



# **Agenda for**

# **47<sup>th</sup> GST Council Meeting**

**28-29 June 2022**

**Volume – 2**





## Volume –2

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# Discussion on Agenda Items

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## **Agenda Item 3 (Part-II) XIV: Note for extension of limitation under section 168A of the CGST Act, 2017**

1. Section 73 of the CGST Act, 2017 provides that the proper officer shall issue the order demanding any tax that has not been paid or short paid or erroneously refunded, or where input tax credit has been wrongly availed or utilised for any reason, other than the reason of fraud or any wilful misstatement or suppression of facts to evade tax, within three years from the due date for furnishing of annual return for the financial year to which the tax not paid or short paid or input tax credit wrongly availed or utilised relates to or within three years from the date of erroneous refund.

2.1 Some of the members of the Law Committee highlighted the problem being faced by the taxpayers as well as tax administration in respect of demands and refunds getting time barred due to long period of lockdown/restrictions on account of Covid-19 pandemic. A request was made to consider extension of timelines in respect of proceedings under:

- i. Section 73 and 74
- ii. Section 54 and 55

2.2 The issue was deliberated by the Law Committee in its meeting held on 11.04.2022 and 07.05.2022. The Law Committee observed that centre as well as state governments were working with reduced staff, along with staggered timings and exemption to certain categories of employees from attending offices, from time to time during COVID period. Further, it was a conscious policy decision not to do enforcement actions in the initial period of implementation of GST law, thereby no action for scrutiny, audit etc. could be undertaken during initial period of GST implementation. Since the due date of filing Annual return for FY 2017-18 was 5th/7th February, 2020, based on which limitations for demand under the Act are linked, and since the onset of COVID happened immediately after that, thereby, audit and scrutiny for FY 2017-18 were impeded due to various restrictions during COVID period.

2.3 The Law Committee, accordingly, recommended that **limitation under section 73 for FY 2017-18 for issuance of order in respect of demand linked with due date of annual return, may be extended till 30<sup>th</sup> September, 2023 under the powers available under section 168A of CGST Act.** Law Committee further took a view that no such extension is required for timelines under section 74 of the Act, as the Act provides for sufficient limitation time of 5 years in respect of such cases, i.e. much beyond the period affected by COVID-19.

2.4 Law Committee also observed that taxpayers may also have faced difficulties in timely filing of the refund claims during the COVID period. Besides, the tax officers were also hampered in issuing SCN during COVID period, in respect of erroneous refunds sanctioned. Therefore, the Law Committee also recommended that **time period from 01.03.2020 to 28.02.2022 may be excluded** from the limitation period for filing refund claim by an applicant under section 54 and 55 of CGST Act, as well as for issuance of order / demand in respect of erroneous refunds under section 73, by exercising power under section 168A of CGST Act.

3. A draft notification under section 168A of CGST Act, as per the above recommendations of the Law Committee, is placed at **Annexure A**.

4. In view of the above, the agenda, along with the draft notification, is placed before the GST Council for deliberation and approval.

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**Annexure-A**

**[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. XXXX– Central Tax**

**New Delhi, the XXXXXX**

G.S.R (E).– In partial modification of the notifications of the Government of India in the Ministry of Finance (Department of Revenue), No. 35/2020-Central Tax, dated the 3rd April, 2020, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 235(E), dated the 3rd April, 2020 and No. 14/2021-Central Tax, dated the 1st May, 2021, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 310(E), dated the 1st May, 2021, in exercise of the powers conferred by section 168A of the Central Goods and Services Tax Act, 2017 (12 of 2017) (hereafter in this notification referred to as the said Act), read with section 20 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017), and section 21 of the Union Territory Goods and Services Tax Act, 2017 (14 of 2017), the Government, on the recommendations of the Council, hereby notifies, as under,-

(i) the time limit specified under sub-section (10) of section 73, for issuance of order under sub-section (9) of section 73 of the said Act, for recovery of tax not paid or short paid or of input tax credit wrongly availed or utilized, in respect of a tax period for the financial year 2017-18, shall be extended up to the 30<sup>th</sup> day of September, 2023;

(ii) for computation of period of limitation under sub-section (10) of section 73 of the said Act, for issuance of order under sub-section (9) of section 73 of the said Act, for recovery of erroneous refund, the period from the 1<sup>st</sup> day of March, 2020 to the 28<sup>th</sup> day of February, 2022, shall stand excluded;

(iii) for computation of period of limitation for filing refund application under section 54 or section 55 of the said Act, the period from the 1<sup>st</sup> day of March, 2020 to the 28<sup>th</sup> day of February, 2022, shall stand excluded.

2. This notification shall come into force with effect from the XXXXXXXXXXXXXXXX.

[F. No. CBIC-20001/2/2022-GST]

(Rajeev Ranjan)

Under Secretary to the Government of India

**Agenda Item 3 (Part-II) XV: Waiver of late fee for delay in filing FORM GSTR-4 for FY 2021-22 and extension of due date for filing FORM GST CMP-08 for Q1 of FY 2022-23.**

1. Sub-rule (1) to rule 62 of the CGST Rules, 2017 requires every registered person paying tax under section 10 to furnish a return for every financial year in **FORM GSTR-4**, till the 30<sup>th</sup> day of April following the end of such financial year, besides furnishing a statement, every quarter containing the details of payment of self-assessed tax in **FORM GST CMP-08**, till the 18<sup>th</sup> day of the month succeeding such quarter. Accordingly, the due date to furnish **FORM GSTR-4** for FY 2021-22 was 30<sup>th</sup> April, 2022.

2.1. In this regard, attention is drawn to the advisory dated 30.04.2022 issued by GSTN to composition taxpayers in respect of the issues arising out of negative liability in **FORM GSTR-4**. The self-assessed tax paid by the taxpayer and declared in quarterly statements in **FORM GST CMP-08** for the financial year is auto-populated on the portal in **table 5** of **FORM GSTR-4** for the said financial year. The liability of the complete year is required to be declared by the taxpayers in **FORM GSTR-4** under applicable tax rates by filling up **table 6** mandatorily. In case, there is no liability, the said table may be filled up with '0' value. If no liability is declared in table 6, it was presumed (on portal) that no liability is required to be paid, even though taxpayer may have paid the liability through **FORM GST CMP-08**. In such cases, liability paid through **FORM GST CMP-08** was treated as excess tax paid and was moved on the portal to Negative Liability Statement for utilization of same for subsequent tax period's liability.

2.2. A large number of tickets were received on the GSTN Helpdesk for reducing the negative liability from the Negative Liability Statement. It was also noticed that some taxpayers had utilized the amount available in negative liability statement for paying the liability while filing further statements in **FORM GST CMP-08** or return in **FORM GSTR-4** of subsequent financial year. The said issue was deliberated in the Law Committee meeting held on 08.10.2021. Law Committee took a view that amount in negative liability statement needs to be debited on the portal as a remedial action. It was also decided wherever the amount available in negative liability statement had been utilized by the taxpayer for paying the liability while filing statement in **FORM GST CMP-08** or return in **FORM GSTR-4** of subsequent financial year, such amount needs to be debited from electronic cash ledger of the concerned taxpayer.

3. Accordingly, the amount available in negative liability statement had been debited on the portal for all taxpayers. In cases where the taxpayers had utilized the amount available in negative liability statement, the amount utilized out of negative liability statement was debited from the electronic cash ledger on the portal. Though, such amount of negative liability utilized should have been paid by the taxpayer by depositing the amount through challan, but in some cases, the amount has not been deposited by the taxpayers. The taxpayers, who have deposited the amount in cash ledger, the debited amount have been adjusted, whereas in case the amount of negative liability utilized has not been deposited by the taxpayer through challan, the balance in cash ledger became negative. In such cases, the taxpayers were advised by GSTN through the abovementioned advisory to deposit the past liability through challan of equal amount urgently. In case, the liability had already been paid through challan or by adding in the liability of the subsequent period, the same was advised to be claimed as refund by filing through application in **FORM GST RFD-01**.

4. In this context, a large number of representations have been received from the taxpayers stating that due to the debit made by the system in electronic cash ledger, resulting in negative balance in the said ledger, they are suddenly facing cash crunch for paying the remaining due amount as per GSTR-4 return. Since, the said action has been initiated on the system towards the end of the month of April, shortly before the due date of filing GSTR-4 return for FY 2021-22, viz. 30.04.2022, taxpayers have complained of paucity of time to arrange for requisite funds. Therefore, a large number of taxpayers have reported difficulty in furnishing **FORM GSTR-4** by the due date.

5. The issue was deliberated by the law committee in its meeting held on 07.05.2022. Law Committee had recommended that late fee may be waived for delay in filing GSTR-4 for FY 2021-22 for two months from the due date, i.e. late fee under section 47 may be waived **for the period 01.05.2022 till 30.06.2022** for delay in filing **FORM GSTR-4** for FY 2021-22. The said recommendation of the Law Committee was subsequently approved by the GST Implementation Committee (GIC) and implemented vide issuance of Notification No. 07/2022-GST dated 26<sup>th</sup> May, 2022.

6. However, considering a large number of representations from the taxpayers and various trade associations regarding difficulty being caused due to negative balance in electronic cash ledger, the status of issue was placed by GSTN before the Law Committee, in the meeting held on 08.06.2022. It was informed by GSTN that, as on date, approximately 85,000 taxpayers still have negative entries in their electronic cash ledger amounting to approximately Rs 168 crores. To address the problem being faced by the taxpayers, and as trade facilitation measure, the Law Committee recommended that:

*“1. The negative balance in cash ledger in respect of those taxpayers having negative balance in electronic cash ledger as on date may be nullified by passing a credit entry of equal amount by running a utility in the System.*

*2. The list of all such cases may be sent to tax authorities for necessary verification and recovery, if any, in cases wherein taxpayer has neither paid the amount utilised out of negative liability statement through CMP-08/GSTR-4 nor through DRC-03.*

*3. An e-mail may also be sent by GSTN to these taxpayers (approximately 85,000) to pay the tax, if any, in case they have utilised the negative entry in the cash ledger.*

*4. Where the taxpayer has paid the liability twice, he may seek refund from the jurisdictional officer under the category excess tax paid.”*

7. In order to implement the above recommendations of the Law Committee, GSTN has sought time **upto 8<sup>th</sup> July 2022 for deployment of the said functionality**, i.e. beyond June 2022 (the waiver of late fee for filing of GSTR-4 for FY 2021-22 is upto 30<sup>th</sup> June 2022).

8. In view of the above, it is proposed to:

(i) extend the waiver of late fee for delay in filing **FORMGSTR-4** for FY 2021-22 by approximately four more weeks, i.e. late fee under section 47 may be waived till 28.07.2022 for delay in filing **FORM GSTR-4** for FY 2021-22 (The existing waiver is for the period from 01.05.2022 till 30.06.2022)

(ii) extend the due date of filing of **FORM GST CMP-08** for the 1<sup>st</sup> quarter of FY 2022-23 from 18.07.2022 to 31.07.2022.

9. Accordingly, the proposal in Para 7, as recommended by the Law Committee, along with draft notifications (**Annexure A and B**) is placed before the GST Council for approval.

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**Annexure A**

**[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. --/2022 – Central Tax**

**New Delhi, the ....., 2022**

G.S.R.....(E).— In exercise of the powers conferred by section 128 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council, hereby makes the following further amendments in the notification of the Government of India, Ministry of Finance (Department of Revenue), No. 73/2017–Central Tax, dated the 29<sup>th</sup> December, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) *vide* number G.S.R. 1600(E), dated the 29<sup>th</sup> December, 2017, namely :—

In the said notification, in the sixth proviso, for the words, figures and letters “30<sup>th</sup> day of June, 2022”, the words, figures and letters “28<sup>th</sup> day of July, 2022” shall be substituted.

[F. No. CBIC-20001/2/2022-GST]

(Rajeev Ranjan)

Under Secretary to the Government of India

Note: The principal notification No. 73/2017-Central Tax, dated 29<sup>th</sup> December, 2017 was published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) *vide* number G.S.R. 1600(E), dated the 29<sup>th</sup> December, 2017 and was last amended *vide* notification number 07/2022 – Central Tax, dated the 26<sup>th</sup> May, 2022, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) *vide* number G.S.R 397 (E), dated the 26<sup>th</sup> May, 2022.

**[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. --/2022 – Central Tax**

**New Delhi, the ....., 2022**

G.S.R.....(E).— In exercise of the powers conferred by section 148 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Government, on the recommendations of the Council, hereby makes the following further amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 21/2019-Central Tax, dated the 23rd April, 2019, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 322(E), dated the 23rd April, 2019, namely:—

In the said notification, in the second paragraph, after the fourth proviso, the following proviso shall be inserted, namely: –

“Provided also that the said persons shall furnish a statement, containing the details of payment of self-assessed tax in **FORM GST CMP-08** of the Central Goods and Services Tax Rules, 2017, for the quarter ending 30<sup>th</sup> June, 2022 till the 31<sup>st</sup> day of July, 2022.”;

[F. No. CBIC-20001/2/2022-GST]

(Rajeev Ranjan)

Under Secretary to the Government of India

Note: The principal notification No. 21/2019-Central Tax, dated 23<sup>rd</sup> April, 2019 was published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 322(E), dated the 23<sup>rd</sup> April, 2019 and was last amended vide notification number 25/2021 – Central Tax, dated the 1<sup>st</sup> June, 2021, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R 397 (E), dated the 1<sup>st</sup> June, 2021.

### **Agenda Item 3 (Part-II) XVI: Refund of accumulated ITC to Duty-Free Shops**

#### **1. Back ground of the issue**

1.1 Duty-Free Shops (DFS) are a point of sale of goods such as perfumes, alcoholic liquor, cosmetics, etc. to international passengers at the arrival and departure terminal of major international airports. These goods are generally imported from outside India and are stored in 'special bonded warehouses' licensed under section 58A of the Customs Act before being sold to the international passengers from Duty-Free Shops (points of sale) located in the Customs area at arrival and departure side of the International Airports. The DFS operators also procure some goods indigenously on payment of due GST for sale from duty-free shops (point of sale) in arrival and departure terminals of international airports. Besides, DFS operators also receive GST-paid supplies of input services such as renting of premises in terms of the concession agreement with the airport operator or the Airports Authority of India, advertisement services, CHA services, etc on which they avail ITC.

1.2 DFS operators were considering such sale of goods to international passengers from DFS (point of sale) as zero-rated supply and were filing refund claim of accumulated ITC on account of 'zero-rated supply' under section 54(3) of CGST Act. In a few cases, the refund was not being sanctioned by the tax officers on the ground that supply by the Duty-Free Shop to the eligible passengers doesn't qualify as exports.

1.3 The issue was earlier deliberated in the Law Committee and the GIC/GST Council. As per the recommendations of GIC/ GST Council, Notification No. 11/2019-Integrated Tax (Rate) dated 29.06.2019 was issued, exempting any supply of goods by a retail outlet established in the departure area of an international airport, beyond the immigration counters, to an **outgoing international tourist**, from the whole of the integrated tax leviable thereon under section 5 of the Integrated Goods and Services Tax Act, 2017. Alongside, vide notification No. 10/2019-Integrated Tax (Rate), notification No. 11/2019-Central Tax (Rate) and notification No. 11/2019-Union territory Tax (Rate) all dated 29.06.2019, the retail outlets established in departure area of the international airport beyond immigration counters were notified under Section 55 of the CGST Act, 2017 and became entitled to claim **refund of all applicable Central tax, Integrated tax, Union territory tax and Compensation Cess paid by them on inward supplies of indigenous goods** received by them for the purposes of subsequent supply of goods to outgoing international tourists. Further, vide notification No. 31/2019 – Central Tax dated 28.06.2019, rule 95A was inserted in CGST Rules, 2017 to implement a scheme for refund of taxes paid on inward supply of indigenous **goods, which are supplied to** outgoing International Tourists by Duty Free Shop (DFS) and Duty Paid Shop (DPS) in departure area of international airport. Circular No. 106/25/2019-GST dated 29.06.2019 was also issued to provide for the detailed procedure for the grant of such refund.

1.4 Therefore, the position taken, based on recommendation of the GST Council, was that the sale from DFS outlets is **not 'export of goods'** and therefore, the DFS operator is not entitled to refund of unutilized ITC of inputs/ input services on supplies made to outgoing passengers, by treating them as zero-rated supplies, under Section 54(3) of CGST Act, 2017. Instead, an incentive was extended in such cases in the nature of refund of tax paid on indigenous inputs (goods only) under section 55 of CGST Act and no refund of tax paid on input services has been allowed. Para 8.2 of the Circular 106/25/2019 dated 29.06.2019 clearly states that ***"It is also clarified that no refund of tax paid on input services, if any, will be granted to the retail outlets"***. A plain reading of the impugned Circular indicates that the sale of goods from DFS has not been treated as export of goods in terms of section

54 (3) of CGST Act, 2017. Rather, a special dispensation for refund of inputs (and not input services) has been carved out for a particular class of persons (DFS) under section 55 of CGST Act, 2017.

## **2. Subsequent decisions of Hon'ble High Courts on the issue:**

2.1 Subsequent to the insertion of Rule 95A and issuance of Circular 106/25/2019-GST, Hon'ble Bombay High Court, in the order dated 07.10.2019 in the matter of M/s Flemingo Travel Retail Limited & Ors vs UoI (W.P. Nos. 1511/2019 and 1535/2019), delivered a judgment in the matter of treatment of supplies made by duty free shops to the international passengers. This judgment was relied upon subsequently by the Hon'ble High Court of Kerala in their order dated 22.09.2020 in case of CIAL Duty Free and Retail Services Ltd vs. Union of India (W.P. No. 12274 of 2018).

2.2 The background of the case was that M/s Flemingo Travel Retail Limited (which runs duty free shops at the Mumbai Airport) had filed a writ petition against the order of Deputy Commissioner of Sales Tax, Mumbai denying the refund of the input tax credit pursuant to sale of duty free goods from the duty free shops at the departure area of airport. The Court in the order dated 07.10.2019, inter-alia, pronounced the following:

### **2.3 In case of goods sold by DFS at departure to outward international passengers**

- a) The supply by the DFS to the outbound passenger constitutes exports by the DFS. Consequently, in terms of section 16(1) of the IGST Act, it becomes a zero-rated supply.
- b) Since, supply of goods from departure DFS is "export" and the same is not cleared for home consumption, the same does not fall under Schedule-III of CGST/SGST Act.
- c) The credit of the entire GST paid on input services is available to the Petitioner under section 16(1) of the CGST Act.
- d) Notifications issued under section 55 of the CGST/SGST Act are applicable only qua the indigenous goods, and not applicable to imported/ warehoused goods sold from or in the customs area. Hence, the provisions of Rule 89 would continue to apply to the refund of ITC for zero-rated supplies of imported/ warehoused goods by the DFS.

### **2.4 In case of goods sold by DFS at arrival to incoming passengers:**

#### **a) Before 1<sup>st</sup> February 2019**

During the period between 1st July 2017 and 31st January 2019, the supply of goods from arrival DFSs has been treated as "export" by the revisional authority of Central Government vide order dated 31st August 2018 in a custom matter of Aarish Altaf Tinwala and this position has been affirmed by the Supreme Court by rejecting the writ petition filed against said order of revisional authority of Central Government vide its order dated 10th May 2019 in Writ Petition (c) No.564 of 2019. Hence by legal fiction, the supply of goods from arrival DFS would also be an export of goods under the IGST Act, and hence, a zero-rated supply. Since the zero-rated supply qualifies for 100% ITC, the Petitioner is eligible for the refund thereof.

#### **b) After 1<sup>st</sup> February 2019**

Effective from 1st February 2019, sale of goods from arrival DFS falls under entry 8(a) of Schedule III to CGST/SGST Act i.e. sale of goods from arrival DFS to incoming passenger is neither a supply of goods nor a supply of services. However, DFS can claim ITC on goods sold at arrival terminal to incoming passengers as w.e.f. 1<sup>st</sup> February 2019, section 17(3) of CGST Act, 2017 has been amended to do away with the need of reversal of ITC pertaining to activity specified in



Schedule-III of CGST Act, 2017. Accordingly, the Petitioner is eligible to claim ITC pertaining to arrival DFS also. Once this ITC is eligible, refund of entire ITC pertaining to departure and arrival DFS is available, based on formula of refund prescribed in Rule 89.

