatti Vikramarka, Hon'ble Deputy Chief Minister and Minister for Finance, Telangana agreed to exempt all individual term life insurance. Sh. Conrad K. Sangma, Hon'ble Chief Minister, Meghalaya, via subsequent written reply, advocated that individual pure term life insurance policies may be exempted, and status quo may be maintained in group insurance policies.

After considering the opinions of all members, the convenor of GoM Sh. Samrat Choudhary, Hon'ble Deputy Chief Minister, Bihar, proposed the following:

1. Exempting individual term life insurance policies, along with reinsurance thereof.

2. It was noted that some States requested including group term life in this exemption, but it was agreed that this could be considered at a later stage.

All the members of the GoM agreed that the above proposals could be placed by the GoM before the GST Council for its consideration and final recommendation.

## J.2 Health Insurance

The discussion on health insurance rates also revealed a diverse range of opinions among the States. Sh. Harpal Singh Cheema, Hon'ble Finance Minister, Punjab proposed a 5% rate without Input Tax Credit (ITC), emphasizing that no benefits should be extended to group insurance, considering the overall revenue implication. Sh. Payyavula Keshav, Hon'ble Minister for Finance, Planning, Commercial Taxes and Legislative Affairs, Andhra Pradesh also suggested a similar 5% rate without ITC for individuals, but also proposed a blanket exemption for senior citizens. Smt. Chandrima Bhattacharya, Hon'ble Finance Minister, West Bengal proposed exemption to all individual health insurance. Sh. Krishna Byre Gowda, Hon'ble Minister for Revenue, Karnataka proposed exemptions for senior citizens and policies having coverage up to Rs. 5 lakh, or alternatively, a 5% rate without ITC for all individuals. Sh. Kanubhai Desai, Hon'ble Minister for Finance, Gujarat aligned with the stance for 5% without ITC for individuals but expressed acceptance of the option to exempt all individual health insurance for senior citizens. Sh. K. N. Balagopal, Hon'ble Minister for Finance, Kerala proposed a 5% rate without ITC for individuals but noted that their data shared by TRU needed verification before making a final decision. At this point, TRU informed that the data had been cross verified from multiple sources, including from DFS, IRDAI and GIC, but still if Kerala had any specific queries, then the same may be intimated to TRU so that the queries, if any, can be resolved. Sh. Thangam Thennarasu, Hon'ble Minister for Finance and Environment & Climate Change, Tamil Nadu agreed with the 5% rate without ITC for individuals. Sh. Krishan Kumar Vishnoi, Hon'ble State Minister, Rajasthan proposed exemption to all senior citizens and for policies having coverage up to Rs. 5 lakh for all individuals. Sh. Suresh Kumar Khanna, Hon'ble Minister of Finance, Parliamentary Affairs, Uttar Pradesh also proposed an exemption for all individual health policies having coverage up to Rs. 5 lakhs and a complete exemption for health insurance for senior citizens. He further recommended that status quo should be maintained as far as group health insurance is concerned. Sh. SS Gill, Commissioner of State Taxes, Goa (on behalf of Dr. Pramod P. Sawant, Hon'ble Chief Minister, Goa) recommended a 5% rate without ITC for all individuals, with a complete exemption for senior citizens. Sh. Mallu Bhatti Vikramarka, Hon'ble Deputy Chief Minister and Minister for Finance, Telangana supported the 5% without ITC rate for individual health insurance. Sh. Conrad K. Sangma, Hon'ble Chief Minister, Meghalaya, via subsequent written reply, advocated that 5% GST without ITC may be provided for all Health insurance policies and status quo may be maintained for group policies.

After considering the opinions of all members, the convenor of GoM Sh. Samrat Choudhary, Hon'ble Deputy Chief Minister, Bihar, proposed the following:

1. Exempting individual health insurance policies for senior citizens, along with reinsurance thereof.
2. Exempting individual health insurance policies providing coverage up to Rs 5 lakh, along with reinsurance thereof.

3. The issue of GST rate on health insurance for Persons with Mental Illness (PMI) to be examined by the Fitment Committee, with instructions to seek recommendations from the Department of Financial Services.