To sum up, the Hon'ble Court in the impugned judgment ruled that DFS shall be eligible for refund of ITC on sale of goods at arrival terminal to incoming passenger under Section 54(3) read with Rule 89 of CGST Act, 2017 for such sale affected before 1<sup>st</sup> February 2019 as well as after 1<sup>st</sup> February 2019.

2.5 The above judgment of Hon'ble High Court of Bombay was duly examined by the CBIC in consultation with the Additional Solicitor General (ASG) and based on the advice of the ASG, **it was decided not to file an SLP in the impugned matter.** On the same grounds, the judgement of Hon'ble High Court of Kerala was also accepted by the department.

### **3. Detailed analysis:**

The impugned issue has been analyzed in detail. The Hon'ble High Court of Bombay and Hon'ble High Court of Kerala in their judgments dated 7.10.2019 and 22.09.2020 respectively have ruled that supply of goods by DFS is in the nature of zero-rated supply and therefore, refund provisions as mentioned in Section 54(3) of CGST Act, 2017 and Rule 89 of CGST Rules, 2017 are applicable. However, the present legal provisions including Rule 95A of CGST Rules, 2017 which have been implemented as per the recommendations of the GST Council, do not consider the supplies made by DFS to international passengers as zero-rated supplies as they are based on the presumption that in case of sale by DFS, it is the passenger who is the exporter and not the DFS. Therefore, as of today, there is a legal anomaly between the law pronounced by the Hon'ble High Court of Bombay and Hon'ble High Court of Kerala (duly accepted by the department) vis-a-vis the legal provisions which have been implemented with the approval of the GST Council. In view of this, there is an imminent need to take suitable policy measures for correcting this legal anomaly for the period since 01.07.2019, when rule 95A and related notifications were brought into effect. It is desirable that rules and notifications be amended to align them with the decision of Hon'ble High Courts to treat the supply of goods by Duty Free Shops to international passengers as zero-rated supply.

However, going forward, for the future period, policy decision needs to be taken whether there is any need to amend the Act/ Rules for restricting the refund to DFS on account of supplies made by them to international passengers either at Arrival Terminal or also in respect of sales made at Departure Terminal or both. The policy measures/options were discussed by the Law Committee and it recommended the following policy measures:

### **4. Immediate measure required: To amend the rules and notifications to align them in line with the decision of Hon'ble High Courts to treat the supply of goods by Duty Free Shops as zero-rated supply**

It is noteworthy to point out that the Government has accepted Hon'ble Bombay High Court's order dated 07.10.2019 in the matter of Flemingo Travel Retail Limited & Ors vs UoI (W.P. Nos. 1511/2019 and 1535/2019), as well as the order dated 22.09.2020 of Hon'ble Kerala High Court in case of CIAL Duty Free and Retail Services Ltd vs. Union of India and decided not to file SLP (Special Leave Petition) before the Hon'ble Supreme Court in both the cases. However, Rule 95A of CGST Rules, 2017 and Circular No. 106/25/2019-GST dated 29.06.2019 have not been rescinded. Therefore, there is a need to remove this legal contradiction by rescinding Rule 95A of CGST Rules,

2017 and Circular No. 106/25/2019-GST dated 29.06.2019 **ab initio**, and thus, allow refund of accumulated ITC on inputs and input services to DFS under section 54(3) of CGST Act in respect of supplies made to outgoing international passengers by treating them as zero-rated supplies. This would also require rescinding notification No. 10/2019-Integrated Tax (Rate), notification No. 11/2019-Central Tax (Rate) and notification No. 11/2019-Union territory Tax (Rate) all dated 29.06.2019, notification No. 31/2019 – Central Tax dated 28.06.2019. These measures will bring the rules/ notifications in line with the order of the Hon'ble High Court of Bombay in the case of Flemingo Travel Retail Limited and the order of the Hon'ble High Court of Kerala in the case of CIAL Duty Free and Retail Services Ltd., which have been accepted by the Government.

## **5. Proposed policy measures for future period:**

### **5.1. With respect to goods sold to incoming passengers from DFS at Arrival Terminal:**

#### **5.1.1 Excluding refund in respect of ITC on inputs/ input services pertaining to DFS at Arrival Terminal by amending Explanation to sub-section (3) of section 17 of CGST Act by including certain transactions under paragraph 8(a) of Schedule III of CGST Act in the value of exempt supply**

##### **Proposed amendment in Section 17(3) of CGST Act, 2017**

Sub section (2), read with sub-section (3), of Section 17 of CGST Act, 2017 provides that where the goods or services or both are used partly for effecting taxable supplies including zero-rated supplies and partly for effecting exempt supplies, availment of ITC will be restricted only to the extent such input tax is attributable to the taxable supplies, including zero rated supplies. Further, explanation to sub-section (3) of section 17 clarifies that for the purpose of the said sub-section, “value of exempt supply” shall not include value of activities or transactions specified in paragraph 5 of the Schedule III, except those specified in paragraph 5 of the said schedule. In the case of M/s Flemingo mentioned above, Hon'ble Mumbai High Court has taken a view that as with effect from 01.02.2029, paragraph 8 (a) has been inserted in Schedule III of CGST Act, providing for “supply of warehoused goods to any person before clearance for home consumption”, the supply of goods by DFS to international passengers in Arrival Hall of the International Airport will stand covered by this paragraph and thus will be considered neither a supply of goods nor a supply of services with effect from 01.02.2019. Further, as per sub-section (2) of section 17, read with Explanation to sub-section (3) of section 17 of CGST Act, reversal of ITC will also not be required to be made in respect of input tax attributable for such transactions or activities. The net effect of the same will be that the DFS operator will be able to claim refund of accumulated ITC in respect of all inputs/ input services for both Arrival as well as Departure DFS. There did not appear to be any intention of the Government/ GST Council to extend the benefit of refund in respect of supplies made from Arrival DFS. In view of this, in order to deny benefit of refund of input tax credit in respect of supplies made from Arrival DFS, the input tax credit in respect of Arrival DFS may be required to be reversed under sub-section (2) of section 17, read with sub-section (3) of the said section, by including transactions under para 8(a) of Schedule III in the value of exempt supply by substituting Explanation to sub-section (3) of section 17 of CGST Act, 2017 as proposed below:

*“Explanation: For the purpose of this sub-section, the expression “value of exempt supply” shall not include the value of activities or transactions specified in Schedule III, except----*

*(a) the value of activities or transactions specified in paragraph 5 of the said Schedule; and*

*(b) the value of such activities or transactions as may be prescribed in respect of paragraph 8(a) of the said Schedule.”*

The law committee further recommended that the supplies from DFS at arrival terminal to the incoming passengers may be prescribed through the Rules under the above proposed clause (b) of the Explanation to sub-section (3) of section 17 of CGST Act, 2017, whose value shall not be excluded for calculation of “value of exempt supply”.

## **5.2 With respect to goods sold to outgoing passengers from Departure DFS**

The Law Committee recommended no changes/ amendments in the CGST Act/ CGST Rules in respect of supplies from DFS at departure terminal.

6. The following recommendations of the Law Committee as detailed in Paragraph 4 and Paragraph 5 above, are placed for deliberations and approval by the GST Council:

- i. To rescind rule 95A of the CGST Rules, 2017 and Circular No. 106/25/2019-GST dated 29.06.2019 **ab initio**;
- ii. To rescind notification No. 10/2019-Integrated Tax (Rate), notification No. 11/2019-Central Tax (Rate) and notification No. 11/2019-Union territory Tax (Rate) all dated 29.06.2019 and notification No. 31/2019 – Central Tax dated 28.06.2019;
- iii. To amend sub-section (3) of section 17 of CGST Act, 2017, by substituting the existing Explanation with following explanation:

*“Explanation: For the purpose of this sub-section, the expression “value of exempt supply” shall not include the value of activities or transactions specified in Schedule III, except---*

*(a) the value of activities or transactions specified in paragraph 5 of the said Schedule; and*

*(b) the value of such activities or transactions as may be prescribed in respect of paragraph 8(a) of the said Schedule.”*

- iv. Post amendment in sub-section (3) of section 17 of CGST Act, the supplies from DFS at arrival terminal to the incoming passengers to be prescribed through the Rules under the above proposed clause (b) of the Explanation to sub-section (3) of section 17 of CGST Act.

## **Agenda Item 6: Issues recommended 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 25th November, 2021, 10th March, 2022, 21st March, 2022, 26th March, 2022, 5th April, 2022, 12th April, 2022, 30th May, 2022 and 9<sup>th</sup> June, 2022 and had detailed discussions on representations received from various stakes 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 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).
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 issuance of clarification in relations to goods - Annexure I.**

#### **Annexure-I**

<b>S. No.</b>	<b>Description/ HSN</b>	<b>Present GST rate</b>	<b>Requested GST rate</b>	<b>Comments</b>
1.	Ostomy Appliances (including pouch or flange, stoma adhesive paste, barrier cream, irrigator Kit, sleeves, belt, micro-pore tapes)  [3006 91 00]	12%	Nil	<ol style="list-style-type: none"> <li>1. A colostomy bag, also called a stoma bag or ostomy bag, is a small, waterproof pouch for collecting waste from the body, used by patients suffering from ulcerative colitis, Crohn's disease, diverticulitis, colo-rectal cancer, etc.</li> <li>2. Ostomy bags are either disposable (one time use, generally changed once per day) or drainable (re-usable, discarded after 3-4 days). Usage is prolonged/ lifelong.</li> <li>3. Ostomy bags are similarly placed (though not same or identical) as urine collection bags.</li> <li>4. Concessional rate of 5% is available for Urine bags <i>vide</i> S. No. (8) under entry (E) of List 3 of Entry 257 of Schedule-I of Notification No:01/2017-Central Tax (Rate).</li> <li>5. Fitment Committee examined the issue and</li> </ol>

S. No.	Description/ HSN	Present GST rate	Requested GST rate	Comments
				recommends reduction in GST rate on ostomy appliances to 5%.
2.	Orthopaedic implants (Trauma, Spine, and Arthroplasty Implants in body); Orthoses (Splints, braces, belts & calipers); Prostheses (artificial limbs)  [9021]	5% for specified items, 12% otherwise	5% for all	<p>1. S. No. 257 –Schedule I prescribes 5% GST rate for Assistive devices, rehabilitation aids and other goods for disabled, specified in List 3. List 3 <i>inter alia</i> includes following entries –</p> <ul style="list-style-type: none"> <li>• B (1) - Orthopaedic appliances falling under heading No. 90.21 of the First Schedule</li> <li>• E (9) - Instruments and implants for severely physically handicapped patients and joints replacement and spinal instruments and implants including bone cement</li> </ul> <p>2. Further, S. No. 221- Schedule II prescribes 12% GST rate on Splints and other fracture appliances; artificial parts of the body; other appliances which are worn or carried, or implanted in the body, to compensate for a defect or disability; intraocular lens [other than orthopaedic appliances, such as crutches, surgical belts, and trusses, hearing aids.] falling under CTH 9021.</p> <p>3. Duality of rates on similar items falling under heading 9021 is thus causes confusion and request has been received for clarification.</p> <p>4. It may be mentioned that Hearing aids, which also fall under CTH 9021 attract Nil rate of GST. However, it is a well-defined separate item, as against the multiple types of orthopaedic appliances/ implants.</p> <p>5. Fitment Committee examined the issue and considering the nature of goods which fall under heading 9021 (and also noting that entry falling under 5%, as mentioned above, are wide enough to cover almost all goods falling under heading 9021) recommends that uniform GST rate of 5% be prescribed for all items under CTH 9021 (except hearing aids, which attracts</p>

S. No.	Description/ HSN	Present GST rate	Requested GST rate	Comments
				Nil GST rate).
3.	Polished Napa Stone  [2515 20 90]	5% or 18%	Issue clarification that Napa stone <u>without mirror polishing</u> attracts GST @ 5%	<ol style="list-style-type: none"> <li>1. S. No. 123 – Schedule I prescribes GST @ 5% for ‘<i>Ecaussine and other calcareous monumental or building stone; alabaster [other than marble and travertine], other than mirror polished stone which is ready to use.</i>’</li> <li>2. Napa stone is a variety of dimensional limestone.</li> <li>3. In the 28th GST Council meeting held on 21st July, 2018 it was decided to reduce GST rates on Kota stone and similar stones (except marble and granite), <i>other than ready to use mirror polished stones, to 5%</i>. The entry in the notification was drafted in consultation with the State of Rajasthan and Andhra Pradesh.</li> <li>4. Currently all polished stone tiles; including other similarly place stones like Kota stone as well as ceramic tiles attract 18% GST rates.</li> <li>5. The GST Council in its 45<sup>th</sup> Meeting had, upon a request by Hon’ble Chairperson, had directed that the issue relating to Napa stone be examined by Fitment Committee for clarification. Hon’ble Member from Andhra Pradesh had observed in the meeting that Napa Stone is never mirror polished and that being brittle it cannot be subject to such level of finishing.</li> <li>6. Subsequently, State of Andhra Pradesh made a presentation before the Fitment Committee (enclosed as Annexure-A). It was <i>inter alia</i> informed that minor polished stones cannot be treated on par with mirror polished stones, and Napa stones, being excavated from mines in layer forms, cannot be subjected to such extensive polishing (‘mirror polishing’).</li> <li>7. A clarification to this extent has been requested that Napa stones without ‘Mirror finishing’, even though ready to use, are taxable @ 5% as per the entry 123 of Schedule-I.</li> </ol>

S. No.	Description/ HSN	Present GST rate	Requested GST rate	Comments									
				8. Fitment Committee examined the issue and recommends, in the context of napa stone tiles, that by way of clarification it may be reiterated that except mirror polished stones (excluding marble and granite) other stone even if they are minor polished shall be covered by entry at S. No. 123 of 5% rate schedule.									
4.	Mango pulp/ puree;  [0804]	12%	Nil/ 5%  Issue clarification regarding HSN classification in 2007	<div>1. CTH heading 0804 covers <i>Dates, figs, pineapples, avocados, guavas, mangoes and mangosteens, fresh and dried</i>. Mango pulp is specifically covered under tariff item 0804 50 40.</div> <div>2. All goods under CTH 0804, in fresh state are exempt, whereas all these goods under CTH 0804, in dried form, <u>initially</u> attracted 12% GST rate, as per following erstwhile entry of Schedule II, -</div> <table border="1"><tr><td>16.</td><td>0804</td><td>Dates (soft or hard), figs, pineapples, avocados, guavas, mangoes and mangosteens, dried</td></tr></table> <div>3. Subsequently, in 22<sup>nd</sup> GST Council Meeting in Oct, 2017, reduced rate of 5% was recommended for ‘<i>mangoes sliced, dried</i>.’ Accordingly, new entry 30A was created in Schedule I for 5% rate as follows-</div> <table border="1"><tr><td>30A</td><td>0804</td><td>Mangoes sliced, dried</td></tr></table> <div>And, the word ‘mangoes’ (instead of ‘mangoes sliced, dried’) was omitted from entry 16 of Schedule-II as follows-</div> <table border="1"><tr><td>16.</td><td>0804</td><td>Dates (soft or hard), figs, pineapples, avocados, guavas, mangoes and mangosteens, dried</td></tr></table> <div>4. The intent of said changes was to provide for</div>	16.	0804	Dates (soft or hard), figs, pineapples, avocados, guavas, mangoes and mangosteens, dried	30A	0804	Mangoes sliced, dried	16.	0804	Dates (soft or hard), figs, pineapples, avocados, guavas, mangoes and mangosteens, dried
16.	0804	Dates (soft or hard), figs, pineapples, avocados, guavas, mangoes and mangosteens, dried											
30A	0804	Mangoes sliced, dried											
16.	0804	Dates (soft or hard), figs, pineapples, avocados, guavas, mangoes and mangosteens, dried											

S. No.	Description/ HSN	Present GST rate	Requested GST rate	Comments			
				<p>further reduced rate of 5% only to ‘Mangoes sliced, dried’. However, all forms of ‘mangoes’ under CTH 0804 were omitted from Schedule-II (12%) by the manner the entry was drafted.</p> <p>5. Under these circumstances, the Appellate Authority for Advance Ruling (Andhra Pradesh) held in its Order dated 20<sup>th</sup> Jan, 2022, that mango pulp/ puree is classifiable under tariff item 0804 50 40 and attracts 18% GST rate under residual entry.</p> <p>6. References have also been received to classify the item under CTH 2007/ 2008 (‘pulp’/ ‘puree’). The goods falling under both the headings, that is, 2007 and 2008, also attract GST at the rate of 12% <i>vide</i> Sl. No. 39 and 40 respectively of schedule II of notification No. 1/2017 CT(Rate) dated 28.06.2017.</p> <p>7. These are value added processed products and attract GST at the rate of 12%.</p> <p>8. As evident from records of 28<sup>th</sup> GST Council Meeting, only the rate of ‘Mangoes sliced, dried’ were to be further reduced to 5% from 12%. However, this inadvertently led to excessive exclusion of other forms of mango from 12% Schedule.</p> <p>9. Fitment Committee recommends a clarification may be issued that the rate on all forms of mango, dried, under CTH 0804 (other than mangoes sliced, dried) was always meant to be 12%. To avoid ambiguity, it is further recommended that entry 16 of Schedule II may be modified as follows-</p> <table><tr><td>16.</td><td>0804</td><td>Dates (soft or hard), figs, pineapples, avocados, guavas, <b><u>mangoes (other than mangoes sliced, dried)</u></b> and mangosteens, dried</td></tr></table>	16.	0804	Dates (soft or hard), figs, pineapples, avocados, guavas, <b><u>mangoes (other than mangoes sliced, dried)</u></b> and mangosteens, dried
16.	0804	Dates (soft or hard), figs, pineapples, avocados, guavas, <b><u>mangoes (other than mangoes sliced, dried)</u></b> and mangosteens, dried					



S. No.	Description/ HSN	Present GST rate	Requested GST rate	Comments												
5.	By-products of milling of Dal/ Pulses such as Chilka, Khanda and Churi etc.  [2302]	5%	Nil  (Issue clarification that the applicable GST rate is Nil as these are directly being consumed by as cattle feed.)	<div>1. The by-products of milling of pulses/ dal such as Chilka, Khanda and Churi are appropriately classifiable under HS 2302 that consists of goods having description as bran, sharps and other residues, whether or not in the form of pellets, derived from the sifting, milling or other working of cereals or of leguminous plants.</div> <div>2. The applicable GST rate on products falling under HS 2302 is as under:</div> <table><tr><th>Notf. No.</th><th>HSN</th><th>Description</th><th>Rate</th></tr><tr><td>S. No. 102 of Notfn No. 2/2017-CT(R)</td><td>2301 , 2302 , 2308 , 2309</td><td>Aquatic feed including shrimp feed and prawn feed, poultry feed &amp; cattle feed, including grass, hay &amp; straw, supplement &amp; husk of pulses, concentrates &amp; additives, wheat bran &amp; de-oiled cake[other than rice bran]</td><td>Nil</td></tr><tr><td>S. No. 103A of Schedule - I Notfn No. 1/2017-CT(R)</td><td>2302</td><td>Bran, sharps and other residues, whether or not in the form of pellets, derived from the sifting, milling or other working of cereals or of leguminous plants [other than aquatic feed including shrimp feed and prawn feed, poultry feed and cattle feed, including grass, hay and straw, supplement and husk of pulses, concentrates and additives, wheat bran and de-oiled cake]</td><td>5%</td></tr></table>	Notf. No.	HSN	Description	Rate	S. No. 102 of Notfn No. 2/2017-CT(R)	2301 , 2302 , 2308 , 2309	Aquatic feed including shrimp feed and prawn feed, poultry feed & cattle feed, including grass, hay & straw, supplement & husk of pulses, concentrates & additives, wheat bran & de-oiled cake[other than rice bran]	Nil	S. No. 103A of Schedule - I Notfn No. 1/2017-CT(R)	2302	Bran, sharps and other residues, whether or not in the form of pellets, derived from the sifting, milling or other working of cereals or of leguminous plants [other than aquatic feed including shrimp feed and prawn feed, poultry feed and cattle feed, including grass, hay and straw, supplement and husk of pulses, concentrates and additives, wheat bran and de-oiled cake]	5%
Notf. No.	HSN	Description	Rate													
S. No. 102 of Notfn No. 2/2017-CT(R)	2301 , 2302 , 2308 , 2309	Aquatic feed including shrimp feed and prawn feed, poultry feed & cattle feed, including grass, hay & straw, supplement & husk of pulses, concentrates & additives, wheat bran & de-oiled cake[other than rice bran]	Nil													
S. No. 103A of Schedule - I Notfn No. 1/2017-CT(R)	2302	Bran, sharps and other residues, whether or not in the form of pellets, derived from the sifting, milling or other working of cereals or of leguminous plants [other than aquatic feed including shrimp feed and prawn feed, poultry feed and cattle feed, including grass, hay and straw, supplement and husk of pulses, concentrates and additives, wheat bran and de-oiled cake]	5%													

S. No.	Description/ HSN	Present GST rate	Requested GST rate	Comments
				<p>3. The dispute in applicable GST rate revolves around the central argument that as to whether such by-products are being directly consumed as cattle feed.</p> <p>4. While milling of pulses/ dal, a wide range of by-products such as <i>chilka</i>, <i>khanda</i>, <i>churi</i>, etc. are obtained, preferred by cattle feed and dairy industry for better palatability and high nutritive value. The by-products obtained before being packed are ensured to go through re-processing for producing best quality of cattle feed having uniform colour, size, aroma, nutrition and purity.</p> <p>5. As per the IS 2052: 2009 issued by BIS, Grain By-products has been categorized as one of the ingredients of the compounded cattle feed.</p> <p>6. The subject goods are <u>ingredients</u> of cattle feed, while residual products of milling are at 5% GST rate. The subject goods thus attract 5% GST rate and a clarification may accordingly be issued.</p> <p>7. Further, the differential GST rate on animal feed ingredients and animal feed has been subject to a lot of litigation. For example: Fishmeal, Meat cum Bone Meal, Distiller's dried grains with solubles (DDGS) etc.</p> <p>8. A uniform rate of 5% on the entire Chapter 23 (except dog or cat food falling under CTH 2309) would address the issue. If this is done, cattle feed, de-oiled cake/rice bran, cotton seed oil cake would move from nil to 5%.</p> <p>9. Fitment Committee examined the issue and recommends that a clarification as above may be issued. However, in view of the prevailing multiple interpretations, recovery on account of this issue, for past periods, may not be insisted upon. Fitment Committee further recommends that the GoM on Rate Rationalization may consider uniform GST rate of 5% on all items Chapter 23 (with exception of dog or cat food</p>

S. No.	Description/ HSN	Present GST rate	Requested GST rate	Comments
				under CTH 2309).
6.	Specified defence items imported by private entities/vendors, when end-user is the Defence forces	Applicable IGST rate	Nil IGST on import	<ol style="list-style-type: none"> <li>1. Presently the exemptions from BCD and IGST is available on imports made by the armed forces and the DPSUs/PSUs for defence items specified in notification No. 19/2019-Customs.</li> <li>2. This exemption is subject to certification of imports by the Ministry of Defence and is available for limited period up to 30<sup>th</sup> June, 2024.</li> <li>3. Originally, said exemption was only for imports by Ministry of Defence or by the Defence Forces. Subsequently, imports by Defence Public Sector Units (DPSUs) or other (PSUs) for defence forces was also included vide notification 3/2020-Customs.</li> <li>4. Allowing exemption to imports by private sector, if the end user are the defence forces, may ease the availability of critical defence related items. Concession is only for a limited duration.</li> <li>5. Fitment Committee examined the issue and recommends that the said BCD and IGST exemption on specified defence items may be extended to imports by private entities provided that the end user is the Defence Forces.</li> </ol>
7.	Sewage Treated Water  [2201]	18%	Nil	<ol style="list-style-type: none"> <li>1. The description at S. No. 99 of notification 2/2017-CT(Rate) providing Nil GST rate reads as - “Water [other than aerated, mineral, <u>purified</u>, distilled, medicinal, ionic, battery, demineralized and water sold in sealed container]”.</li> <li>2. Advance Ruling Authority, Maharashtra, in two separate instances has ruled that these goods are covered under S. No. 24 of Schedule III, attracting 18% GST.</li> <li>3. As per these Rulings, the issue is whether the word ‘purified’ in S. No. 99 covers ‘treated sewage water’ as well, as a result of which the said goods will be excluded from exemption</li> </ol>

S. No.	Description/ HSN	Present GST rate	Requested GST rate	Comments
				<p>and covered under 18% GST.</p> <p>4. It is clear from these entries that premium; commercial water products were to be taxed, whilst regular water such as municipal supply, etc is to be at Nil GST rate. Presence of word 'purified' in exclusion to exemption has caused confusion in this case.</p> <p>5. Fitment Committee examined the issue and recommends that the word 'purified' may be omitted from the exception under S. No. 99, thereby making it clear that sewage treated water attracts Nil rate of GST.</p>
8.	Electric vehicles [87]	5%	Issue clarification that electric vehicles, whether fitted with battery or not, attract 5% GST rate	<p>1. In terms of Sl.242 A of Schedule 1 to Notification No.1/2017 – Central Tax (Rate) dated 28/06/2017, “<i>Electrically operated vehicles, including two and three wheeled electric vehicles</i>” classified under Chapter 87 are taxable @ 5%.</p> <p>2. "Electrically operated vehicles" for the purposes of the above entry is defined in the explanation to the entry in Sl.242 A as “.....vehicles which are run solely on electrical energy derived from an external source or from one or more electrical batteries fitted to such road vehicles and shall include E-bicycles”</p> <p>3. There have been different interpretations by various Advance Ruling Authorities as to whether electric vehicles, not yet fitted with a battery, will be eligible for concessional rate of duty @5%.</p> <p>4. Fitment Committee examined the issue and recommends that suitable clarification be accordingly issued that electric vehicles whether or not fitted with a battery pack, are eligible for the concessional rate @ 5%.</p>
9.	Tetra Pak (Aseptic Packaging)	12%	18%	<p>1. Tetra pack involves multiple layers with inside layer of polyethylene/aluminium, which increases the shelf life of the products, without</p>

S. No.	Description/ HSN	Present GST rate	Requested GST rate	Comments
	Paper)  [4811]			<p>requirements of preservatives</p> <p>2. Other substitutes for ‘Tetra Pak’ are cartons, plastic bottles, sachets and pouches (including bag-in-box), and plastic cups. GST rate of other substitutes is as follows –</p> <p style="padding-left: 40px;">(a) Cartons – 18%</p> <p style="padding-left: 40px;">(b) Plastic bottles/sachets/cups – 18%</p> <p>3. Recycling of Tetra Pak cartons is not economical and not linear (recycling allows some amount of inputs to be extracted, but not Tetra Pak itself).</p> <p>4. In 45<sup>th</sup> GST Council, a uniform GST rate of 18% on various kinds of packaging such as cartons, boxes, bags, cases, etc was recommended.</p> <p>5. If 18% GST rate is prescribed on Tetra Pak, there will be uniformity of tax structure with respect to other substitutes and therefore, a uniform rate of 18% may be prescribed for all such kinds of packaging.</p> <p>6. Fitment Committee examined the issue and recommends that GST rate of 18% may be prescribed for Aseptic packaging paper, including Tetra Pak.</p>
10.	Tar from Coal Gasification plants, producer Gas plants and Coke Oven Plants.  [2706]	18%	5%  Or  Clarification may be issued regarding applicable rate	<p>1. At the time of advent of GST, 5% GST rate was prescribed for tar distilled from coal, lignite or peat (S. No. 163-Schedule-I). No rate was prescribed for coal tar obtained from other sources.</p> <p>2. Subsequently, in the 23rd GST Council Meeting held on 10th November, 2017; it was recommended that a specific entry be provided for coal tar obtained from other sources. (S. No. 30A-Schedule-III prescribing 18% GST rate for other tars under CTH 2706)</p> <p>3. The Explanatory Notes to HSN state that tars obtained from water gas producers during gasification of coals falls under <b>other mineral</b></p>

S. No.	Description/ HSN	Present GST rate	Requested GST rate	Comments
				<p><b>tars</b> (thereby attracting 18% GST rate).</p> <p>4. Tar from coal gasification and other mineral tars have industrial use, for manufacturing value-added products such as paints, synthetic dyes, medicinal shampoos/ soaps and ointments, etc. ITC can be availed on these finished goods.</p> <p>5. Dual rates on similar products based on origin, which themselves are similar (tar from coal versus tar for coal gasification) is causing confusion.</p> <p>6. Fitment Committee examined the issue and recommends that uniform GST rate of 18% for all goods under CTH 2706 may be prescribed.</p>
11.	<p>Nicotine Polarilex Gum</p> <p>[HS 2404 91 00]</p>	18%	Clarification on classification and applicable rate	<p>1. Notification No. 18/2021 – Central Tax (Rate) dated 28.12.2021 was issued to implement the WCO 2022 HS Codes transposition with effect from 01.01.2022.</p> <p>2. Accordingly, a new entry was created, that is, HS 2404 91 00 comprising of products for oral application containing nicotine and intended to assist tobacco use cessation.</p> <p>3. As per HS Explanatory notes 2022, heading 2404 includes <i>nicotine containing products for recreational use, as well as nicotine replacement therapy (NRT) products intended to assist tobacco use cessation, which are taken as part of a nicotine intake reduction programme in order to lessen the human body's dependence on this substance.</i></p> <p>4. 'Nicotine Polacrilex gum' is commonly used to aid in smoking cessation in adults. Using a controlled amount of nicotine helps reduce nicotine withdrawal symptoms when you quit smoking.</p> <p>5. Further, HS 2404 91 00 squarely covers the item under question with applicable GST rate of 18% (as earlier) <i>vide</i> newly inserted entry at Sl. No. 26B in Schedule III to notification No.</p>

S. No.	Description/ HSN	Present GST rate	Requested GST rate	Comments										
				<p>1/2017 – Central Tax (Rate) dated 28.06.2017 by notification No. 18/2021 – Central Tax (Rate) dated 28.12.2021.</p> <p>6. Fitment Committee recommends that clarification on the matter may be issued.</p>										
12.	<p>Diethylcarbamazine (DEC) tablets supplied free of cost to National Filariasis Elimination Programme</p> <p>[Chapter 30]</p>	5%	Nil IGST on import	<p>1. Used in Mass Drug Administration to eliminate Lymphatic Filariasis (LF) under WHO's Global Programme to Eliminate Lymphatic Filariasis (an endemic disease). India is also a beneficiary of this programme.</p> <p>2. DEC tablets are manufactured by an entity in SEZ and supplied to WHO India for the programme. It is informed that GST so far had been borne by the SEZ manufacturing entity on behalf of WHO.</p> <p>3. GST Council, in its 43<sup>rd</sup> Meeting had reduced the GST on DEC tablets from 12% to 5%.</p> <p>4. Ministry of Health and Family Welfare has recommended Nil IGST on import of such medicines supplied free of cost for Central/ State Government sponsored public health programmes on similar lines as entry No. 212A of notification No. 50/2017-Customs, which states as follows-</p> <table border="1"> <thead> <tr> <th>CT H</th><th>Description</th><th>B C D</th><th>I G S T</th><th>Cond .</th></tr> </thead> <tbody> <tr> <td>30</td><td>Medicines/drugs/vaccines supplied free by United Nations International Children's Emergency Fund (UNICEF), Red Cross or an International Organisation subject to specified conditions. Explanation: For the purpose of this</td><td>Nil</td><td>Nil</td><td>103</td></tr> </tbody> </table>	CT H	Description	B C D	I G S T	Cond .	30	Medicines/drugs/vaccines supplied free by United Nations International Children's Emergency Fund (UNICEF), Red Cross or an International Organisation subject to specified conditions. Explanation: For the purpose of this	Nil	Nil	103
CT H	Description	B C D	I G S T	Cond .										
30	Medicines/drugs/vaccines supplied free by United Nations International Children's Emergency Fund (UNICEF), Red Cross or an International Organisation subject to specified conditions. Explanation: For the purpose of this	Nil	Nil	103										

S. No.	Description/ HSN	Present GST rate	Requested GST rate	Comments				
					notification, - “International Organisation means an International Organisation to which the Central Government has declared, in pursuance of section 3 of the United Nations (Privileges and Immunities Act) 1947 (46 of 1947), that the provisions of the Schedule to the said Act shall apply			
				5. In the instant case, medicines are supplied by SEZ manufacturing unit to WHO India.				
				6. Fitment Committee examined the issue and considering the importance of the medicines supplied free of cost in elimination of the disease, recommends that suggestion of Ministry of Health to exempt IGST on import of DEC tablets supplied free of cost for the National Filariasis Elimination Programme, may be accepted.				
13.	Fly Ash Bricks [6815]	12% with ITC, or 6% without ITC	Clarification that condition of 90% fly ash content applies only to fly ash aggregate, and not fly ash bricks.	1. Fly ash bricks currently attract GST at rate of 12% (with ITC) vide entry at serial no. 176B of Schedule II currently reads as follows-				
				S. No.	Chapter/ heading/ sub- heading/ tariff item	Description		
				176B	6815	Fly ash bricks or fly ash aggregate with 90 per cent. or more fly ash content; Fly ash blocks		



S. No.	Description/ HSN	Present GST rate	Requested GST rate	Comments
				<p>2. The GST Council in its 23<sup>rd</sup> Meeting, while approving the proposal to reduce GST rate on fly ash bricks from 12% to 5%, also recommended reduction in GST rate on fly ash aggregate with 90% or more fly ash content, from 12% to 5%. The same treatment to Fly ash blocks was added as per recommendations of 31<sup>st</sup> GST Council Meeting. The rate on these items was further modified to 12% with ITC or 6% without ITC as per recommendations of the 45th GST Council Meeting, notified vide 01/2022-CT(Rate) and 02/2022-CT(Rate).</p> <p>3. As per minutes of the 23<sup>rd</sup> GST Council Meeting, the condition of 90% or more fly ash content was applicable only for fly ash aggregate. However, Advance Ruling Authority has taken view that it applies to Fly Ash bricks also, and therefore, fly ash bricks with less than 90% fly ash content attract 18% GST as residual rate.</p> <p>4. Fitment Committee examined the issue and recommends that a suitable clarification be issued for the past that the condition of 90% or more fly ash content was applicable only for fly ash aggregate. To avoid confusion, the Committee also recommends that the condition of 90% fly ash content be removed altogether from the entry as a simplification measure.</p>
14.	Cut and Polished diamond [71]	0.25%	1.5%	<p>1. Reduced rate is causing duty inversion and blockage of ITC for gems and jewellery industry.</p> <p>2. Fitment Committee examined the issue and agreed that there is duty inversion which may be corrected by way of increase in GST rate on Cut and Polished diamonds.</p> <p>3. However, the Committee further noted that since a Group of Ministers (on rate rationalization) is currently examining the issue of IDS correction, the issue may be dealt with by the GoM.</p>

**b) Issues where no change has been proposed by the Fitment Committee in relation to goods -  
Annexure II**

**Annexure-II**

<b>S. No</b>	<b>Description/ HSN</b>	<b>Present GST rate</b>	<b>Requested GST rate</b>	<b>Comments</b>
1.	Molasses used for making cattle feed, purchased by cooperative milk unions  [1703]	28%	Nil	<p>1. Molasses attracts GST rate of 28%. To prepare cattle feed, a pre-formulated amount of various types of grains, vitamins and mineral mixture are added along with molasses. Molasses is an agricultural product of sugarcane industries. As per BIS standard for cattle feed, molasses is to be mixed along with grains, vitamins, etc.</p> <p>2. Full exemption for such molasses is requested on grounds that Co-operative milk Unions supply cattle feed to farmers without any profit margin.</p> <p>3. Fitment Committee examined the issue and felt that end use-based exemptions are difficult to administer and need to be discouraged. Fitment Committee does not recommend any change.</p>
2.	Perishable Fruits & Vegetables, cut; in brine or syrup; crushed or in pulp form.  [07, 08, 20]	5%/12%	Nil	<p>1. The request is for Nil GST rate on these goods on grounds that it is necessary to secure the Fruits &amp; Vegetables in a storable form for subsequent industrial use by conducting the following steps.</p> <p>i. Cutting, Brining, Syruping of Fruits &amp; Vegetables</p> <p>ii. Pulping, Crushing of Fruits &amp; Vegetables</p> <p>2. These are value add products having taxable inputs and services.</p> <p>3. May not be agreed to.</p>
3.	Pickles, Chutneys [2001, 2004]	12%	5%	<p>1. The request is for reduction of GST rate from 12% to 5% on grounds that these are not elitist products, and can be seen being served at roadside stalls, street vendors, community festivals, places of pilgrimage, institutional messes etc.</p>

S. No	Description/ HSN	Present GST rate	Requested GST rate	Comments
	Sauces [2103]  Fruit Drinks [2009]			2. Similar requests have been examined by the Council in its 37 <sup>th</sup> Meeting held on 20 <sup>th</sup> Sep, 2019. Council did not recommend any change.  3. May not be agreed to.
4.	Ready to Eat Food, Ready to Cook Foods, Instant Food Mixes etc. [2106]	18%	5%	1. Reduction of GST rate to 5% on these goods requested on grounds that Ready-to-Eat Food, Ready-to-Cook Foods, and Instant Food Mixes etc. facilitate working women as it saves time.  2. Instant food mixes are value added products. Similar request has not been considered in past by the Council in its 16 <sup>th</sup> , 25 <sup>th</sup> , 31 <sup>st</sup> and 37 <sup>th</sup> Meetings.  3. Fitment does not recommend any change.
5.	Branded (i.e., Packaged) Snack Foods [2106 90]	12%	5%	1. Namkeens, bhujia, mixture, chabena and similar edible preparations ready for consumption (other than roasted gram), put up in unit container and bearing brand name, attract higher GST rate of 12%. Otherwise, these goods attract GST at rate of 5%.  2. The GST rate on these branded items also is sought to be reduced to 5% on the grounds that the present differential rate encourages unpackaged food, which is unhealthy.  3. Branded food entails higher value addition. It is conscious decision of the Council to keep branded packaged food like chips etc at higher rate than unbranded food.  4. No change proposed.
6.	Biomass Briquettes and Pellets	5%	Nil	1. To incentivize utilisation of agri-farm waste, especially for sustainable energy projects, reduction of GST rate on these goods has been

S. No	Description/ HSN	Present GST rate	Requested GST rate	Comments
	etc  [Any Chapter]			requested.  2. Fitment Committee observed that Biomass briquettes or solid biofuel pellets already attract concessional 5% GST rate and accordingly felt that further reduction in GST rates is not required. The rate was reduced to 5% on the recommendation of Council in its 28 <sup>th</sup> Meeting in July,2018. Accordingly, it, did not recommend any change in the existing GST rate
7.	Medical devices  [9018, 9019]	12%	5%/Nil	1. Most medical devices under CTH 9018 and 9019 attract GST rate at 12%. Few specified items such as renal dialysis equipment, coronary stent, etc attract lower GST rate of 5%.  2. Reduction of duty has been requested to give boost to med-tech industry.  3. The current duty rate of 12% is optimal in order to reduce inversion while still providing a concessional rate.  4. No change recommended.
8.	Walnut, Kernel and Walnut Shell  [0802]	5%	Nil	1. Fitment Committee observed that most of the dried fruits in Chapter 8 like almond attract 12% GST. In this regards walnut and cashew are exception to have been placed at lower rate of 5%. Hence request for lowering of rate further has no merit.
9.	Panchgavya (indigenous cow products)  [Any Chapter]	As Applicable	Nil	1. Fitment Committee observed that the request is too generic and it would be difficult to identify products made out of cow products and will lead to lot of litigation.  2. Exempting such supplies may lead to inverted duty structure and distort the supply chain of ITC.  3. Further, it is difficult to establish the exact proportion of different ingredients in such products and monitoring the same may not