All the members of the GoM agreed that the above proposals could be placed by the GoM before the GST Council for its consideration and final recommendation.

## K. Recommendations of the GoM

In view of the above, the following proposals are placed by the GoM before the GST Council for its consideration and final recommendation:

### K.1 Life Insurance

1. Exempting individual term life insurance policies, along with reinsurance thereof.
2. GST rates on group term life insurance may not be changed at present, but instead may be examined at a later stage.

### K.2 Health Insurance

1. Exempting individual health insurance for senior citizens, along with reinsurance thereof.
2. Exempting individual health insurance policies providing coverage up to Rs 5 lakh, along with reinsurance thereof.
3. The issue of GST rate on health insurance for Persons with Mental Illness (PMI) may be examined by the Fitment Committee, with instructions to seek recommendations from the Department of Financial Services.

The above proposals are placed by the GoM before the GST Council for its consideration and final recommendation.

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## ANNEXURE-A

### List of insurers

#### Life Insurers (26):

1. Life Insurance Corporation of India
2. Max Life Insurance Company Limited
3. HDFC Life Insurance Company Limited
4. ICICI Prudential Life Insurance Company Limited
5. Kotak Mahindra Life Insurance Company Limited
6. Aditya Birla SunLife Insurance Company Limited
7. TATA AIA Life Insurance Company Limited
8. SBI Life Insurance Company Limited
9. Bajaj Allianz Life Insurance Company Limited
10. PNB MetLife India Insurance Company Limited
11. Reliance Nippon Life Insurance Company Limited
12. Aviva Life Insurance Company India Limited
13. Sahara India Life Insurance Company Limited
14. Shriram Life Insurance Company Limited
15. Bharti AXA Life Insurance Company Limited
16. Future Generali India Life Insurance Company Limited
17. Ageas Federal Life Insurance Company Limited
18. Canara HSBC Life Insurance Company Limited
19. Bandhan Life Insurance Limited
20. Pramerica Life Insurance Company Limited
21. Star Union Dai-ichi Life Insurance Company Limited
22. India First Life Insurance Company Limited
23. Edelweiss Life Insurance Company Limited
24. Credit Access Life Insurance Limited
25. Acko Life Insurance Limited
26. Go Digit Life Insurance Limited

#### General Insurers (27):

1. Acko General Insurance Limited
2. Agriculture Insurance Company of India Limited
3. Bajaj Allianz General Insurance Company Limited
4. Cholamandalam MS General Insurance Company Limited
5. ECGC Limited
6. Future Generali India Insurance Company Limited
7. Go Digit General Insurance Limited
8. HDFC ERGO General Insurance Company Limited
9. ICICI Lombard General Insurance Company Limited
10. IFFCO TOKIO General Insurance Company Limited
11. Kotak Mahindra General Insurance Company Limited
12. Kshema General Insurance Limited
13. Liberty General Insurance Limited
14. Magma HDI General Insurance Company Limited
15. National Insurance Company Limited

16. Navi General Insurance Limited
17. Raheja QBE General Insurance Co. Ltd.
18. Reliance General Insurance Company Limited
19. Royal Sundaram General Insurance Company Limited
20. SBI General Insurance Company Limited
21. Shriram General Insurance Company Limited
22. Tata AIG General Insurance Company Limited
23. The New India Assurance Company Limited
24. The Oriental Insurance Company Limited
25. United India Insurance Company Limited
26. Universal Sompo General Insurance Company Limited
27. Zuno General Insurance Ltd. (formerly Edelweiss General Insurance Company Limited)

**Stand-Alone Health Insurers (7):**

1. Aditya Birla Health Insurance Co. Ltd.
2. Care Health Insurance Ltd (formerly Religare Health Insurance Co. Ltd.)
3. Galaxy Health and Allied Insurance Co.
4. Narayana Health Insurance Ltd.
5. Manipal Cigna Health Insurance Company Limited
6. Niva Bupa Health Insurance Co Ltd.
7. Star Health & Allied Insurance Co.Ltd.