S. No	Description/ HSN	Present GST rate	Requested GST rate	Comments
				practically feasible, and may lead to mis-declaration and evasion.  4. Fitment Committee does not recommend any change
10.	Used Lead Acid Batteries (ULAB)  [8548 or 8549]	18%	5%	1. Used lead acid batteries are treated as scrap and attract a GST rate of 18%.  2. Further, various kinds of metal scrap also attract a GST rate of 18%.  3. It has been requested that reducing rate on these goods will help the organized recycling sector.  4. Fitment Committee examined the issue and does not recommend any change.
11.	Evrysdi (Risdiplam)  [30, 9804]	12%/ Nil on imports for personal use	Nil	The applicable GST rate on medicines (other than few specified drugs which attract concessional rates) is 12%. Drugs specified in List-1 appended to Schedule-I of notification 1/2017-CT(Rate) attract GST rate of 5% under S. No. 180 of said notification.  1. For medicines used in treatment of SMA imported for personal use, Nil rate of IGST on import is prescribed under certain conditions.  2. Health has not recommended any rate reduction on this medicine.  3. Fitment Committee observed that Department of Pharmaceuticals has not supported the request and accordingly does not recommend any change in the existing GST rates.
12.	Rooftop Solar Projects and DCR modules  [8541]	12%	5%	1. The GST rate on solar power generating systems was rationalized from 5% to 12% to correct inverted duty structure, on recommendations of 45 <sup>th</sup> GST Council Meeting.  2. It has been requested to re-instate the earlier concessional rate of 5% for limited period for

S. No	Description/ HSN	Present GST rate	Requested GST rate	Comments
				<p>projects under implementation.</p> <p>3. The inverted duty structure led to blocking of working capital for the domestic manufacturers of renewable energy equipment.</p> <p>4. Fitment Committee examined the issue and does not recommend any change.</p>
13.	Activity performed by International Rice Research Institute (IRRI)	As applicable	Nil	<p>1. Exemption from the purview and levy of GST and applicability of GST on the activities performed by IRRI has been requested.</p> <p>2. IRRI is notified under section 3 of the United Nations (Privileges and Immunities) Act, 1947 (46 of 1947),</p> <p>3. Fitment Committee observed output supplies by any of the other international organizations registered under section 3 of the United Nations (Privileges and Immunities) Act, 1947 have not been exempted from GST.</p> <p>4. Accordingly, Fitment Committee does not recommend any change in the existing GST rates.</p>
14.	Meat and Dairy products [Chapter 2, 3,4, 16]	Nil/ 5%	28% + compensation cess	<p>1. The consumption of meat and dairy products is sought to be discouraged by increasing the GST rate to 28% plus compensation cess. The rationale provided is that such consumption adversely impacts environment, human health and accentuates problem of hunger.</p> <p>2. Fitment Committee observed that taxation may not be the tool for the purpose. GST rate has been consciously prescribed as 5% for branded and packed in unit container, nil for other goods falling under said tariff headings.</p> <p>3. No change proposed.</p>
15.	Meat, Bones, Flesh and horn [Chapter 2,	Nil	5%	<p>1. Increase in GST rate has been requested as these items are exported in large quantities, and it is claimed that such exports are funding hawala business.</p>

S. No	Description/ HSN	Present GST rate	Requested GST rate	Comments
	5]			<p>2. Fitment Committee observed that exports do not attract GST (are zero rated). Hence GST rate change is not a solution to the problem raise.</p> <p>3. No change recommended.</p>
16.	Branded Khoya & branded Paneer [0406]	5%	Nil	<p>1. Reduction of GST rate to Nil on branded <i>Khoya</i> and <i>Paneer</i> is sought to dis-incentivise loose/ unpacked sale which is not hygienic.</p> <p>2. Council prescribed a 5% rate on branded products considering the nature of consumption of branded products and also value addition involved.</p> <p>3. No change proposed.</p>
17.	Food items of mass use particularly spices and edible oils which are packaged in small containers or sachets	Applicable rate	Nil	<p>1. Reduction of GST rate have been requested on these items for which are packaged in small containers or sachets, to bring them within the reach of common as well as poor people.</p> <p>2. The request is too generic. Prescribing GST rate on such criterion may not be feasible.</p> <p>3. No change proposed.</p>
18.	Pneumatic Tyres used in e-rickshaw [4011]  Tubes [4013]	Tyres @28% and Tubes @18%	12%	<p>1. Pneumatic Tyres [4011] and inner tubes [4013], of a kind used in bicycles, cycle-rickshaws and 3-wheeled powered cycle rickshaws attract GST rate of 5%. (S. No. 190 of Schedule-I)</p> <p>2. Other tyres attract GST rate of either 18% (used pneumatic or re-treaded – S. No. 121A-Schedule III) or 28% (new pneumatic- S. No. 46 of Schedule-IV).</p> <p>3. Other inner tubes attract GST rate of 18% (S. No. 121B-Schedule-III).</p> <p>4. Fitment Committee examined the issue and</p>

S. No	Description/ HSN	Present GST rate	Requested GST rate	Comments
				does not recommend any change in the existing GST rate.
19.	Addition of name of Industrial and Commercial Bank of China and RBL Bank as a banking institution for exemption of Integrated Goods and Services Tax (IGST) in notification No. 77/2017-Customs dated 13.10.2017 as amended.	3%	Nil	<ol style="list-style-type: none"> <li>1. The IGST exemption is available on imports of gold, silver and platinum by specified nominated agencies.</li> <li>2. Industrial and Commercial Bank of China and RBL Bank are not included in the specified list 34 of notification No 50/2017-Customs dated 30.6.2017 which contains name of nominated agencies granted IGST exemption on such imports.</li> <li>3. These entities have been made nominated agencies by DGFT/ MoC to import gold and silver.</li> <li>4. In 37<sup>th</sup> GST Council Meeting, an entity namely Diamond India Ltd. was added to the list based on recommendation of Export Committee. The inclusion of RCBC and RBL banks was deferred as Export Committee had not made any recommendation for inclusion of these entities in the List.</li> <li>5. Fitment Committee examined the issue and does not recommend any change in the status quo.</li> </ol>
20.	Heating, Ventilation, Air-conditioning machine [8415]	28%	12%/18%	<ol style="list-style-type: none"> <li>1. Input, such as metals, used in the making of Heating, Ventilation, Air-conditioning machine already attract 18% GST.</li> <li>2. Also, lowering the GST rate on these machines may result in significant adverse revenue implications.</li> <li>3. No change recommended.</li> </ol>
21.	Mechanical sprayers (of all types, whether or not hand operated and	12%	5%	<ol style="list-style-type: none"> <li>1. Keeping in view various requests/representations, GST Council in its 25<sup>th</sup> council meeting, dated 18.01.2018 recommended to reduce GST rate on 'mechanical sprayers of all types whether or not hand operated' from 18% to 12%.</li> </ol>



S. No	Description/ HSN	Present GST rate	Requested GST rate	Comments
	their exclusive spare parts) [8424]			<p>2. Accordingly, mechanical sprayers attract 12% GST rate with effect from 25.01.2018 vide entry No. '195B' [Schedule II] to notification No. 1/2017- Central Tax (Rate), dated 28.06.2017.</p> <p>3. Fitment Committee examined the issue and does not recommend further reduction in the existing GST rate.</p>
22.	Refurbished engines [84]	28%	18%	<p>1. It has been argued that like a rate differential between new tyre (28%) and re-furbished tyres (18%), a differential rate may be prescribed for re-furbished engines.</p> <p>2. Refurbished engines cannot be treated on par with re-treated tyres for purpose of GST rate. The latter is a composite supply, the predominant element is the process of re-treading which is a supply of service. Rubber used for re-treading is an ancillary supply.</p> <p>3. Moreover, re-treaded tyres are classified under a separate Tariff heading [4012], but this is not the case with refurbished engines. Hence having a differential rate structure for refurbished engines would be difficult to implement.</p> <p>4. Fitment Committee examined the issue and does not recommend any change in the existing GST rate of refurbished engines.</p>
23.	Scientific and technical instruments, apparatus equipment (including computers) [Any Chapter]	Applicable rate	Nil	<p>1. End use-based exemptions are not desirable in the GST as they break the credit chain and are difficult to monitor</p> <p>2. Moreover, medical devices already attract concessional GST rate of 5%/12%.</p> <p>3. Specified list of drugs attract concessional rate of 5% GST rate, while others attract 12%.</p> <p>4. End use-based exemption on these goods will result in increase in cost of these items due to non-availability of credit to the manufacturers of these items.</p> <p>5. Fitment Committee examined the issue and does not recommend any change in the existing</p>

S. No	Description/ HSN	Present GST rate	Requested GST rate	Comments
				GST rate.
24.	Electronic devices [85]	18%	Nil	<ol style="list-style-type: none"> <li>1. The request is for providing exemption from GST on electronic devices like tablets, laptops, desktop computers etc when used by students and teachers for education purposes.</li> <li>2. These are value add products meant for consumption and hence are rightly standard rated.</li> <li>3. No change proposed.</li> </ol>
25.	Base Metals [Chapter 72 to 83]	18%	5%	<ol style="list-style-type: none"> <li>1. Base metals are mostly use as input /intermediate and user industry gets ITC in most cases. Reducing GST on base metal does not help the industry. In fact, it would create issues of inverted duty structure. Industrial items like metals should appropriately be standard rated.</li> <li>2. No change suggested.</li> </ol>
26.	Beekeeping equipment's [8436]	12%	Exempt or reduce GST rates up to 5% on the beekeeping equipment's, machineries and various other beekeeping facilities	<ol style="list-style-type: none"> <li>1. Beekeeping equipment's falling under HSN 8436 attract 12% GST rate vide entry no. '199' [Schedule II] to notification No. 1/2017-Central Tax (Rate), dated 28.06.2017.</li> <li>2. End-use based exemption is prone to misuse and litigation.</li> <li>3. Raw materials for these machineries such as iron steel, plastic, and other metals, in general, attract 18% GST. Reduction in GST on finished goods to 5% will deepen the duty inversion.</li> <li>4. Exemption from GST rate will lead to cascading of input taxes.</li> <li>5. Tax concession does not appear to be the right instrument to incentivize the activity. Instead, support through public expenditure/ direct subsidy may be a better approach.</li> <li>6. Fitment Committee examined the issue and does not recommend any change in the existing</li> </ol>

S. No	Description/ HSN	Present GST rate	Requested GST rate	Comments
				GST rate.
27.	Gems & Jewellery [71]	3%	1.25%	<ol style="list-style-type: none"> <li>1. Standard rate of GST is 18%, while the existing rate for these goods is already low at 3%.</li> <li>2. The taxable value is high and reduction in GST rate will have revenue implications.</li> <li>3. Fitment Committee examined the issue and does not recommend any change.</li> </ol>
28.	Imports of Gold Dore [7108]	3%	<ol style="list-style-type: none"> <li>1. Nil IGST on import of gold dore; or</li> <li>2. Lower IGST rate compared to Gold on imports; or</li> <li>3. Reduced Assessable value (reduced by 5%) on imports or</li> </ol>	<ol style="list-style-type: none"> <li>1. Currently, basic customs duty differential of 0.6% has already been provided between gold (BCD @7.5%) and gold dore (BCD @6.9%) in favour of Gold dore in order to encourage domestic gold refining.</li> <li>2. Credit of IGST paid on imported Gold dore is available to domestic gold refiners and this credit may be utilized to pay GST on domestic supply of Gold refined from Gold dore.</li> <li>3. Fitment Committee examined the issue and does not recommend any change in the existing GST rate.</li> </ol>
29.	Silk reeling Machinery [8445 40 40]	18%	5%	<ol style="list-style-type: none"> <li>1. Silk reeling machinery attract 18% GST rate vide entry no. '337' [Schedule III] to notification No. 1/2017- Central Tax (Rate), dated 28.06.2017.</li> <li>2. Raw materials for these machineries such as</li> </ol>

S. No	Description/ HSN	Present GST rate	Requested GST rate	Comments
				<p>iron, steel, plastic, and other metals, in general, attract 18% GST. Reduction in GST to 5% will deepen the duty inversion.</p> <p>3. Lowering GST rate will result in accumulated ITC with associated carrying cost.</p> <p>4. Tax concession does not appear to be the right instrument to incentivize the activity. Instead, support through public expenditure/ direct subsidy may be a better approach.</p> <p>5. Fitment Committee examined the issue and does not recommend any change in the existing GST rate.</p>
30.	<p>Outboard Motors meant for marine fishing purpose</p> <p>[8407 21 00]</p>	18%/ 5%	5%	<p>1. Outboard Motors (8407 21 00) when used as a part of fishing vessels (HS Code 8902), attract 5% GST rate vide entry no. '252' [Schedule I] to notification No. 1/2017- Central Tax (Rate), dated 28.06.2017. General applicable rates on motors is 18%.</p> <p>2. Para-10 of Circular No. 52/26/2018-GST, dated 9-8-2018 has already clarified a similar issue.</p> <p>3. No further action.</p>
31.	<p>Extend exemption from compensation cess to CSD canteens on the same lines as is available from Central Tax, State Tax, Integrated Tax etc.</p>	As applicable	Nil	<p>1. The 15<sup>th</sup> GST Council Meeting held on 3<sup>rd</sup> June, 2017 while discussing the issue recommended extension of 50% concession from GST on supplies to CSD through a reimbursement mechanism (where CSD would get refund of 50% of GST under Section 55 of the CGST Act and the SGST Acts) but no concession was to be given from levy of Compensation Cess.</p> <p>2. Fitment Committee examined the issue and observed that it was conscious decision of the Council not to grant exemption from compensation cess to CSD canteens.</p> <p>3. No change recommended.</p>

S. No	Description/ HSN	Present GST rate	Requested GST rate	Comments
	[Any Chapter]			
32.	Components used in LED Lighting products (LED Chips, El Capacitors, IC's, PCB's, Bridge Rectifier, SMD Resistors, SMD Diodes, Drum Inductor, Varistors, Silicone Sealant etc. [8541 / 8532 / 8542 / 8534 / 8541 / 8533 / 8541 / 8504 / 8533 / 3214]	18%	5%	<ol style="list-style-type: none"> <li>1. The concessional GST rate of 5% is mostly prescribed for sensitive items such as life-saving drugs, branded food grains, etc. The subject goods whereas are commercial items.</li> <li>2. Insofar as duty inversion is concerned, as LEDs attract GST at the rate of 12%, the issue is under consideration of the Group of Ministers on rate rationalization.</li> </ol>
33.	Braille Equipment Embossers and Braille Paper etc [chapter 84 or 90]	5%	Nil	<ol style="list-style-type: none"> <li>1. Braille related equipment and its parts have been provided the concessional GST rate of 5%.</li> <li>2. Exempting these goods would block availment of ITC by manufacturers leading to higher costs for users.</li> <li>3. No changed proposed.</li> </ol>
34.	For clean energy	5% - 28%	Uniform GST slab @	<ol style="list-style-type: none"> <li>1. The GST rates on specified renewable energy equipment was increased from 5% to 12% as</li> </ol>

S. No	Description/ HSN	Present GST rate	Requested GST rate	Comments
	transition technologies such as pump hydro storage, battery energy storages, green hydrogen, etc.  [chapters 84, 85 or 94]		5% on the various technologies for next 10 year	per the recommendations of the recent 45 <sup>th</sup> GST Council, in order to remove inversion.  2. The inverted duty structure was leading to blocking of working capital for the domestic manufacturers of renewable energy equipment.  3. Thus, incentives other than GST rate concessions may be a better approach.  4. Fitment Committee examined the issue and does not recommend any change in the existing GST rate.
35.	CNG buses  [8703]	28%	Waiver or reduction in GST rates for CNG and CNG buses	1. Buses in general attract a GST rate of 28%. However, buses for use in public transport which exclusively run on bio-fuels attract a GST rate of 18%. Further, electric buses attract a concessional GST rate of 5%. These are early days of e-vehicle and bio fuel vehicle. CNG buses are widely used and has scale of production. Therefore, rate reduction on parity with e-vehicle or otherwise is not desirable.  2. No change recommended.
36.	Parts of Electrical Vehicles  [Any Chapter]	Applicable rates	5%	1. The original equipment manufacturer is eligible for refund of the ITC.  2. Many parts are common for electric vehicles (EV) and internal combustion engine vehicles.  3. Giving a concessional GST rate for parts of an EV may lead to misclassification, which would be difficult to monitor and enforce.  4. Fitment Committee examined the issue and does not recommend any change in the existing GST rate.

S. No	Description/ HSN	Present GST rate	Requested GST rate	Comments
37.	Poultry Feed Supplement [PFS]/ Meat Bone Meal [MBM] [2301]	5%	Request for retrospective GST exemption to PFS/MBM suppliers for the period from July 2017 to March 2019.	<ol style="list-style-type: none"> <li>1. <i>Vide</i> Circular No. 80/54/2018-GST dated 31<sup>st</sup> December, 2018, it was clarified that Fish Meal or Meat Cum Bone Meal [MBM] and other raw materials used as input for making cattle / poultry / aquatic feed, falling under heading 2301, attract GST at 5% under S. No. 103 of Notification No. 1/2017 – CT (Rate) dated 28.06.2017.</li> <li>2. The issue of providing retrospective exemption to meat cum bone meal was deliberated at length in the 37<sup>th</sup> GST Council Meeting held on 20.09.2019 and the Council made a conscious recommendation to not provide retrospective exemption to such inputs of animal feed except to fish meal.</li> </ol>
38.	UHT Milk  [0401, 0402]	5%	0%	<ol style="list-style-type: none"> <li>1. There is a substantial value addition in manufacturing UHT milk and is sold at a higher price.</li> <li>2. Exempting such products breaks ITC chain and leads to inversion.</li> <li>3. The issue had been examined earlier in the 16<sup>th</sup>, 31<sup>st</sup>, 37<sup>th</sup> and 45<sup>th</sup> GST Council Meetings. No change was recommended by the Council.</li> <li>4. Fitment Committee does not recommend any change.</li> </ol>
39.	Marble & Granite [2515, 2516]	18%	5%	<ol style="list-style-type: none"> <li>1. The present GST rates on Marble and Granite blocks is at 12% while finished Marble and Granite slabs attract 18% rate. These rates were fixed, taking into consideration the pre-GST tax incidence.</li> <li>2. The BCD on marble blocks and slabs is presently at 40%, while granite blocks and slabs attract 40% and 20% BCD respectively. There is already substantial difference in favour of domestic producers.</li> </ol>

S. No	Description/ HSN	Present GST rate	Requested GST rate	Comments
				<p>3. The issue was also examined during 14<sup>th</sup>, 23<sup>th</sup> and 37<sup>th</sup> Meeting of GST Council and request for rate reduction was not agreed to.</p> <p>4. Fitment Committee examined the issue and does not recommend any change.</p>
40.	Bunker Fuel [2710]	5%	Exempt by Ministry of Shipping  1% by State of Kerala	<p>1. The request had been examined in 22<sup>nd</sup>, 31<sup>st</sup> and 45<sup>th</sup> GST Council Meeting.</p> <p>2. In 22<sup>nd</sup> Meeting, the GST rate on these goods was reduced from 18% to 5%. No further reduction was recommended in the 31<sup>st</sup> and 45<sup>th</sup> Meetings of the Council.</p> <p>3. Fitment Committee does not recommend any change.</p>
41.	Plastic products made from Waste plastic [Chapter 39]	18%	5%	<p>1. Input-origin based (recycled/ waste vs virgin plastic) differential GST rate on finished plastic material is difficult to implement.</p> <p>2. The issue was examined in 31<sup>st</sup> and 37<sup>th</sup> Meeting of GST Council and reduction to 5% was not agreed.</p> <p>3. Moreover, waste plastic scrap and parings has been rationalised to 18% w.e.f 1<sup>st</sup> October, 2021, as recommended by 45<sup>th</sup> GST Council Meeting. So, the input is also at 18% GST rate now.</p> <p>4. Fitment Committee does not recommend any change in the existing GST rate.</p>
42.	Paper moulded trays [4823]	12%	5%	<p>1. On recommendation of 37<sup>th</sup> GST Council meeting, such items made of leaves/flowers/bark have already been rationalised at 5% GST rate.</p> <p>2. The matter was examined in 37<sup>th</sup> GST Council meeting and no change was recommended.</p> <p>3. Lowering of GST on one item will lead to similar request on other items.</p>