\*\*\*

## ANNEXURE-B (Health Insurance)

FY 2022-23 (Rs. Crores)		Individual	Group	Total
1	Taxable Value	35,300	54,732	90,032
2	Tax liab (@ 18%)	6,354	9,852	16,206
3	Paid in cash*	3,495	5,418	8,913
4	Paid in ITC (2-3)	2,859	4,433	7,293
5	Tax liab (@5%)	1,765	2,737	4,502
6	Tax liab (@NIL)	-	-	-
7A	Loss (@NIL)	3,495	5,418	8,913
7B	Loss (@5%)	4,589	7,115	11,704
8	Reinsur. Loss**	359	557	916

\* Cash ratio taken at 55% for health insurance.

\*\* May not affect actual cash collection, since purely B2B supply.

FY 2022-23 (Individual health insurance)	Premium contribution(%age)		Slab wise contribution	Premium contribution (Rs Crores)		Slab wise contribution	Projected loss (@NIL)		Slab wise Projected loss (@NIL)	Projected loss (@5%)		Slab wise Projected loss (@5%)
	Senior Citizen policies	Other than Senior Citizen policies		Senior Citizen policies	Other than Senior Citizen policies		Senior Citizen policies	Other than Senior Citizen policies		Senior Citizen policies	Other than Senior Citizen policies	
0<Coverage<=5lakhs	11%	42%	53%	3,794	14,793	18,587	376	1,465	1,840	493	1,923	2,416
5lakhs<Coverage<=10lakhs	5%	25%	30%	1,837	8,779	10,616	182	869	1,051	239	1,141	1,380
10lakhs<Coverage<=20lakhs	1%	7%	9%	392	2,642	3,033	39	262	300	51	343	394
20lakhs<Coverage<=30lakhs	1%	3%	4%	254	1,122	1,376	25	111	136	33	146	179
30lakhs<Coverage<=50lakhs	0%	2%	2%	130	685	815	13	68	81	17	89	106
Above 50 lakhs	0%	2%	2%	106	766	873	11	76	86	14	100	113
TOTAL	18%	82%	100%	6,514	28,786	35,300	645	2,850	3,495	847	3,742	4,589

Health Insurance	Individual			Group*	Total
	Senior Citizen**	Non-senior Citizen**	Individual Total*		
Number of policies in force as on 31-Mar-2023	1,075,968	20,443,399	21,519,367	6,588,297	28,107,664

\*Source: GIC Year Book FY 2022-23

\*\* Calculated in the ratio of number of new policies sold in FY 2022-23 as per data provided by GIC.

<b>Health Insurance FY 2022-23</b>	
<b>State</b>	<b>Contribution</b>
Maharashtra	29.44%
Karnataka	10.93%
Tamil Nadu	9.84%
Gujarat	7.11%
Delhi	6.43%
Telangana	5.35%
Haryana	4.76%
Uttar Pradesh	4.53%
West Bengal	4.21%
Rajasthan	3.96%
Kerala	3.39%
Madhya Pradesh	1.65%
Andhra Pradesh	1.47%
Punjab	1.45%
Jharkhand	1.27%
Orissa	0.85%
Bihar	0.69%
Assam	0.50%
Jammu & Kashmir	0.44%
Uttarakhand	0.39%
Chhattisgarh	0.38%
Chandigarh	0.22%
Goa	0.15%
Meghalaya	0.11%
Himachal Pradesh	0.10%
Mizoram	0.09%
Puducherry	0.07%
Dadra & Nagar Haveli and Daman & Diu	0.05%
Nagaland	0.05%
Tripura	0.05%
Manipur	0.02%
Sikkim	0.02%
Arunachal Pradesh	0.01%
Andaman & Nicobar	0.00%
Ladakh	0.00%
Lakshadweep	0.00%
<b>Total</b>	<b>100.00%</b>

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## ANNEXURE-C (Life Insurance)