S. No	Description/ HSN	Present GST rate	Requested GST rate	Comments
				<p>4. Further, multiple rates on similar items will lead to distortion.</p> <p>5. Fitment Committee does not recommend any change.</p>
43.	<p>Ceramic Tiles</p> <p>[HSN 6907] and</p> <p>Sanitary ware</p> <p>[6909]</p>	18%	12%	<p>1. At the time of GST roll out, Ceramic tiles attracted 28% GST.</p> <p>2. The GST rates on said goods have already been reduced to 18% in 23rd GST Council meeting</p> <p>3. Similar articles used in construction also attract 18% GST rate.</p> <p>4. The matter was examined in 37<sup>th</sup> GST Council meeting and no change was recommended.</p> <p>5. No change recommended.</p>
44.	<p>Tractor specific input parts</p> <p>[8708]</p>	18%	12%	<p>1. Tractors attract a concessional GST of 12%, while specified parts of tractors attract GST at a rate of 18%.</p> <p>2. Refund of accumulated ITC is available to tractor manufacturers.</p> <p>3. The issue has been examined in the GST Council meeting..... and a conscious decision was taken to prescribe 18% on specified /identifiable parts of tractors. Other automobile parts attract GST at the rate of 28%.</p> <p>4. Reduction in GST rate on such unspecified parts of tractors will result in shifting of inverted duty structure upstream as the inputs to these parts like metals, etc. attract a GST rate of 18%.</p> <p>5. The Fitment Committee does not recommend</p>

S. No	Description/ HSN	Present GST rate	Requested GST rate	Comments
				any change.
45.	Impella Heart Pump Therapy (lifesaving medical device)  [9018]	12%	Exempt	<ol style="list-style-type: none"> <li>1. Present GST rate on most surgical and medical goods falling under 9018, 9019, 9021 and 9022 is 12%.</li> <li>2. The rate of 12% is revenue neutral rate considering 6% Excise Duty and 5-12% VAT in pre-GST era.</li> <li>3. 12% GST rate is concessional GST rate given that the maximum number of goods falls under 18% bracket.</li> <li>4. 5% GST would put domestic industry at disadvantage on account of deepening of inversion.</li> <li>5. Fitment Committee examined the issue and does not recommend any change in the existing GST rate.</li> </ol>
46.	Oilcake and oil meals extracted from oilseeds of sunflower / soya / cotton / groundnut / rapeseed, rice bran. Maize etc.  [2304, 2305 & 2306]	5%	0%	<ol style="list-style-type: none"> <li>1. Poultry, cattle and aquatic feed had been exempted by the GST Council. However, as discussed in the GST Council's 31<sup>st</sup> and 37<sup>th</sup> meetings, inputs to animal feed are not exempt.</li> <li>2. Oilseeds are used to extract edible vegetable oils and oil cakes are a residue of the process.</li> <li>3. Oilseeds attract 5% GST rate and are used as inputs to extract edible vegetable oils.</li> <li>4. Oil cake is a by-product of oil extraction and is generally used as an input in preparation of animal feed. Exemption to oil cake will lead to inverted duty structure where oil seed will be at 5% and oil meal will be exempt. The issue of exemption to oil meal and oilcakes has been discussed earlier in the 28<sup>th</sup> meeting held on 21.07.2018 and in the 31<sup>st</sup> meeting held on 22<sup>nd</sup> Dec 2018; however, the Council did not</li> </ol>

S. No	Description/ HSN	Present GST rate	Requested GST rate	Comments
				<p>recommend the proposal.</p> <p>5. Fitment Committee examined the issue and does not recommend any change in the existing GST rate.</p>
47.	<p>Wind Projects</p> <p>[84, 85 or 94]</p>	Applicable rates	Clarification	<p>1. Clarification has been sought on the issue whether wind turbine is to be treated as movable or immovable property for taxation.</p> <p>2. The issue regarding the applicable GST rate on renewable energy projects including wind project has been clarified in past.</p> <p>3. For a composite supply contract, the ratio of 70:30 shall be applicable and there is no ambiguity about the same.</p> <p>4. Accordingly, there is no need to issue any clarification.</p> <p>5. Fitment Committee examined the issue and does not recommend any change in the status quo.</p>
48.	<p>Khadi Products</p> <p>[Any Chapter]</p>	Nil/5%	Exemption	<p>1. Handloom fabrics already attract lowest GST rate of 5% or nil rate,</p> <p>2. The Council, in its meeting on 9th September, 2017, recommended Nil GST rate on Khadi fabric under chapters 50 to 55, sold through Khadi and Village Industries Commission (KVIC) and KVIC certified institutions/outlets.</p> <p>3. Fitment does not propose any further change.</p>
49.	Coal supplied to	5% GST+ Rs. 400/MT	1. Exemption on w.e.f.	1. GST rates including compensation cess have been prescribed to retain the incidence of the

S. No	Description/ HSN	Present GST rate	Requested GST rate	Comments
	Thermal Power Plants which would comply with the new emission norms of MoEF&CC by installing Flue Gas De-sulphurisation (FGD) and other additional equipment [2701]	compensation cess	1.7.2022. 2. Compensation cess on <i>ad-valorem</i> basis	tax as it was in pre-GST regime. 2. The suggestion of granting end use-based exemption to non-polluting plants may not be feasible as it has been a consistent view of the GST Council that end use based are difficult to implement and should be restricted to limited items as far as possible. 3. Pre-GST, coal, including lignite, attracted Clean Environment Cess at the rate of Rs. 400 per MT. 4. In the 12th meeting of the GST Council dated 16th March, 2017, the issue of rate of GST Compensation Cess on coal was discussed and it was decided to keep it same as the Clean Energy Cess, which was being imposed in Pre-GST. 5. Fitment Committee does not recommend any change.
50.	Clay Bricks [6904]  Fly Ash brick [6815]	6% without ITC,  12% with ITC	1. Threshold limit of applicability is annual turnover of Rs. 20 Lakh for a brick-field, significantly down from existing Rs. 1.5 Crore 2. Tax rate has been proposed @6%	1. As recommended by the GST Council in its 45th Meeting, Fly ash bricks, fly ash aggregate (>90% fly ash content) and fly ash blocks attracts 6% GST without ITC and 12% with ITC, with effect from 1st April, 2022. 2. The items attracted 5% GST prior to the said decision. 3. Fitment Committee does not recommend any change.

S. No	Description/ HSN	Present GST rate	Requested GST rate	Comments
			instead 1% without Input Tax Credit facility and @12% instead of existing 5% with ITC facility	
51.	Pulp products [Any chapter]	Applicable rate	Reduction of GST on sugarcane bagasse pulp-based products	<ol style="list-style-type: none"> <li>1. Bagasse currently attracts GST at rate of 5%.</li> <li>2. GST rate concession based on input origin criteria may be difficult to implement and lead to mis-classification vis-à-vis similar products.</li> <li>3. Instead of GST concession, direct benefit budgetary support may be a better approach.</li> <li>4. Fitment Committee does not recommend any change.</li> </ol>
52.	MSMEs products  (Handmade matches, carton box, branded edible oil, branded rice, pulses, food served in hotels, textiles, engineering job works, Chikki)	As applicable	Nil / 5%	<ol style="list-style-type: none"> <li>1. The GST rate on matches (all kinds) and carton box has been prescribed by the GST Council in its 39<sup>th</sup> and 45<sup>th</sup> Meetings. To avoid disputes all kind of matches have been placed under 12% slab.</li> <li>2. Fitment Committee does not recommend any change.</li> </ol>

S. No	Description/ HSN	Present GST rate	Requested GST rate	Comments
	[Any Chapter]			
53.	‘Carbonated Beverages of Fruit Drink’ or ‘Carbonated Beverages with Fruit Juice’  [2202]	28% + 12% Cess	12%	<ol style="list-style-type: none"> <li>1. The revised rate on these goods was prescribed based on the recommendations of the GST Council in its 45<sup>th</sup> Meeting, wherein Council had taken into account all factors.</li> <li>2. No change recommended.</li> </ol>
54.	Lime blended indigenous tobacco [Chapter 24]	28% GST plus compensation cess as applicable	Reduction in rate	<ol style="list-style-type: none"> <li>1. It is felt that there is no merit for reduction of GST on such goods considering the nature thereof and general principles of rate slab in GST.</li> </ol>
55.	Items which originally attracted 28% GST  [Any Chapter]	Varied	Compensation cess on the differential rate from 28% so that the rate of 28% is applied.	<ol style="list-style-type: none"> <li>1. The GST rates on many items were reduced from 28% to 18%/12%/5% by the GST Council so as to increase compliance and give a boost to the sector.</li> <li>2. GoM is examining the issue of rate slab.</li> <li>3. However, levy of Compensation cess at different rates (difference between applicable GST rate and 28%) will go against the principle on which these items were brought out of 28% rate slab and also complicate the rate structure.</li> </ol>
56.	Unmanufactured Tobacco [2401]	28% + compensation cess 65%/71%	5%	<ol style="list-style-type: none"> <li>1. GST Council has recommended highest tax rate of 28% on unmanufactured tobacco (except tobacco leaves on which tax rate is 5%)</li> <li>2. This is in consonance with the policy to tax tobacco and tobacco products at the highest rate as they are sin goods.</li> </ol>

S. No	Description/ HSN	Present GST rate	Requested GST rate	Comments
				<p>3. Further, burden of tax is not on farmers as tax on tobacco leave is 5% under RCM.</p> <p>4. No change proposed.</p>
57.	Raw silk & other silk weaving materials [50]	5%/Nil	Nil	1. The issue is under consideration of the Group of Ministers on rate rationalization.
58.	Handloom products  [Any Chapter]	5%	Nil	1. The issue is under consideration of the Group of Ministers on rate rationalization.
59.	Tobacco Products  [24]	<p><b><u>GST rate -</u></b> 28% on tobacco products.</p> <p><b><u>Compensation Cess:</u></b></p> <p>‘Hookah’ or ‘gudaku’ tobacco bearing a brand name (HSN 2403</p>	<p>Exempt compensation cess on supply made to the merchant exporter;</p> <p>or</p> <p>Reduce rate of compensation cess to 0.1% on supply made</p>	<p>1. The benefit of reduced rate of 0.05% of central tax available under the Notification No 40/2017 CT (Rate) dated 23/10/2017, and of 0.1% integrated tax available under Notification No 41/2017 IGST (Rate) dated 23/10/2017, does not extend to compensation cess. This has been a conscious decision of the Council.</p> <p>2. Fitment Committee does not recommend any change.</p>

S. No	Description/ HSN	Present GST rate	Requested GST rate	Comments
		11 10): 72%  Chewing tobacco (without lime tube) (HSN 2403 99 10): 160%	to the merchant exporter at par with rate of IGST on such supply	
60.	AC Sheets  [6811]	18%	5% or 12%	<ol style="list-style-type: none"> <li>1. Asbestos Cement (AC) sheet is used for roofing.</li> <li>2. Main inputs include chrysotile asbestos (GST rate 5%, mainly imported) and cement (GST rate 28%).</li> <li>3. The item currently attracts the standard GST rate, i.e. 18%. In the 45<sup>th</sup> meeting the GST rate on bricks has also be revised to 12%. Threshold for Bricks has already been reduced to Rs 20 lakh.</li> <li>4. Hence, in the circumstances not much justification for reduction of GST on AC sheet.</li> </ol>
61.	Printing and paper products  [4819]	18%	12%	<ol style="list-style-type: none"> <li>1. The GST rates on cartons, boxes, paper products were rationalized based on recommendations of 45<sup>th</sup> GST Council Meeting, w.e.f. 1<sup>st</sup> October, 2021.</li> <li>2. Fitment Committee does not recommend any change.</li> </ol>
62.	Input Tax on Raw Materials used for production of Power Tillers / Power	12% - 28%	12%	<ol style="list-style-type: none"> <li>1. Raw materials for these machineries such as iron steel, plastic, and other metals, in general, attract 18% GST. Reduction in GST from existing 12% to 5% will deepen the duty inversion.</li> <li>2. Lowering GST rate will result in accumulated ITC with associated carrying cost.</li> </ol>



S. No	Description/ HSN	Present GST rate	Requested GST rate	Comments
	Weeders / Power Reapers			<p>3. Therefore, tax policy in general and indirect tax concessions in particular, does not appear to be the right instrument to provide relief in the instant case.</p> <p>4. Instead of tax policy, support through public expenditure, especially in the form of direct subsidy to the beneficiaries could be the most effective policy option to provide assistance and relief in the instant case.</p> <p>5. The request had been considered in the 37th GST Council Meeting and had not been recommended.</p> <p>6. Fitment Committee examined the issue and does not recommend any change in the existing GST rate.</p>
63.	Power Tillers (84328090) / Power Weeders [84328020] / Power Reapers [84321090]	12%	5%	
64.	Spare Parts / Components / Engines of Power Tillers / Power Weeders / Power Reapers	12% - 28%	12%	
65.	Transmission shafts [8483]	18%	12%	
66.	Components / Parts of agricultural machinery	18%	12%	
67.	Electric Motors [8501]	18%	12%	
68.	Engines [8407 &	28%	12%	

S. No	Description/ HSN	Present GST rate	Requested GST rate	Comments
	8408]			
69.	Spare parts of Petrol and Diesel engines [8409]	28%	12%	
70.	Brush Cutters and Chainsaws [8467]	18%	12%	
71.	Roll Over Protective Structure – ROPS  [8708 99 00] used in Agricultural Tractor	28%	Exemption	
72.	Seat With a seat belt  [9401 20 00]	18%	Exemption	
73.	Rock Phosphate [2510] and Sulphuric acid, used for the manufacture of Single super Phosphate (SSP)  [2807 00 10]	5%/18%	Nil/5%	<ol style="list-style-type: none"> <li>1. Rock phosphate is already at 5%.</li> <li>2. Sulphuric acid is used for a very large number of purposes. GST reduction for actual use on fertilizers may be difficult to administer. Further, ITC refund is available on Sulphuric acid used as input for SSP.</li> <li>3. Fitment Committee examined the issue and does not recommend any change in the existing GST rate.</li> </ol>

S. No	Description/ HSN	Present GST rate	Requested GST rate	Comments
74.	GST Concession on Motor Vehicles purchased by all categories of Divyangjan [8703]	18%	The Committee recommends that GST concession certificate for purchase of motor vehicle as available presently for persons with orthopaedic disability and their kith and kin should be extended to all categories of persons with benchmark disabilities mentioned in RPwD Act, 2016 and their kith and kin.	<ol style="list-style-type: none"> <li>1. Presently the GST concession for purchase of vehicles is available only to orthopedically disabled persons.</li> <li>2. The present request is for extending the benefits for GST concession certificate to deserving categories of Divyangjan included under Rights of Persons with Disabilities Act, 2016 for the purpose of motor vehicle as available to orthopedically disabled.</li> <li>3. Fitment Committee examined the issue. It is felt that while there is merit in the proposal. GST rate tweaking may not be an appropriate method of relief as GST rate structure revision based on end use creates distortion. The concession rate for orthopedically disabled person has been continued from pre-GST regime.</li> <li>4. Fitment Committee is of the view that benefit/concession to Divyangen on purchase of vehicle should be in the form of reimbursement of GST already paid, which should be done through direct transfer through the budgetary route by the DEPwD. Once a decision is taken to implement the scheme by DEPwD, through direct transfers, it for the DEPwD to decide as to which category of PwDs need to be covered under the scheme.</li> </ol>
75.	Human Papillomavirus (HPV) Vaccine [Chapter 30]		Clarity on the current applicable GST rate on HPV Vaccine.	<ol style="list-style-type: none"> <li>1. Entry at S. No. 174 of Schedule I (5% GST) states description as – Animal or Human Blood vaccines. Apart from this, certain vaccines are specified in List 1 which attracts 5% GST under S. No. 180.</li> <li>2. In Central Excise era, goods of description ‘Vaccines specified under the National Immunisation program’ attracted Nil C.Excise duty. However, the equivalent phrase at time of GST was changed to ‘Animal or Human blood</li> </ol>

S. No	Description/ HSN	Present GST rate	Requested GST rate	Comments
				vaccines.  3. Fitment Committee recommends that the issue may be deferred and a reference may be made to the Health Ministry for their comments.
76.	Malt based Non-Alcoholic beverages  [Fruit Beer]  [2202 91 00]	18%	12%	1. Fruit beer is a growing product.  2. Consumer of these products could easily afford the tax.  3. Even bottled water is at 18%.  4. Aerated water attracts 28% GST plus 12% Compensation Cess (total 40%).  5. Hence request does not merit consideration.
77.	Helicopter  [8802]	1. 28% + 3% cess for personal use 2. 5% for use other than personal use.	Uniform rate of 5% on helicopter purchases irrespective of type of category of operation	1. Helicopter, other than for private use, attract GST at the rate of 5%.  2. In pre-GST regime, the exemption from Customs/additional duty of Customs was restricted only to aircraft/helicopters imported for scheduled/non-scheduled operations. There was no exemption for helicopters imported for private use.  3. Aircrafts /helicopters for private use are purchased/imported by high-net-worth individuals who can afford to pay high GST on the same.  4. No change proposed.
78.	Aviation Gasoline	18%	Nil	1. AvGas is majorly used in the training aircrafts. In the 23rd GST Council meeting, the GST rate on AvGas was reduced from 28% to 18%.