FY 2022-23 (Rs. Crores)		Term Life Insurance			Other Life Insurance			Total Life Insurance		
		Individual	Group	Total	Individual	Group	Total	Individual	Group	Total
1	Taxable Value	2,669	21,274	23,943	47,767	54,379	102,146	50,436	75,653	126,089
2	Tax liab(@18%)	480	3,829	4,310	8,030	8,936	16,965	8,510	12,765	21,275
3	Paid in cash*	202	1,608	1,810	3,407	3,805	7,212	3,609	5,413	9,022
4	Paid in ITC (2-3)	279	2,221	2,500	4,623	5,131	9,753	4,901	7,352	12,253
5	Tax liab (@5%)	133	1,064	1,197	2,388	2,719	5,107	2,522	3,783	6,304
6	Tax liab (@NIL)	-	-	-	-	-	-	-	-	-
7A	Loss (@NIL)	202	1,608	1,810	3,407	3,805	7,212	3,609	5,413	9,022
7B	Loss (@5%)	347	2,766	3,113	5,641	6,217	11,858	5,988	8,982	14,971
8	Reinsur. Loss**	96	89	185	200	228	428	296	317	613

\* Cash ratio taken at 42% for life insurance.

\*\* May not affect actual cash collection, since purely B2B supply.

Life Insurance	Term Life Insurance		Other Life Insurance	
	Individual	Group	Individual	Group
<b>Number of policies in force as on 31-Mar-2023</b>	6,523,289	49,202	306,971,470	144,662

Life Insurance FY 2022-23	
State	Contribution
Maharashtra	23.18%
Tamil Nadu	8.69%
Karnataka	7.64%
Uttar Pradesh	6.94%
Delhi	6.93%
West Bengal	6.83%
Gujarat	5.31%
Telangana	3.96%
Rajasthan	3.33%
Andhra Pradesh	3.32%
Kerala	3.12%
Bihar	2.89%
Odisha	2.50%
Madhya Pradesh	2.49%
Haryana	2.46%
Assam	1.81%

Punjab	1.80%
Jharkhand	1.77%
Chattisgarh	1.27%
Uttarakhand	1.04%
Jammu and Kashmir	0.63%
Himachal Pradesh	0.61%
Goa	0.37%
Chandigarh	0.30%
Tripura	0.20%
Puducherry	0.11%
Meghalaya	0.09%
Manipur	0.08%
Sikkim	0.07%
Arunachal Pradesh	0.07%
Nagaland	0.07%
Dadra and Nagar Haveli and Daman and Diu	0.03%
Mizoram	0.03%
Andaman and Nicobar Islands	0.02%
Ladakh	0.01%
Lakshadweep	0.01%
<b>Total</b>	<b>100.00%</b>

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ANNEXURE-D

Meeting  
of  
Group of Ministers  
on  
Life and Health Insurance

19-OCT-2024  
NEW DELHI

## MILESTONES

54th GST Council Meeting

Report to be submitted by GoM

9th September 2024

19th October 2024

End of October 2024

1st Meeting of GoM



## TERMS OF REFERENCE

- To examine and review the present tax structure of GST on life and medical insurance; and
- To suggest GST rates on:
  - health / medical insurance including individual, group, family floater and other medical insurance for various categories like senior citizens, middle class, persons with mental illness, etc;
  - life insurance including term insurance, life insurance with investment plans, whether individual or group; and
  - re-insurance of the above.