S. No	Description/ HSN	Present GST rate	Requested GST rate	Comments
	[27101250]			<p>2. At present, the flying training organizations are also exempt from paying GST on flying training which is classified under Heading 9992 - Services provided by educational institution to its students which is exempt under notification 12 of Central Tax (Rate).</p> <p>3. Also, AvGas forms only a part of the cost of providing flying training and is not the major expense.</p> <p>4. No change proposed.</p>
79.	Aircraft parts [8807]	Applicable Rate	Uniform rate of 5% IGST on all parts that can be used in aircraft, aircraft engines and APU irrespective of the chapter heading it is classifiable under	<p>1. As recommended by the GST Council in its 23rd Meeting dated 10.11.2017, 5% IGST has been prescribed for aircraft engines, tyres, seats and other parts which are used exclusively in aircrafts. Specific parts [ for aircraft] falling under heading 8803 (now 8807) also attract 5% GST. These constitute majority of parts.</p> <p>2. However, other parts including consumable items, attract the applicable rate of IGST (12% - 28%)</p> <p>3. Further, 'Parts, testing equipment, tools and tool-kits for MRO activities for aircrafts' attract 'Nil' BCD when imported by MRO operators registered with the DGCA. This exemption from BCD is available on all parts and equipment (whether designed for exclusive use with aircrafts or otherwise). However, IGST is payable on such imports at the applicable rate as mentioned in para (i) above.</p> <p>4. The present request is for providing a uniform rate of GST @ 5% for all parts of aircrafts, irrespective of the fact that such parts may not be exclusive to aircrafts alone.</p> <p>5. Having a general exemption to all such parts is prone to misuse and accordingly <b>Ministry of Civil Aviation (MoCA) was requested to provide a list of parts on which the GST</b></p>

S. No	Description/ HSN	Present GST rate	Requested GST rate	Comments
				<p><b>concession is required</b> and which are not presently made in India and not likely to be made in near future.</p> <p>6. MoCA has provided a long list (thousands of items) including items of general use. A number of these items may be manufactured in India or have a scope to be manufactured in India.</p> <p>7. Providing a lower rate of GST will put domestic manufacturers of such parts at a disadvantage as such manufacturers will face accumulation in ITC.</p> <p>8. No change proposed.</p>
80.	Waste Batteries  [8548 or 8549]	18%	5%	<p>1. Waste Batteries are classified under HS 8549 and attracts 18% GST (S.No. 398).</p> <p>2. Waste batteries are recycled and useful materials are removed which then used as raw material.</p> <p>3. These items are not finished products rather inputs for other industry.</p> <p>4. Any reduction in GST rate of waste batteries will lead to request for reducing GST rate on all scrap.</p> <p>5. Fitment Committee has been of the view that scrap which presently attract lower rate should also move to standard rate. In the 45<sup>th</sup> GST Council meeting plastic scrap was moved from 5% to 18% in order to sustain parity in GST rates among all scrap and avoid issues of misclassification.</p>
81.	Left Ventricular Assist Device (LVAD) (Artificial Heart Pump)	12%	Nil	<p>1. Medical devices attract GST at the rate of 12%. This request will lead to similar requests in respect of other similarly placed medical devices.</p> <p>2. Additionally, the 12% GST rate is ideal considering minimal inversion with concessional rate compared to the standard</p>

S. No	Description/ HSN	Present GST rate	Requested GST rate	Comments
	[Chapter 90]			18%. 3. Further, in respect of imports for personal use, <i>ad hoc</i> exemption route is available. 4. No change recommended
82.	Printed Books  [4901, 4903,4820]	NIL/ 5%/ 12%/ 18%	1. NIL rate on all educational books, as per school, college & university curriculum, including braille books  2. NIL rate on Children's picture, drawing or colouring books  3. Uniform rate of 5% on all other printed books.	1. Currently, GST rate structure on printed books is as follows:  (a) NIL rate on printed books, including braille books (S.No. 119 of Schedule-I of Notn 2/2017)  (b) NIL rate on children's picture, drawing or colouring books (S.No. 121 of Schedule-I of Notn 2/2017)  (c) 12% GST rate on Exercise book, graph book, & laboratory note book and notebooks (S.No. 123 of Schedule-II of Notn 1/2017)  (d) 5% GST rate on Brochures, leaflets and similar printed matter, whether or not in single sheets (S.No. 201 of Schedule-I of Notn 1/2017)  (e) 5% GST rate on e-books for which printed version is available in the market (S.No. 22(i) of Notn 11/2017)  (f) 18% GST on e-books for which printed version is not available in the market (e-books are covered under OIADR attracting 18% GST rate)  2. Fitment Committee is of the view that this rate structure has evolved over a time and may continue and could be revisited at the time of general review of GST rate structure.
83.	Dairy products like ghee, butter [0405] and flavoured milk [2202]	12%	5%  Issuance of clarification	1. Ghee and butter are at 12% as per the pre-GST tax incidence and most of the other similar value added processed food items also attract 12% GST rate [7.96% weighted average VAT rate and 2.5% CST, Octroi etc.]

S. No	Description/ HSN	Present GST rate	Requested GST rate	Comments
	99 30]		for appropriately classifying the flavoured milk under chapter 0402	<p>2. Desi ghee and butter are sold in significant quantity by the organized sector also such as Amul, Mother Dairy etc.</p> <p>3. The small manufacturers or suppliers of such products could avail threshold exemption and composition scheme.</p> <p>4. With regards to flavoured milk, it is appropriately classifiable under HS 2202 99 30 which contains '<i>Beverages containing milk</i>'. As per HS Explanatory Notes, the heading 0402 excludes <i>Beverages consisting of milk flavoured with cocoa or other substances (heading 22.02)</i>. The applicable GST rate on such flavoured milk is 12%.</p> <p>5. Further, the flavoured milk is already at a concessional GST rate of 12% at par with other similar processed and value added nutritional products such as soya milk drinks, fruit juices and branded coconut water under chapter 22.</p> <p>6. GST Council in its 25<sup>th</sup> meeting held on 18.01.2018, 28<sup>th</sup> meeting held on 21.07.2018, 31<sup>st</sup> meeting held on 22.12.2018 and 37<sup>th</sup> meeting held on 20.09.2019 has examined the proposal for reducing the GST rate on such products to 5% and has not recommended the same.</p> <p>7. Fitment Committee does not recommend any change.</p>
84.	Sports Goods related to the discipline of shooting sports  [9302, 9303,	18% / 28%	Reduce GST on Air Rifles / Air Pistols of .177 caliber to 0% and other articles to 5%	<p>1. The 14th GST Council has decided the rates of GST on goods under chapter 93 at 18% and 28%.</p> <p>2. Subsequently, the review of items under the 28% GST slab was done in the 23<sup>rd</sup> GST Council meeting. After this review, the Council again recommended against removing the items falling under chapter 93 that attract 28% GST rate.</p>



S. No	Description/ HSN	Present GST rate	Requested GST rate	Comments
	9304, 9306]			<p>3. GST rate on raw materials / inputs / services required for manufacture of Air Rifles / Air Pistols is mainly at 18%.</p> <p>4. Reducing the GST rate to 0% would lead to an inverted duty structure without availability of refund (since refund of the unutilized input tax credit cannot be claimed for output supplies that are nil rated.)</p> <p>5. No change proposed</p>
85.	COVID-19 Genome Sequencing Test kits  [3822]	12%	5%  (imported by Central or State Government)	<p>1. The issue of GST concession to Genome sequencing machines and kits was examined by the GoM on COVID concessions set up after 43rd GSTC Meeting, as well as during the 44th meeting of the GST Council.</p> <p>2. No change was recommended in the GST rate of these goods by the GoM and subsequently, by the GST Council.</p> <p>3. No change proposed.</p>
86.	COVID-19 medicines – Itolizumab, Cytosorb, Posacanazole  [Chapter 30]	5%, 12%	Nil	<p>1. The exemption to COVID relief items including medicines had been examined and concessional rate was provided up to a limited period (last exemption expired on 31.12.2021), on recommendations of the GST Council in 43<sup>rd</sup> and 44<sup>th</sup> Meetings.</p> <p>2. Accordingly, no change proposed.</p>
87.	Areca nut  [0802]	5%	2%  Or  Reduction in GST rate	<p>1. Dried Areca nuts, whether or not shelled or peeled already attract the concessional GST rate of 5% and any further reduction is not merited.</p>

S. No	Description/ HSN	Present GST rate	Requested GST rate	Comments
88.	Copper sulphate [2833 25 00]	18%	5%	<ol style="list-style-type: none"> <li>1. Copper sulphate is <i>inter alia</i> used in agricultural fungicide [Bordeaux mixture]. It attracts GST at 18%. Fertilizers attract GST at rate of 5%.</li> <li>2. Copper sulphate has other uses as well. End-use based concession is difficult to implement and prone to misuse.</li> <li>3. No change recommended.</li> </ol>
89.	Plastic scrap [Chapter 39]	18%	5%	<ol style="list-style-type: none"> <li>1. It has been requested to reduce the GST on scrap plastic material from 18 to 5%, and that GST should also be reduced on recycled plastics to 5% for bettering the lives and livelihood waste-pickers, and effective</li> <li>2. The GST rate on plastic scrap was rationalized from 5% to 18% on recommendations of the 45<sup>th</sup> GST Council Meeting.</li> <li>3. Fitment Committee does not recommend any change.</li> </ol>
90.	Pharmaceuticals [Chapter 30]	12%/ (5% on specified medicines)	5%	<ol style="list-style-type: none"> <li>1. Most medicines attract concessional GST rate of 12% (apart from certain specified life-saving drugs which attract 5% or Nil GST).</li> <li>2. The inputs to pharma sector are chemicals mostly at 18% GST. General reduction of GST on pharma sector to 5% will accentuate inverted duty structure and distortion in GST rate chain, which may not be desirable.</li> </ol>
91.	Household water pumps [8413]	12%	5%	<ol style="list-style-type: none"> <li>1. Household pumps are already at concessional rate of 12%. Further reduction may cause inverted duty structure. Fitment Committee examined the issues and does not recommend any change.</li> </ol>
92.	Supplies to defence research	5% conditional	5%	<ol style="list-style-type: none"> <li>1. Supplies to defence research institutes attract concessional rate of 5%, subject to production of requisite certificate, to prevent misuse.</li> </ol>

S. No	Description/ HSN	Present GST rate	Requested GST rate	Comments						
	institutes  [Any Chapter]			2. No change recommended						
93.	Animal shoe nail  [7317]	12%	Nil	1. Animal shoe nails are already at concessional rate of 12%. Further reduction may cause inverted duty structure. 2. No change recommended.						
94.	Parts of <i>Chara</i> cutting machine  [8436 99 00]	12%	Clarification that Parts are covered under Entry 199 of Schedule II	<div>1. The entry at S. No. 199 of Schedule II of notification No. 1/2017-Central Tax (Rate) prescribing GST rate of 12% on specified goods, currently reads as follows-</div> <table><tr><th>S. No.</th><th>Chapter / heading/ sub-heading/ tariff item</th><th>Description</th></tr><tr><td>199.</td><td>8436</td><td>Other agricultural, horticultural, forestry, poultry keeping or bee-keeping machinery, including germination plant fitted with mechanical or thermal equipment; poultry incubators and brooders.</td></tr></table> <div>2. The above goods attract GST at rate of 12%. 3. The reference mentioned that however, parts of these goods of heading 8436, falling under tariff items 8436 91 00 and 8436 99 00, attract GST rate of 18% under residual entry 453 of Schedule III (because ‘parts’ are not mentioned specifically in description column of the entry). 4. In entry No. 199 of Schedule-II, the CTH entry mentioned heading [8436] and description entry covers the complete description of</div>	S. No.	Chapter / heading/ sub-heading/ tariff item	Description	199.	8436	Other agricultural, horticultural, forestry, poultry keeping or bee-keeping machinery, including germination plant fitted with mechanical or thermal equipment; poultry incubators and brooders.
S. No.	Chapter / heading/ sub-heading/ tariff item	Description								
199.	8436	Other agricultural, horticultural, forestry, poultry keeping or bee-keeping machinery, including germination plant fitted with mechanical or thermal equipment; poultry incubators and brooders.								

S. No	Description/ HSN	Present GST rate	Requested GST rate	Comments
				<p>Customs Tariff heading 8436.</p> <p>5. Parts of machines under heading 8436 are covered under tariff item 8436 91 00 and 8436 99 00, even though the word 'parts' is not specifically mentioned in tariff heading description of 8436.</p> <p>6. It is a settled position that in this situation, the GST entry covers all tariff items falling under that heading (if, the neither heading is covered under in an entry), even if its description of tariff item is not specifically mentioned in the tariff heading description.</p> <p>7. In view of the above, it is clear that 'Parts' of machine under heading 8436 are covered under entry 199.</p> <p>8. Para-9 Circular 113/32/2019 dated 11<sup>th</sup> October, 2019 clarifies a similar issue. Another clarification thus does not appear necessary.</p> <p>9. Fitment Committee examined the issue and does not recommend any change.</p>
95.	<p>Milling Machines (Grain feeders, Grain Discharger, Bins for grains storage, Loaders &amp; Hoppers)</p> <p>[8428]</p>	18%	<p>Issue clarification as to whether the following machines "Grain feeders, Grain Discharger, Bins for grains storage, Loaders &amp; Hoppers" are classifiable under CTH 8437 and not CTH 8428</p>	<p>1. Legal judgements have classified machines used in the grain milling industry under HSN 8428 or 8437 depending upon the facts of particular cases in question.</p> <p>2. Machinery part of general use, which gets classified in a heading other than 8437, in terms of Section Note and Chapter Notes to HSN, attract GST as applicable to the respective heading such as 8428.</p> <p>3. While, machinery parts that are suitable for use solely or principally with 'Grain Milling Machines', as classifiable under heading 8437 as per Note 2 (b) or Note 4 to Section XVI attract 5% GST rate specified under Sr. No. 233 of Schedule I of Notification 1/2017 Central Tax (Rate) read with respective State Tax (Rate).</p> <p>4. As such, classification can be done according to the facts of the particular case based on legal interpretation of section notes and chapter notes.</p> <p>5. Hence, general clarification may not be needed in this case as each case has to be examined on its own merit.</p> <p>6. Fitment Committee examined the issue and does not recommend any change in the status quo.</p>

S. No	Description/ HSN	Present GST rate	Requested GST rate	Comments
96.	Mixtures of Micro Nutrient fertilizers [28 or 38]	18%	5%  (same as micro nutrient fertilizers)	<ol style="list-style-type: none"> <li>1. 'Micronutrients, which are covered under serial number 1(f) [1(g)]144 of Schedule 1, Part (A) of the Fertilizer Control Order, 1985 and are manufactured by the manufacturers which are registered under the Fertilizer Control Order, 1985' under Chapter 28 or 38, attract GST rate of 12% [S. No. 56 of Schedule-II].</li> <li>2. The goods to which exemption is available are clearly specified as mentioned above.</li> <li>3. Fitment Committee examined the issue and does not recommend any change.</li> </ol>
97.	Scrap  [7204, 7404, 7503, 7802, 7902, 8549 ]	18%	<p>Reduce GST rate on Metal Scrap to 5%</p> <p>Or</p> <p>Include Metal Scrap in reverse charge basis.</p> <p>Or</p> <p>Levy tax on supply of Metal Scrap partially under forward charge (which shall be negligible, say 0.1% of the applicable tax)</p>	<ol style="list-style-type: none"> <li>1. This issue has pros and cons.</li> <li>2. Imports are by traders in large quantity.</li> <li>3. The Fitment Committee had earlier observed that Reverse Charge Mechanism (RCM) on subsequent stages (after the first stage) is not advisable as it breaks the ITC chain.</li> <li>4. The GST Council in its 45<sup>th</sup> Meeting had directed that this issue may be examined further, especially with reference to bringing the goods under RCM.</li> <li>5. The matter was discussed in the Fitment Committee and it was observed that bringing the items under RCM may not address the issue and may actually further distortion by breaking the supply chain trail in GST. Further, reverse charge is not a measure that could be applied after the first stage of supply chain. In scrap the supply chain may have many constituents and hence RCM is not workable.</li> <li>6. Fitment Committee examined the issue and does not recommend any change.</li> </ol>
98.	Tobacco supplied for manufacture of	28% under forward charge	28% under Reverse charge	<ol style="list-style-type: none"> <li>1. As per the recommendation of the GST Council in its 14th Meeting dated 18th and 19th May 2017, dried tobacco leaves are already under reverse charge.</li> </ol>

S. No	Description/ HSN	Present GST rate	Requested GST rate	Comments
	Smokeless Tobacco product [HS 2403]			<p>2. Unmanufactured tobacco is produced from such tobacco leaves, which is further used to produce smokeless and smoking tobacco.</p> <p>3. Moreover, reverse charge can only be applied at the first stage. After that, the chain has to be maintained.</p> <p>4. No change proposed.</p>
99.	Human Blood Collection Bags [9018]	12%	Nil  (Inclusion in exempt entry 'Human blood and its components' )	<p>1. Exemption is available to '<i>Human Blood and its components</i>' falling under Heading 3002 vide entry at S. No. 106 of notification No. 2/2017-Central Tax (Rate).</p> <p>2. The term components of Human blood have not been specifically defined but as per open-source information blood has four major components namely plasma, red blood cells, white blood cells, and platelets. The same are exempted from GST.</p> <p>3. As per Heading note to heading 3002, human blood in sealed ampoules is included in the heading and should attract nil GST rate.</p> <p>4. Blood collection bags are designed with collection, storage and processing of whole blood and its components. They are made from high molecular weight PVC and processes are done to sterilize the same.</p> <p>5. The blood collection bag includes a secondary packaging made of laminated polyester/ aluminium /polyethylene, tubing, needle, needle injury protector, outer pouch for diverting few initial 10-30 ml of blood etc. As a complete equipment with above accessories, this would fall under Heading 9018 and attract GST rate of 12%.</p> <p>6. The blood collection bags are sold separately and therefore would be liable to a GST rate of 12%. However, if blood collection bags are supplied with Human blood, then it would take</p>

S. No	Description/ HSN	Present GST rate	Requested GST rate	Comments
				the character of a packing material and will be eligible for the exemption to Human blood and its components.  7. No change proposed.
100.	Eco friendly cremation furnace  [8417 80 90]	18%	Special GST rate with ITC or 5%	1. Concessional rate of 5% was notified for Gas/Electric/other furnaces for crematorium, for limited period up to 30 Sep, 2021 vide notification 5/2021- CT® dated 14 June, 2021, during the special circumstances posed by the second wave of COVID-19 pandemic.  2. It is stated in representation that this type of furnace uses less wood and produces less smoke.  3. As most inputs and input services would attract 18%, reducing the rate on finished item would cause distortion and inverted duty structure.  4. No change proposed.
101.	Marble / Granite stone  [2515, 2516]	18%	5%	1. The GST rate on marble, travertine, granite stones/ slabs and blocks has been discussed on number of occasions in the Council, especially in 23 <sup>rd</sup> and 31 <sup>st</sup> Meetings.  2. Crude or roughly trimmed marble and granite attract GST at rate 5%, blocks are at 12% while other forms of marble and granite attract GST @ 18%.  3. Thus, there is graded duty rate on various forms of marble and granite, recommended by the Council after due deliberation.  4. No change proposed.
102.	Photo frames, metal deities, wooden furniture, articles of	Applicable rate	5% /Nil	1. Request is made on grounds that these are used as inputs for export goods.  2. For items used as inputs in finished export products, the refund mechanism is already available.

S. No	Description/ HSN	Present GST rate	Requested GST rate	Comments
	natural fibre  [Any chapter]			3. End use based monitoring on inputs (for export products or otherwise) will be difficult to implement and prone to evasion.  8. No change proposed.
103.	Retro Compressed Natural Gas (CNG) kits  [8409, 8708]	28%	5%	1. CNG Kits are generally classified under HSN 8409 as part of engine or 8708 as parts of motor vehicles and attract a GST rate of 28%.  2. Reducing the GST rate to 5% would create an inverted duty structure leading to blocking of working capital.  3. Therefore, the GST rate may be kept unchanged at 28% for CNG kits.  4. No change proposed.
104.	MSME goods  [Any Chapter]	Applicable rate	Nil for a period of 12 months.	1. End-use or source-based blanket exemption like supplies of MSME goods is difficult to implement and prone to evasion.  2. Direct budgetary support instead of tax exemption may be a better policy tool to incentivise and support MSMEs.  3. Fitment Committee does not propose any change.
105.	Fuel i.e. Ethanol (E100) and biodiesel (B100)  [2207, 3806]	18% / 12%	5%	1. The GST rate on ethanol/ biodiesel is five per cent when these are used for blending with petrol and diesel. However, Excise Duty is paid on Petrol and Diesel before such blending takes place.  2. Currently, Ethanol (E100) is taxed at 18% GST and Biodiesel (B100) at 12% GST, which is on a lower side as compared to Excise duty on Petrol and Diesel. Thus, these products are already at a concessional rate of GST and further reduction will have a huge revenue implication.  3. At present, E100 and B100 fuels are marketed



S. No	Description/ HSN	Present GST rate	Requested GST rate	Comments
				in small quantities. 4. No change proposed.
106.	Millet Based health mix powder –reg.	18%	5%	1. The item is a processed food product. Most other similar edible products also attract 18% GST. 2. No change proposed.
107.	All bakery products manufactured and sold by MSME industry including, but not limited to, puffs, nankhatai, muffins cakes, cookies, pastry, khara products etc. in addition to Rusks, Toasted Bread and Similar Toasted products [1905]	5%, /18%	5%	1. At present, <i>Rusks, toasted bread and similar toasted products</i> , falling under HS 1905 40 00, attract GST @5%. 2. Bakery products like Pastry, cakes, biscuits and other bakers' wares, whether or not containing cocoa; communion wafers, empty cachets of a kind suitable for pharmaceutical use, sealing wafers, rice paper and similar products [other than pizza bread, khakhra, plain chapatti or roti, bread, rusks, toasted bread and similar toasted products] falling under HS 1905 attract GST@18%. 3. Small manufacturer/traders belonging to MSME sector have the option to avail threshold exemption and composition scheme. 4. Pre-GST incidence on most of these additional bakery products on which rate reduction has been desired was 18% or more. 5. Providing source-based exemption to MSME sector for specific products like bakery products will be difficult to monitor and cause distortion. 6. No change proposed.
108.	Handlooms  [Chapters 50 to 63]	5%	Nil	1. GST rates on handloom textiles have been fixed on the basis of pre-GST incidence on these goods. All these goods attract the lowest GST rate of 5%. The issue of reduction of GST Rate on Handlooms was placed before the Council in its 21st meeting dated 9th

S. No	Description/ HSN	Present GST rate	Requested GST rate	Comments
				<p>September, 2017 and 28th meeting dated 21st July, 2018. The Council did not recommend any change in rates.</p> <p>2. Further to promote handlooms, exemption on khadi yarn and khadi fabrics sold by outlets of KVIC has been exempted from GST.</p> <p>3. Putting all the requested goods at Nil rate will break the input tax credit chain and put domestic manufacturers at a disadvantage vis-a-vis imports of these goods.</p> <p>4. Moreover, the threshold exemption for small taxpayers has been increased to Rs. 40 lacs per annum and the limit for availing composition scheme has also been increased to Rs. 1.5 crores per annum to provide relief to small taxpayers like the weavers in handloom sector.</p>
109.	<p>Purchases made from subsidiary Central Police canteens</p> <p>[Any Chapter]</p>	As applicable	Nil	<p>1. The GST Council in its 15th Meeting agreed to limit the benefit of 50% exemption from GST to CSD canteens only.</p> <p>2. Thereafter, the request for GST exemption to Central Police Canteens were discussed during the 25<sup>th</sup>, 28<sup>th</sup> and 37th meeting of the GST Council. GST Council did not agree to the request on the grounds if such concession are granted to Central Armed Police Forces then similarly placed organisations at the State level may also need the same treatment. This would have large revenue implications.</p> <p>3. No change proposed.</p>
110.	<p>Goods supplied by Tibetan Refugees Market Sweater Sellers</p> <p>[Any</p>	As applicable	Nil	<p>1. Specific market based GST Rate exemptions are not desirable as they might lead to tax-evasion and would also block the Input Tax Credit leading to higher input cost.</p> <p>2. Moreover, under the threshold exemption, any person having turnover of less than Rs 40 lacs a year in goods is exempt from paying GST on their supplies. In this case, suppliers may</p>

S. No	Description/ HSN	Present GST rate	Requested GST rate	Comments
	Chapter]			largely be falling below the threshold. 3. No change proposed.
111.	<i>Beedis</i>  [2403 19 21 and 2403 19 29]	28%	Rate reduction	<p>1. GST Rate on Bidi has been discussed at length in the 15th GST Council meeting wherein after much deliberation, the then Hon'ble Chairperson suggested that tendu leaves could be taxed at the rate of 18% under reverse charge and bidi could be taxed at the rate of 28%. The Council agreed to this suggestion.</p> <p>2. GST rate of 28% on Bidis was fixed taking into account the fact that the total tax incidence on Bidi was 25.68% (Central Excise duty - 3.72%; Weighted average VAT rate - 19.46%; CST, Octroi, etc - 2.5%).</p> <p>3. Bidis are demerit goods, and there is no justification for having GST rate lower than pre-GST tax incidence on them.</p> <p>4. 28% with no cess is the lowest rate for any tobacco product.</p> <p>5. The request to reduce rate on Bidi from 28% to 18% has been examined by the GST Council meetings (25th and 31st meeting) and was not accepted.</p> <p>3. Any rate reduction will have significant revenue implication.</p> <p>4. No change proposed.</p>
112.	Tractors & Farm Equipment  [84]	12%	5%	<p>1. Tractors attract a concessional GST of 12%, while specified parts of tractors attract GST at a rate of 18%. Parts used in tractors other than such specified parts attract GST @ 28%.</p> <p>2. The present request is for a Nil or 5% GST rate on tractors and farm equipment.</p> <p>3. Further reduction in GST rates on tractors would deepen the GST rate inversion that is already present.</p>

S. No	Description/ HSN	Present GST rate	Requested GST rate	Comments
				<p>4. Also, reduction in the rate of GST on tractors would make imports cheaper and this would not be in interests of domestic tractor manufacturers.</p> <p>5. No change proposed.</p>
113.	Imitation <i>Zari</i> [5605]	12%	5%	<p>1. <i>Zari</i> is intermediate product used in manufacturing of borders of Silk and cotton sarees. The applicable GST rate is 12% vide entry at S. No. 137 of Schedule II.</p> <p>2. In Oct, 2017, concessional rate of 5% was prescribed for 'Real <i>Zari</i> thread (gold) and silver thread, combined with textile thread.</p> <p>3. The present request is for 5% GST rate on imitation <i>Zari</i> on same lines.</p> <p>4. Fitment Committee examined the issue and noted that 12% is already a concessional rate.</p> <p>5. No change proposed.</p>

**c) Issues deferred by the Fitment Committee for further examination in relation to goods - Annexure III**

**Annexure-III**

<b>S. No.</b>	<b>Description/ HSN</b>	<b>Present GST rate</b>	<b>Requested GST rate</b>	<b>Comments</b>
1.	Khari, Cream rolls (Bakery product)  [1905]	5%	5%	<ol style="list-style-type: none"> <li>1. Currently, concessional GST rate of 5% is applicable on Rusks, toasted bread and other toasted products falling under CTH tariff item 1905 40 00.</li> <li>2. Other bakery products such as Pastry, cake, biscuits, communion wafers, etc (other than pizza bread, Khakra, plain chapatti or roti, bread, rusks, toasted bread and other toasted products) attract GST rate of 18%.</li> <li>3. Fitment Committee examined the issue and observed that further details regarding the nature of product, process of preparation is required before making any suggestions.</li> <li>4. Fitment Committee proposed that the matter may be deferred until further inputs are provided.</li> </ol>
2.	Heavy feedstock, Vacuum Gas Oil (VGS) / Reformates, etc  [27]	18%	Nil	<ol style="list-style-type: none"> <li>1. The main refinery products namely, petrol, diesel and ATF are outside purview of GST, while GST is levied on other refinery products including intermediate streams that are shared between refineries.</li> <li>2. Due to high GST rate, negligible imports of heavy feedstock by refineries.</li> <li>3. Feedstock is informed to be cheaper than crude while being a viable option to crude oil. It was also informed that easy availability of heavy feedstock will lead to better capacity utilization of refineries and that the revenue implication for OMCs is only around Rs. 321 crores</li> <li>4. Customs duty on these items, including straight run fuel oil, low sulphur wax</li> </ol>

S. No.	Description/ HSN	Present GST rate	Requested GST rate	Comments
				<p>residue, vacuum residue, slurry, vacuum gas oil, etc was reduced to 2.5% during Budget in Feb, 2022.</p> <p>5. Fitment Committee discussed the issue and noted that further clarity is needed on the matter regarding the intended use, capacity utilization potential and benefits accruing from the item.</p> <p>6. Fitment Committee proposed that additional inputs may be sought from the Ministry of Petrol and Natural Gas and the matter may be deferred until further inputs are provided.</p>

d) Recommendations made by the Fitment Committee for making changes in GST rates or for issuance of clarification in relations to services - Annexure IV. Recommendations made by the Fitment Committee on issues related to Tour and Hospitality Sector, and on positive list of services to be specified in Sr. No. 3/3A of Notification No. 12/2017-CT(R) are given at Annexure-IVA and Annexure-IVB, respectively.

#### Annexure IV

(Recommendations made by the Fitment Committee for making changes in GST rates or for issuance of clarification in relation to services)

Sl. No.	Proposal	Details of Request	Discussions in FitCom and its recommendation
1.	GST at 18% on supply of ice-cream by ice-cream parlours may be applied with effect from 06.10.2021.	<p>Ice-cream parlours were under the bonafide impression that their activity is covered by the definition of restaurant service and have accordingly been collecting and paying 5% since 01.07.2017 and have not availed ITC.</p> <p>Moreover, the sector has been badly hit by the pandemic and would have to discharge the differential 13% for the past period from their own funds.</p> <p>In case the increased rate of GST cannot be applied prospectively, they may be allowed ITC for the past period. (Indian Ice-cream Manufactures' Association)</p>	<p>On the recommendation of the GST Council in its 45<sup>th</sup> meeting it was clarified that <i>ice cream parlours sell already manufactured ice-cream and they do not have a character of a restaurant and hence ice cream sold at such parlour attract standard rate of 18% with ITC as applies to Ice Cream</i></p> <p>However, considering the fact that ice cream parlours opting to pay 5% in view of prevailing doubt before the 45<sup>th</sup> Council meeting did not avail ITC on input and paid 5% in cash. Such ice-cream parlours had thus foregone significant ITC benefit. Hence, in the overall circumstances of the case, it would be appropriate that past cases of 5% without ITC be regularized. This would avoid unnecessary litigation.</p> <p>Post October 2021, the Ice Cream parlours are paying GST at the rate of 18% with ITC.</p> <p>Accordingly, instruction may be issued to regularise past cases in this manner. Since the decision is only to regularize the past practice, no refund of GST shall be allowed, if already paid at 18%.</p>
2.	Waiving off the GST for all the higher institutions in the state of Tamil Nadu.	Heads of the various Institutes/ Vice — Chancellors of Universities in the Tamil Nadu brought to notice to State Govt	Education services by or to educational institutions are mentioned at Entry 66 of the Notification No. 12/2017 dt

Sl. No.	Proposal	Details of Request	Discussions in FitCom and its recommendation
		<p>regarding GST liability on <u>sale of application forms</u> to the prospective students, issue of <u>migration/ eligibility forms</u> to the graduated students, <u>affiliation works</u> and other educational activities.</p> <p>The services provided by the educational institution to students, faculty and staff are exempt vide Notification 12 / 2017 — Central Tax (rate) dated 28.06.2017.</p> <p>It is requested to waive off the GST for the all the higher educational institutions on activity such as sale of forms, issue of eligibility forms etc.</p>	<p>28.07.2017 which inter alia says that-</p> <p><b>Services provided –</b></p> <p>(a) <b>by an educational institution to its students, faculty and staff;</b>  [(aa) by an educational institution by way of conduct of entrance examination against consideration in the form of entrance fee;]</p> <p>(b) <b>to an educational institution, by way of, -</b>  .....</p> <p>(iv) <b>services relating to admission to, or conduct of examination by, such institution;</b>  ....</p> <p>Thus, it can be seen clearly that all kind of services by an ‘education institution’ to its students are exempt. Consideration charged by the education institutes by way of entrance fee are also exempt. Thus, this entry/ exemption is wide enough to cover the amount charged for application fee for entrance, or for issuance of eligibility certificate in the process of entrance/admission to the prospective student. Accordingly, such activity of educational institution would also be exempt. Issuance of migration certificate by universities is covered by Sr. No. 66 (Part (a)) of Notification No. 12/2017-CT(Rate) dated 28.06.2017.</p> <p>On the issue of services supplied by universities/boards or other educational organizations by way of granting affiliations to educational institutions, clarification has already been issued</p>



Sl. No.	Proposal	Details of Request	Discussions in FitCom and its recommendation
			vide Circular No. 151/07/2021-GST dated 17.06.2021 (Para 4 (iii)).  It is proposed to clarify accordingly.
3.	<p>To clarify the following:</p> <p>a. Whether the subsidy payable /paid by Universal Service Obligation Fund (USOF under the PPP agreement (this subsidy, as accounted for in the DoT budget, in common parlance termed as viability gap funding – VGF)? This subsidy is paid over a period of time, say 5 years.</p> <p>(b) Whether there is any change in applicability of GST where at first USOF transfers funds to Bharat Broadband Network Ltd (BBNL) as its Project Monitoring Agency (PMA) and the actual amount of subsidy is disbursed by BBNL to the concessionaire?</p> <p>(c) In case GST is applicable on amount payable /paid to concessionaire by BBNL, whether BBNL can accumulate input tax credit for the GST amount paid?</p>	This issue has been raised for clarification by DOT.	<p>A bidder, bidding for telecom circle etc., may either pay a premium for grant of concession by DoT, or may seek subsidy (VGF). The successful bidder would be the telecom service provider (TSP) who pays highest premium (if bid is on premium) or who seeks lowest subsidy (VGF, if bid is made on subsidy). In such case:</p> <p>(i) all payments including the premium paid by concessionaire will form part of consideration paid for acquiring concession and shall be liable to GST. Further, the network created by TSP and transferred to USOF/BBNL/Government at the end of concession period shall attract GST on the depreciated value of supply.</p> <p>(ii) In case the bidder bids for getting subsidy (also termed as VGF) the same is not taxable. Otherwise also subsidy by Government does not constitute a consideration for the purposes of levy of GST.</p> <p>(iii) The concessionaire shall be eligible to take applicable ITC as per the provisions of the CGST Act, 2017.</p> <p>An appropriate clarification would be issued to Department of Telecommunication accordingly.</p>

Sl. No.	Proposal	Details of Request	Discussions in FitCom and its recommendation
4.	Request to clarify the applicability of exemption on the service of storage or warehousing of cotton in baled or ginned form.	<p>Entry 24 B of Notification 12/2017-CT(R) dated 28.06.2017 provides exemption from GST on services by way of storage or warehousing of cereals, pulses, fruits, nuts and vegetables, spices, copra, sugarcane, jaggery, raw vegetable fibres such as cotton, flax, jute etc., indigo, unmanufactured tobacco, betel leaves, tendu leaves, coffee and tea.</p> <p>Telangana AAR in M/s Kakkirala Ramesh has ruled that the processing of raw cotton by way of ginning and pressing into fully pressed bales is not covered by the exemption notification.</p> <p>Chandigarh CESTAT in the case of R.K.&amp;Sons vs CCE, Rohtak have ruled as “....cotton fibre obtained by ginning cotton plucked from cotton plants is nothing but raw cotton fibre because there cannot be rawer form of cotton fibre obtained from ‘cotton-with-seeds’ plucked from cotton plants...”</p> <p>Supreme Court in the case of State of Punjab and Others vs. Chandu Lal Kishori Lal &amp; Others have held that “cotton ginned or unginned is treated as single commodity or a single spice. They cannot be held to be two distinct commodity”</p> <p>In the service tax regime, Entry no. 40 of mega exemption notification no. 25/2012-Service Tax dated 20<sup>th</sup> June 2012 provided for “services by way of loading, unloading, packing, storage or warehousing of rice, cotton, ginned or</p>	<p>Notification 12/2017-CT(R) dated 28.06.2017, Entry 24 B exempts services by way of storage and warehousing of, inter alia, raw vegetable fibers such as cotton, flax, jute etc.</p> <p>Cotton Fiber glossary by <b>barnhardtcotton.net</b> defines “cotton staple, virgin cotton or raw cotton” as cotton fibers that are removed from the cotton seed by the gin.</p> <p>CESTAT Chandigarh in the case of R.K.&amp; Sons vs CCE, Rohtak dated 14<sup>th</sup> July 2016 has observed as under:</p> <p><i>Cotton (with seeds) as plucked from cotton plants can hardly be called cotton fibre in which case cotton fibre would come into existence only after the seeds are ginned away from cotton plucked from cotton plants. Cotton fibre obtained by ginning cotton plucked cotton plants is nothing but raw cotton fibre because there cannot be rawer form of cotton fibre obtained from cotton-with-seeds plucked from cotton plants.”</i></p> <p>It may be clarified service by way of storage or warehousing of cotton in ginned and or baled form is covered under Entry 24B of notification 12/2017-CT(R) dated 28.06.2017 in the category of raw vegetable fibres such as cotton.</p>

Sl. No.	Proposal	Details of Request	Discussions in FitCom and its recommendation
		<p>baled”.</p> <p>Most of the cotton produced in India is stored in warehouses predominantly in the form of bales only as it provides convenience in warehousing, loading, unloading and stacking operations. ‘Cotton with seed’ is generally not stored in the warehouses, rather it is kept in farm stores viz. temporary shades/structures only.</p> <p>The term “warehousing” used in the exemption notification in respect of the raw cotton must be for baled cotton.</p>	
5.	To clarify that exemption under Sr. 9B of Notification 12/2017-CT(R) covers services associated with transit cargo both <b>to and from</b> Nepal and Bhutan.	<p>No GST is charged on freight services with respect to transportation of containers loaded with Nepal’s transit cargo from gateway ports in India and destined <b>to</b> Nepal. However, GST is charged on freight services with respect to transportation of empty containers returning <b>from</b> Nepal to India.</p> <p>As per Article III and IV of Treaty of Transit between India and Nepal, the transit cargo of Nepal transiting through India, whether it be Nepal’s import from a third country or Nepal’s export to a third country is covered under the definition of traffic-in-transit and thus exempt from customs duties, transit duties and other charges. However, GST notification that is, Notification No. 12/2017-CT(R) exempts only the supply of services associated with transit cargo <b>to</b> Nepal and Bhutan and does not exempt supply of services associated with transit cargo <b>from</b> Nepal and Bhutan. This is leading to Container Corporation of India Limited (CONCOR) charging GST on transportation of empty containers returning from Nepal to India.</p>	<p>GST on supply of services associated with transit cargo to Nepal and Bhutan was exempted w.e.f 29.09.2017 based on recommendations of the 20<sup>th</sup> GST Council Meeting. The opening sentence of the Agenda Item 7(ix) placed before GST Council on this issue, makes it clear that the proposal was to exempt supply of services associated with transit cargo both to and from Nepal and Bhutan.</p> <p>The relevant entry reads as under:</p> <p><i>9B- Chapter 99- Supply of services associated with transit cargo to Nepal and Bhutan (landlocked countries)- Nil</i></p> <p>Clearly movement of entry containers from Nepal and Bhutan, after delivery of goods there, is a service associated with the transit cargo. The intention has always been to exempt such service.</p> <p>It is proposed to clarify accordingly.</p>

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6.	All the benefits and exemptions allowed for aircraft leasing in GiFT city may be granted in case of leasing of hovercraft inside and outside of the GiFT city.	<p>The hovercraft also known as air-cushion vehicle or ACV is capable of travelling over land, water, mud, ice and other surfaces.</p> <p>Hovercrafts are hybrid vessels operated by a pilot as an aircraft.</p> <p>Operation of hovercraft in inland waterways such as Thane creek between Navi Mumbai and Mumbai to reduce the traffic snarl and also save environmental problems by fast moving hovercraft.</p>	<p>Sl. No. 547A of Notification No. 50/2017-Customs, which exempts aircrafts, aircraft engines and other aircraft parts imported into India under lease from payment of import IGST under Section 3(7) of Customs Tariff Act, subject to the conditions listed in Condition No. 102 of the Notification.</p> <p>Similar exemption has been extended to all goods imported under lease [Sr. No. 557B of Notification No. 50/2017-Customs <i>refers</i>].</p> <p>Therefore, parity with leasing of aircrafts already exists. It is proposed to clarify to gift city accordingly.</p>
7.	Request to clarify the taxability of transactions between lead-insurer and co- insurers. IRDA is of the view that such transaction may not be covered within the scope of supply and accordingly no GST is leviable.	<p>In co-insurance business, insured (policy holder) chooses to cover same risk/policy with more than one insurer (insurance companies).</p> <p>The lead insurer handles the premium and claim as a single point of contact for insured (policy holder) and on behalf of other insurers sharing the risk.</p> <p>The entire premium is collected by the leader and payment of 100% of the claims is the responsibility of the leader.</p> <p>GST is leviable on the policy holders' premium which is collected and deposited 100% by the lead insurer.</p>	<p>The transaction value of premium collected from the insured (policy holder) by the lead insurer is apportioned among the co-insurers/lead insurer but the GST on entire premium is discharged by the lead insurer as mentioned in clause III(e) of Co-insurance agreement which says that the lead insurer will be responsible for tax collection, remittance and filing return relating thereto.</p> <p>Co-insurers and lead insurer are separate legal entities on its own and distinct from each other. In GST, each distinct entity is registered separately and has to declare their taxable value and discharge GST on the declared taxable value.</p> <p>While lead insurer raise the bill to insured and pays GST on it, it subsequently apportions the premium</p>