# IMPORTANT METRICS

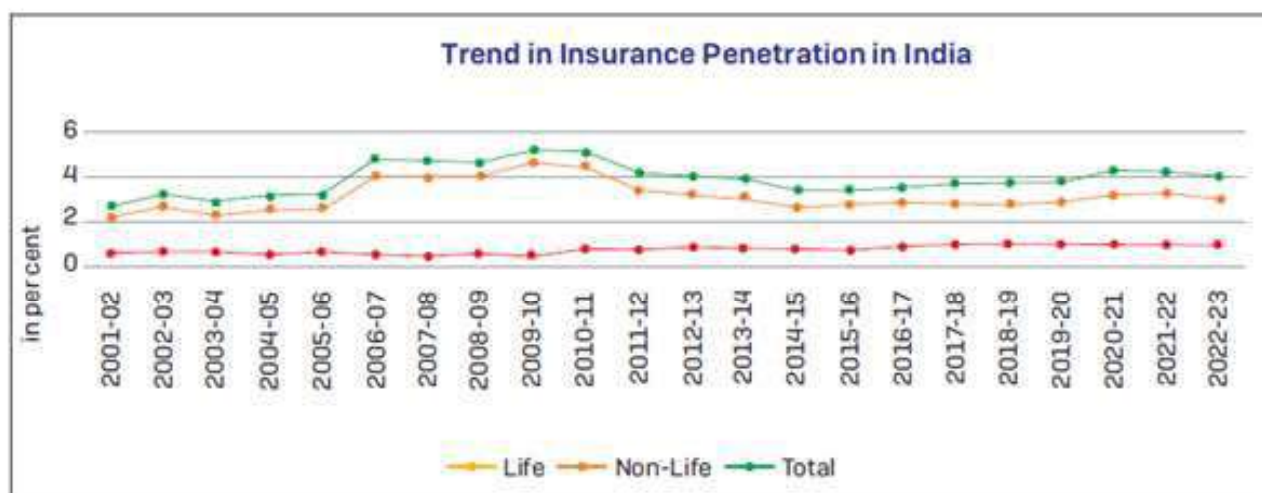
## Insurance Penetration

**Ratio of total insurance premium to the country's Gross Domestic Product (GDP)**

## Insurance Density

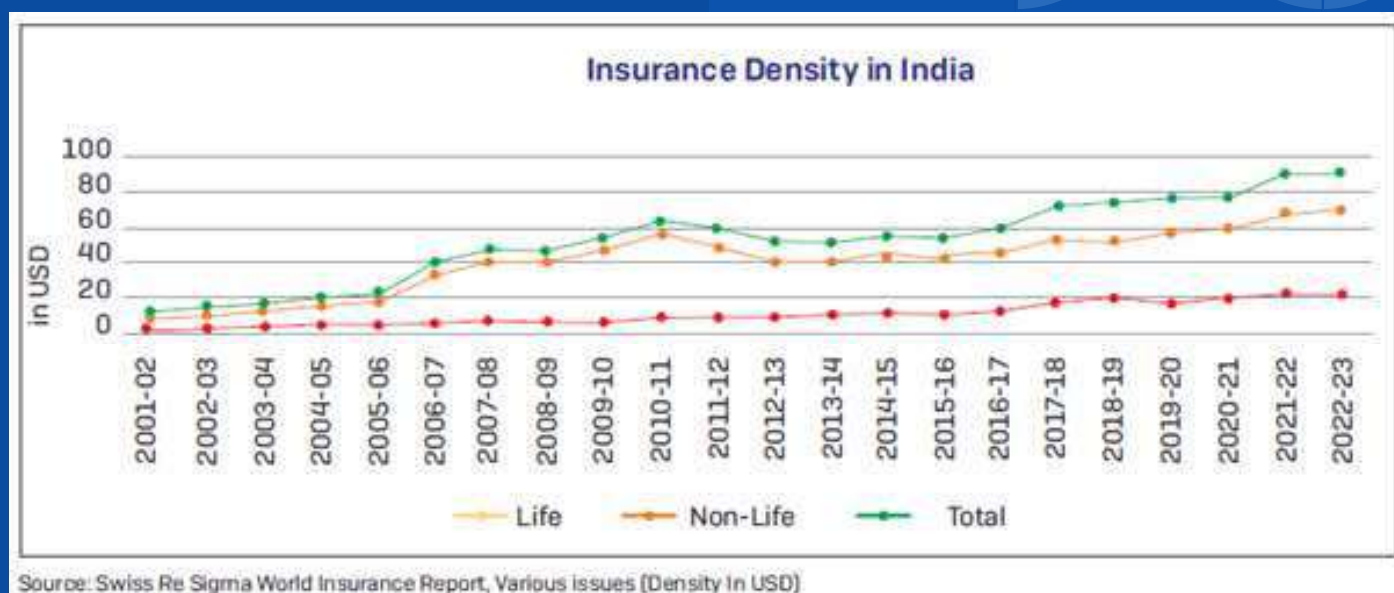
**Per capita premium**

# LONG TERM TREND OF INSURANCE PENETRATION IN INDIA

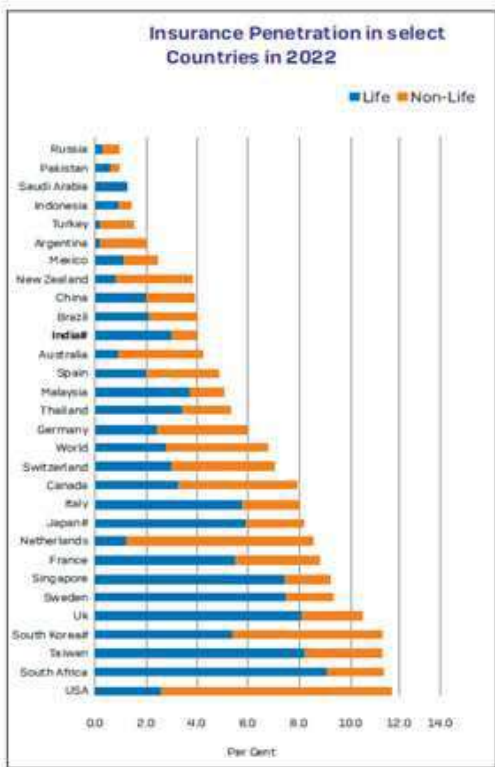


Source: Swiss Re, Sigma World Insurance Report, various issues (Penetration - in per cent)

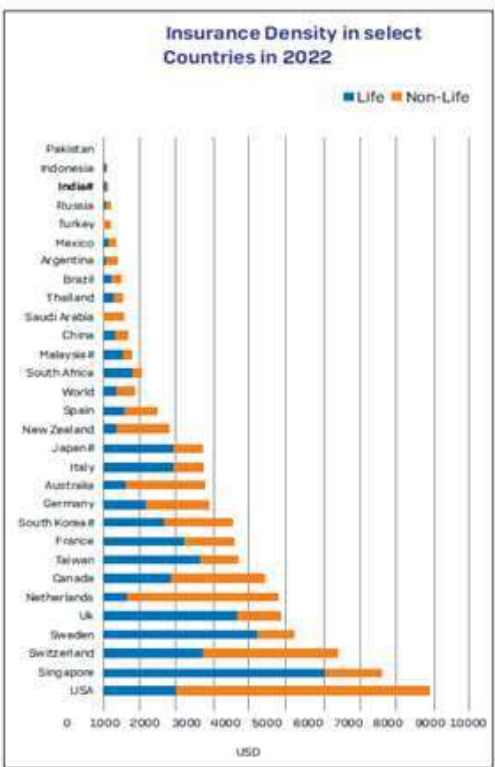
## LONG TERM TREND OF INSURANCE DENSITY IN INDIA



# WHERE DO WE STAND GLOBALLY ?



# Data Relates to financial year  
Note: Insurance Penetration is measured as percentage of Insurance premium to GDP



# Data Relates to financial year  
Note: Insurance Density is measured as ratio of Insurance premium to population  
Source: Swiss Re Sigma World Insurance Report (No 03/2023)

## **TYPES OF LIFE INSURANCE POLICIES**

### **INDIVIDUAL**

- Term Insurance Plan
- Unit Linked Insurance Plan
- Endowment Policy
- Retirement/Pension Plan

### **GROUP**

- Group Life Insurance for Employers
- Group Life Insurance for Resident Welfare Associations (RWAs)
- Group Life Insurance for Professional Associations

## **TYPES OF HEALTH INSURANCE POLICIES**

### **INDIVIDUAL**

- General individual health insurance plan
- Hospital Cash Policy
- Critical Illness policy
- Family floater policies
- Other products

### **GROUP**

- Group Health Insurance for Employees

## INSURANCE FOR PERSONS WITH MENTAL ILLNESS

Request was for exemption from 18% GST on Health Insurance premium for Persons with Mental Illness (PMI) which is a scheduled Disability under the Rights of Persons with Disabilities Act 2016 (RPWD Act).



It was felt that "Niramaya Health Insurance Scheme", providing affordable Health Insurance to persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities, is already exempt from GST.



Fitment Committee recommended that the request may not be accepted.



## GST RATE ON LIFE INSURANCE POLICIES

18%

Standard rate of GST for all non-exempted insurance policies

Exempt

Janashree Bima Yojna, Aam Aadmi Bima Yojna, Varishtha Pension Bima Yojna, Pradhan Mantri Jeevan Jyoti Bima Yojna, Pradhan Mantri Jan Dhan Yojna, Atal Pension Yojna, etc.

## VALUATION FOR THE PURPOSE OF GST LIFE INSURANCE

S.N.	Circumstances	Value as per the rules
1	Policies where amount of investment/ saving is intimated to policyholder at the time of supply of service	Gross premium charged (-) amount allocated for investment/ saving as intimated
2	Term life insurance policies (with only risk element)	Full value
3	Single premium annuity policies other than (1 & 2)	10% of single premium charged <b>(Effective rate becomes 1.8%)</b>
4	In all other cases	25% of the premium in first year <b>(Effective rate is 4.5%)</b> and 12.5% of the premium in subsequent years <b>(Effective rate is 2.25%)</b>

## GST RATE ON HEALTH INSURANCE POLICIES

18%

Standard rate of GST for all non-exempted insurance policies

Exempt

Jan Arogya Bima Policy, Universal Health Insurance Scheme, Niramaya Health Insurance scheme, Rashtriya Swasthya Bima Yojana, PM-JAY Ayushman Bharat, etc.

- Recently, the Government of India has extended the benefits under PM-JAY (health cover of Rs. 5 lakhs) to all senior citizens (above the age of 70) irrespective of the income level.
- This coverage is in addition to the family coverage already provided under PM-JAY.
- Senior citizens with private health insurance are also eligible.

## INTERNATIONAL PRACTICE LIFE INSURANCE

Country	Standard Rate of VAT	Taxation of life insurance and reinsurance
United Kingdom	20%	Insurance and reinsurance transactions are <b>exempt</b> from VAT. Input tax credit is not available for inward supplies used in making supplies of insurance. Life insurance and reinsurance is exempt from Insurance Premium Tax (IPT) also.
Australia	10%	Life insurance and reinsurance is <b>exempt</b> . This is because life insurance policies involve a significant element of saving and are in the nature of a financial service. Therefore, life insurance is treated in the same manner as other financial services under the GST. Input tax credit is not available for inward supplies used in making supplies of insurance.
Singapore	9%	Premiums arising from life insurance and reinsurance contracts are <b>exempt</b> from GST.
South Africa	15%	Premiums paid on life insurance and reinsurance policies are <b>exempt</b> from VAT. This is akin to the treatment to most financial services in South Africa.
Japan	10%	Insurance transactions are <b>exempt</b> without the right to deduct input taxes.
Malaysia	8% (Service Tax)	Life insurance premiums paid by business organizations are <b>taxable</b> at the standard rate while those paid by individuals or families are <b>not subject to service tax</b> .
Indonesia	11%	All insurance services are <b>exempt</b> .

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## INTERNATIONAL PRACTICE HEALTH INSURANCE

Country	Standard Rate of VAT	Taxation of health insurance and reinsurance
United Kingdom	20%	Insurance and reinsurance transactions are <b>exempt</b> from VAT. Input tax credit is not available for inward supplies used in making supplies of insurance. <b>However, medical insurance is leviable to Insurance Premium Tax (IPT) at the rate of 12%.</b> At the same time, insurance contracts providing coverage for critical illness, permanent health insurance (such as income replacement) and other long-term policies which provide for care of the chronically sick are exempt from IPT as well. Also, all reinsurance is exempt from IPT.
Australia	10%	Private health insurance is <b>GST-free</b> , i.e. zero-rated. This treatment is in line with the general treatment of health services under GST.
Singapore	9%	<b>The provision of general insurance contracts (including health insurance) is a taxable supply of services.</b> The GST-registered insurance company is required to charge and account for GST at the prevailing GST rate on the general insurance premiums unless the supply qualifies as an international service and can be zero-rated. Reinsurance contracts of general insurance policies are exempt.
South Africa	15%	<b>Health insurance premiums are subject to the standard 15% VAT rate.</b>
Japan	10%	Insurance transactions are <b>exempt</b> without the right to deduct input taxes.
Malaysia	8% (Service Tax)	Health insurance premiums paid by business organizations are <b>taxable</b> at the standard rate while those paid by individuals or families are <b>not subject to service tax</b> .
Indonesia	11%	All insurance services are <b>exempt</b> .

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## REFERENCES RECEIVED

### Hon'ble MPs

Health and Life Insurance should  
be exempted

### Parliamentary Standing Committee

Reduction in GST on health  
insurance policies for senior citizens  
and policies up to limits prescribed  
under PMJAY (presently Rs. 5 lakh)

Reduction in GST on term life  
insurance policies

## REFERENCES RECEIVED

### DFS

Individual Health  
Insurance: 5%  
with ITC

Individual Term  
Life Insurance:  
5% with ITC

### GIC

Health  
Insurance: 12%  
with ITC

### LIC

ITC should be  
available if GST  
on term life  
insurance is  
rationalized

## LIFE INSURANCE DATA (FY 2022-23)

All values in Rs. Crores		Term Life Insurance			Other Life Insurance			Total Life Insurance		
		Individual	Group	Total	Individual	Group	Total	Individual	Group	Total
No. of Policies		6,523,289	49,202	6,572,491	306,971,470	144,662	307,116,132	313,494,759	193,864	313,688,623
1	Taxable Value	2,669	21,274	23,943	47,767	54,379	102,146	50,436	75,653	126,089
2	Tax liab (@ 18%)	480	3,829	4,310	8,030	8,936	16,965	8,510	12,765	21,275
3	Paid in cash	202	1,608	1,810	3,407	3,805	7,212	3,609	5,413	9,022
4	Paid in ITC (2-3)	279	2,221	2,500	4,623	5,131	9,753	4,901	7,352	12,253
5	Tax liab (@5%)	133	1,064	1,197	2,388	2,719	5,107	2,522	3,783	6,304
6	Tax liab (@NIL)	-	-	-	-	-	-	-	-	-
7A	Loss (@NIL)	202	1,608	1,810	3,407	3,805	7,212	3,609	5,413	9,022
7B	Loss (@5%)	347	2,766	3,113	5,641	6,217	11,858	5,988	8,982	14,971
8	Reinsur. loss	96*	89	185	200	228	428	296	317	613

\* Includes loss on account of import of reinsurance on which tax is payable under RCM

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## HEALTH INSURANCE DATA (FY 2022-23)

All values in Rs. Crores)		Individual	Group	Total
No. of Policies		21,519,367	6,588,297	28,107,664
1	Taxable Value	35,300	54,732	90,032
2	Tax liab (@ 18%)	6,354	9,852	16,206
3	Paid in cash	3,495	5,418	8,913
4	Paid in ITC (2-3)	2,859	4,433	7,293
5	Tax liab (@5%)	1,765	2,737	4,502
6	Tax liab (@NIL)	-	-	-
7A	Loss (@NIL)	3,495	5,418	8,913
7B	Loss (@5%)	4,589	7,115	11,704
8	Reinsur. loss	359	557	916

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## OPTIONS: LIFE INSURANCE

Option	Insurance Revenue Implication (₹ crore)	Reinsurance Revenue Implication (₹ crore)
Exempting all individual term life insurance premiums	202	96
Exempting all individual life insurance premiums (both term and non-term plans)	3,609	296
Exempting all term life insurance premiums (individual plus group plans)	1,810	185
Exemption all life insurance premiums (individual plus group plans)	9,022	613

## OPTIONS: HEALTH INSURANCE

Option	Insurance Revenue Implication (₹ crore)	Reinsurance Revenue Implication (₹ crore)
Exempting all individual health insurance premiums	3,495	359
Exempting premiums paid by senior citizens and up to ₹5 lakhs coverage	2,110	N.A.
Exempting premiums paid only by senior citizens	645	N.A.
Reducing GST on all individual health insurance services to 5% w/o ITC	1,730	359
Reducing GST on all individual health insurance services to 12%	2,118	166
Reducing GST on all individual health insurance services to 5%	4,589	359



# THANK YOU

**\*\* End of Report \*\***