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		<p>The arrangement between insurance companies in a co-insurance business is on account of agreement for sharing the risk and for apportionment of the respective share of the premium (already taxed) and hence is not covered within the scope of supply.</p> <p>It is mentioned that all insurers (General Insurance Companies) licensed by IRDAI are signatories of Co-insurance agreements which prescribes certain standardized procedures and formats for co-insurance transactions. Clause III(e) of the agreement says that-</p> <p>Service Tax: The Lead Insurer shall be responsible for collection of tax applicable on the 100% premium and for the remittance of the same to the Govt and also submission of necessary statutory return.</p>	<p>amongst the co-insurers in the ratio of risk covered.</p> <p>In this arrangement, though lead insurer pays tax on entire amount, the co-insurer being separate legal entity and receiving a share of premium from lead insurer are liable to pay GST on premium portion they receive. In GST, this arrangement could only ensure that co-insurer avail ITC on their input services and pay GST on their output service, i.e. share of premium. Lead insurer could avail the ITC of GST paid by co insurer.</p> <p>Hence no extra liability is created if co-insurer pays tax on their share of premium received from lead insurer. In fact, if co-insurer is absolved of their liability, they would lose their proportionate ITC while lead insurer would end up paying higher amount of tax in cash. IRDAI may be advised accordingly.</p>
8.	Request to clarify/ exempt conservancy contracts concluded by Indian Army from payment of GST under provisions of IGST/CGST Act, 2017	<p>Articles 243G &amp; 243W of constitution when read in conjunction with notification 12/2017-CT(R) dated 28.06.2017 make it clear that GST should not be applicable to Conservancy Services being a function entrusted to municipality &amp; the service being provided to Central government.</p> <p>Exemption for conservancy contracts from GST to Indian Army would facilitate utilization towards operational as well as modernization requirements.</p>	<p>1. Municipalities and Panchayats carry out functions entrusted to them under Articles 243W &amp; 243G respectively. Functions that may be entrusted to panchayats and municipalities are listed in schedule 11 &amp; 12 of the constitution.</p> <p>2. Central Government, State Governments &amp; Union Territories also perform functions listed in Schedule 11 &amp; 12 such as irrigation, public health etc.</p> <p>3. Services by Central Government, State Government, Union Territory or any local authority by way of any activity in relation to a function entrusted to a Panchayat under Article</p>

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			<p>243G of the constitution or to a municipality under article 243W of the constitution have been declared a 'No Supply'. [Notification 14/2017-CT(R) dated 28.06.2017]</p> <p>4. Supply of Pure services /composite services to central government, state government, union territory or local authority by way of any activity in relation to functions that may be entrusted to panchayats &amp; municipalities have also been exempted. [ entry 3 &amp; 3A of notification 12/2017-CT(R) dated 28.06.2017]</p> <p>5. The exemption under entry 3&amp; 3A of notification 12/2017-CT(R) dated 28.06.2017 has been given on pure services &amp; composite supplies procured by central government, state government, union territory or local authority for performing functions listed in the 11<sup>th</sup> and 12<sup>th</sup> schedule of the constitution.</p> <p>6. If such services are procured by a Government Ministry/Department which does not perform function(s) listed in 11<sup>th</sup> and 12<sup>th</sup> Schedule in the same manner as a local body does for general public, the same shall not be exempt under Sr. No. 3 and 3A of Notification 12/2017-CT(R).</p> <p>7. We may clarify accordingly by way of a circular.</p> <p>8. As regards the request to exempt the same, it has no merit. Besides being a request for a new exemption, it will also block ITC of suppliers.</p>

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9.	To clarify whether the activity of selling of space for advertisement in souvenirs would attract tax @ 5% as per serial number (i) of Entry 21 of the Rate Notification or @18% as per serial number (iii) of entry 21 of the Rate Notification.	Different institutions/organizations like educational institutions, social, cultural and religious organizations including clubs etc., publish souvenir in the form of book where they sell space for advertisement to business organizations, professionals and others against monetary consideration. Doubts have been raised on the taxability of such activity of selling of space for advertisement in souvenirs.	<p>As per serial number (i) of entry 21 of notification No. 11/2017-Central Tax (Rate) dated 28.06.2017 selling of space for advertisement in print media attracts tax @ 5% [Central Tax @ 2.5% + State Tax @ 2.5%].</p> <p>The term 'print media' has been defined in clause (zt) of Notification No.12/2017-Central Tax (Rate) dated 28.06.2017 as under:</p> <p>"print media" means, —</p> <p>(i) 'book' as defined in sub-section (1) of section 1 of the Press and Registration of Books Act, 1867 (25 of 1867), but does not include business directories, yellow pages and trade catalogues which are primarily meant for commercial purposes;</p> <p>(ii) .....</p> <p>Further, sub-section (1) of section 1 of the Press and Registration of Books Act, 1867 defines 'book' as follows:</p> <p>"Book" includes every volume, part or division of a volume, and pamphlet, in any language and every sheet of music, map, chart or plan separately printed.</p> <p>It therefore appears that 'book' is defined in the Press and Registration of Books Act, 1867 in an inclusive manner with a wide ambit which would cover souvenir book also. If that be so, the activities carried out by different institutions/ organizations towards selling of space for advertisement in</p>

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			<p>souvenirs get covered by serial number (i) of entry 21 of the Rate Notification, and therefore would attract tax @ 5%.</p> <p>We may clarify accordingly.</p> <p>Further, the definition of the term 'print media' as defined in Notification 12/2017-CT(R) may also be included in Notification 11/2017-CT(R).</p>
10.	To clarify the taxability of a supply where minerals are transported from mining site to railway siding, beneficiation plant etc., by vehicles deployed with driver for a specific duration of time [whether the same would be covered under Sr. No. 18 of notification 12/2017-CT(R)].	<p>Transport Service Providers operating in mining belts of Keonjhar, Angul and Talcher are classifying their transport service under HSN 9965 and claiming GST exemption vide Sr. No. 18 of Notification 12/2017-CT(R) citing that they are not Goods Transport Agency as they do not issue consignment note. Consequently, the recipients of such transportation service are also not discharging GST under RCM.</p> <p>However, as per the work orders issued by service recipients, the transporters have provided transportation vehicles such as tipper, dumpers and loaders with drivers for transportation of minerals within mining areas for a specific time duration.</p> <p>During the said period the vehicle remains within control of the service recipient and the movement of minerals from mines to other areas takes place as per directions of the recipient. Further the transporter cannot deploy the vehicles for any other purpose.</p> <p>From above, it appears that the services provided by transporter is classifiable</p>	<p>The fact of the reported case is that vehicles such as tippers, dumpers, loader, trucks etc., are given on hire to the mining lease operator. Expenses for fuel are generally borne by the recipient of service. The vehicles with driver are at the disposal of the mining lease operator for transport of minerals within the mine area (mining pit to railway siding, beneficiation plant etc.) as per his requirement during the period of contract.</p> <p>This is nothing but time charter of goods carriage or rental services of transport vehicles with operator which fall under heading 9966 and attract GST @ 18% under Sr. No. 10 part (iii) of Notification No. 11/2017-CT(R). This is not a service of transport of goods by road.</p> <p>Accordingly, it is proposed to clarify that where the supply is for deploying vehicle along with operator for transportation of goods for a specified duration of time, the service is classifiable under Heading 9966 that is, rental services of transport vehicles with operators and would attract GST at the rate of 18%.</p>



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		under HSN 9966 i.e., rental services of transport vehicles with operators which attract 18% GST.	It is also proposed that where renting of trucks/goods carriage with operator also include the cost of fuel the GST rate may be prescribed at 12% with ITC.
11.	Indian Foundation of Transport Research and Training has requested to rationalize GST Rate slabs on gross freight charges from four (nil; 5%, 12% and 18%) to two slabs (nil and 12%) for all goods to be transported by road.	Transporters/GTAs are arbitrarily placing transport services under any of the four slabs by changing language of road transport contracts to evade taxes.	<p>Some GTAs are simultaneously paying GST @ 5% without ITC on some consignments and @ 12% with ITC on others.</p> <p>This is in violation of the condition prescribed in Sr. No. 9 of Notification 11/2017-CTR wherein it has been clearly stated that <i>“the goods transport agency opting to pay central tax @ 6% under this entry shall, thenceforth, be liable to pay central tax @ 6% on all the services of GTA supplied by it.”</i></p> <p>Fitment Committee after detailed recommendation has made following recommendation:</p> <ul style="list-style-type: none"> <li>(i) Two rates, i.e. 5% without ITC and 12% with ITC may continue.</li> <li>(ii) A GTA opting to pay 12% with ITC may be allowed to avail this option for certain consignments simultaneously availing 5% without ITC on certain other consignments provided he pays GST on forward charge basis on all his services and accordingly reverses proportionate credit on services where he pays GST at the rate of 5% without ITC.</li> <li>(iii) The GTA which opts for 5% without ITC on reverse charge basis shall not have option of paying GST at the rate of 12% with ITC or</li> </ul>

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			<p>5% without ITC on forward charge basis on any of his service.</p> <p>(iv) A GTA shall have option to switch from one option to the other at beginning of the Financial Year after making a declaration in the manner as may be laid down.</p> <p>(v) This modality would provide adequate flexibility to GTAs while not compromising the revenue.</p>
12.	Request to clarify that GST applicability or otherwise on lease premium (upfront amount) payable in respect of long-term lease of land provided by Rail Land Development Authority (RLDA) for construction of Multi-Functional complex project at Railway station.	<p>Rail Land Development Authority (RLDA) has been setup by Railway Ministry through the amendment of the Railway Act 1989 for commercial development of vacant railway land. <u>(100% ownership of Government of India)</u></p> <p>Rail Land Development Authority (RLDA) had invited tender for developing a Multi-Functional Complex (MFC) at Erode Railway Junction and a Special Purpose Company (SPC) by name Erode Infrastructures Pvt Ltd., (Developer) was a successful bidder to develop this MFC.</p> <p>RLDA has charged GST on the upfront amount.</p> <p>The Developer had filed an application before Authority for Advance Ruling, Chennai and then after rejection of application preferred an appeal before Appellate Authority for Advance Ruling, Chennai to get a Ruling regarding the applicability of Notification No.32/2017 for GST exemption.</p>	<p>S.N. 41 of 12/2017-CTR prescribes that-</p> <p><i>Upfront amount (called as premium, salami, cost, price, development charges or by any other name) payable in respect of service by way of granting of long term lease of thirty years, or more) of industrial plots or plots for development of infrastructure for financial business, provided by the State Government Industrial Development Corporations or Undertakings or by any other entity having 20 per cent or more ownership of Central Government, State Government, Union territory to the industrial units or the developers in any industrial or financial business area.</i></p> <p>The expressions “industrial plot” or “industrial area” have not been defined in the notification and therefore have to be assigned their common parlance meaning. A plot for commercial complex at railway station would not fall in the category of industrial plot.</p> <p>Plot in this case has been leased for development of a commercial complex. It is not an industrial plot or a plot in an</p>

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		<p>Instead of going into the merits of the case, both the forums had rejected their application for the reason that the “Supplier” of services alone can seek a Ruling before the authority.</p> <p>The development of MFC at Erode Railway Junction will provide passenger centric amenities at a single place.</p> <p>In view of the developer, as per various judicial pronouncement and Govt policies, Railway has been considered as an Industry. Accordingly plot owned by railway and allotted to developer for development of MFC is industrial plot. Further, as it is in the area of Railways. Therefore, it is <b>in an industrial or financial business area.</b></p>	<p>industrial area.</p> <p>RLDA has charged GST on the upfront amount.</p> <p>It is proposed to clarify accordingly to the concerned parties.</p>
13.	<p>To reduce GST on ropeway travel from 18% to 5%.</p> <p>Himachal Pradesh had placed this request before the GST Council in the 45<sup>th</sup> meeting</p>	<p>Ropeways are an important component of transport network of the country and are essential to provide last mile connectivity and mobility in hilly areas.</p> <p>Ropeways are safest mode of passenger and materials transport and also eco-friendly. Therefore, to make them financially viable for mass transit, GST rates may be equated with conventional road transportation to attract tourists and help in economic growth.</p>	<p>Transport of goods and passengers by all major modes of transport attract GST at the rate of 5% (without ITC) or 12% (with ITC).</p> <p>The reason behind lower GST rates on transport sector is that their major input i.e. petrol, diesel and ATF are outside of GST ambit.</p> <p>With respect to ropeway travel, one of the main inputs is electricity, which is also outside the ambit of GST.</p> <p>Considering the above facts and the fact that Ropeways are an important component of transport network of the country and are essential to provide last mile connectivity and mobility in hilly areas, it was decided in the 45th GST Council meeting that Himachal Pradesh may make a presentation on the issue. Fitment may examine it.</p>

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			<p>Himanchal Pradesh made a presentation on ropeway travel before the Fitment Committee on 05.04.2022 explaining the necessity and advantages of ropeway for hilly terrain. Copy of Presentation is annexed (Annexure A).</p> <p>Himachal Pradesh requested for GST rate of 5% with ITC on transport of both passengers and goods by ropeway.</p> <p>During the presentation, Himachal Pradesh was requested to work out the cost comparison of ropeways with other modes of transport. It was also conveyed that the 5% rate on transportation services has been prescribed either without ITC or with restricted ITC of only input services. Himachal Pradesh was requested to examine whether GST rate of 12% with ITC will be more appropriate than the 5% rate without ITC suggested by them.</p> <p>Himachal Pradesh vide note dated 12<sup>th</sup> April, 2022 has requested that GST on ropeway should be considered at par with passenger transportation services by rail and taxed at the rate of 5% with ITC of services.</p> <p>Fitment Committee recommends for consideration of the Council that GST at the rate of 5% with ITC of services be prescribed on the ropeway.</p>
14.	Request to issue Clarification - whether location charges or preferential location charges (PLC) collected in addition to the lease premium for long term lease of land constitute	Field formation has requested for clarification whether preferential location charges (PLC) collected in addition to the upfront amount or lease premium charged for long term lease of land constitute part of the lease premium or upfront amount for the purpose of exemption benefit under	<p>Entry 41 of the said notification is produced as below-</p> <p><i>“Upfront amount (called as premium, salami, cost, price, development charges or by any other name) payable in respect of service by way of granting of long-term lease (of thirty years, or</i></p>

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	part of the lease premium or upfront amount charged for long term lease of land. ” -(entry 41) Notification No. 12/2017-CTR dated 28.06.2017	S.No. 41 of notification No. 12/2017-CTR.	<p><i>more) of industrial plots or plots for development of infrastructure for financial business, provided by the State Government Industrial Development Corporations or Undertakings or by any other entity having 20 per cent or more ownership of Central Government, State Government, Union territory to the industrial units or the developers in any industrial or financial business area.”</i></p> <p>Upfront amount mentioned in the notification include all the cost or price payable for the grant of long-term lease (as long as it is paid upfront).</p> <p>Allowing choice of location of plot is part of supply of long-term lease of plot and therefore, location charge is nothing but part of consideration charged for long term lease of plot. Being charged upfront along with the upfront amount for the lease, the same is exempt.</p> <p>Clarification may accordingly be issued by way of a circular.</p>
15.	Request to clarify the issue of applicability of GST on payment of honorarium to the Guest Anchors.	Sansad TV invites guest anchors for participating in their shows and pays remuneration to them in the form of honorarium. Some of the guest anchors have requested payment of GST @ 18% on the honorarium paid to them for such appearances.	<p>Supply of all goods &amp; services are taxable unless exempt or declared a ‘no supply’. Services provided by the guest anchors in lieu of honorarium would attract GST liability.</p> <p>However, the threshold exemption limit on aggregate turnover of the service provider would apply. Liability would arise in case threshold exemption limit for services is crossed.</p> <p>Clarification may accordingly be issued by way of a circular.</p>

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16.	Request to clarify that the additional toll fees collected by the Concessionaires in line with direction of Ministry of Road Transport & Highways (MoRTH) from the users of the road to the extent of two times of the fees applicable to that category of vehicle which is not having a valid functional Fastag is exempt from GST.	<p>Sr. No. 23 of Notification no. 12/2017-CT(R) dated 28.06.2017 exempts service by way of access to a road or a bridge on payment of toll charges. Circular 164/20/2021-GST dated 06.10.2021 had also clarified the non-applicability of GST on collection of Additional User Fees.</p> <p>MoRTH vide circular dated 16.02.2021 have directed to collect additional fees from the users of the road to the extent of two times of the fees applicable to that category of vehicle which is not having a valid functional Fastag.</p> <p>It is clear that the additional amount collected from road users is nothing but “additional toll fees” or “Extra toll fees”.</p> <p>Since the basic toll fees is exempt from GST, hence additional toll fees will also be exempt from GST. It is part of the same supply of access to road. Under service tax regime, payments made for excess baggage to airlines by passengers is part of the main activity of ‘transportation by air’ and excess parking charges for overtime would be consideration for parking supply only.</p> <p>Hence, any service provided “by way of” access would be exempt, in line with original services, irrespective of the charges collected for it and the quantum thereof.</p>	<p>Entry 23 of notification No.12/2017-Central Tax (Rate) dated 28<sup>th</sup> June, 2017 exempts service by way of access to a road or a bridge on payment of toll charges.</p> <p>Ministry of Road Transport &amp; Highways (MORTH) vide circular dated 16.02.2021 has directed to collect additional fees from the users of the road to the extent of two times of the fees applicable to that category of vehicle which is not having a valid functional Fastag.</p> <p>Essentially, the additional fees collected from the users of the road not having a functional Fastag, is in the nature of Toll Charges.</p> <p>On a similar issue of collection of overloading charges in the form of a higher toll (2/4/6/7 times of the base rate of toll), it has already been clarified vide circular number 164/20/2021-GST dated 06.10.2021, which was issued on the basis of recommendation of GST Council that overloading charges at toll plazas would get the same treatment as given to toll charges.</p> <p>Therefore, additional fee collected in the form of higher toll charges from vehicles not having Fastag is essentially payment of toll for allowing access to roads or bridges to such vehicles and may be given the same treatment as given to toll charges.</p>

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			Clarification may accordingly be issued.
17.	Taxability of services in form of Assisted Reproductive Technology (ART)/ In vitro fertilization (IVF).	<p>IVF is treatment method for refractory infertility.</p> <p>IVF is offered at major obstetrics and gynae centres where advanced technology is available including in Government sectors such as in PGI Chandigarh, AIIMS, New Delhi etc.</p> <p>The Assisted Reproductive Technology (Regulation) Act, 2021 has been implemented to regulate ART procedure and provides guidelines for establishing any clinic for providing IVF treatment using ART procedure.</p>	<p>Health care services provided by a clinical establishment, an authorised medical practitioner or para-medics are exempt. [Sl. No. 74 of notification No. 12/2017- CT(Rate) dated 28.06. 2017].</p> <p>Health care services is defined vide 2(zg) of the notification No. 12/2017-CT(Rate) dated 28.06. 2017 as –</p> <p><i>“health care services” means any service by way of diagnosis or treatment or care for illness, injury, deformity, abnormality or pregnancy in any recognised system of medicines in India and includes services by way of transportation of the patient to and from a clinical establishment, but does not include hair transplant or cosmetic or plastic surgery, except when undertaken to restore or to reconstruct anatomy or functions of body affected due to congenital defects, developmental abnormalities, injury or trauma;</i></p> <p>The abnormality/disease/ailment of infertility is treated using ART procedure such as IVF. Such services are covered under the definition of health care services for the purpose of above exemption notification.</p> <p>Clarification may accordingly be issued by way of a circular.</p>
18.	To clarify whether sale of developed plots is taxable under GST.	Appellate Authority for Advance Ruling, Surat has decided that sale of plots of land having primary amenities such as drainage line, water line,	As per Sl no. (5) of Schedule III of the CGST Act, 2017, “Sale of land” is

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		electricity line, land leveling etc. as may be required by local authorities is not covered under Entry No.5 of Schedule-III of the CGST Act, 2017 and such sale of developed plots is a supply of taxable service falling under the head 'Construction services' and is liable to GST at 18%.	<p>neither as a Supply of Goods nor a Supply of Services, therefore, sale of land does not attract GST.</p> <p>Land may be sold either as it is or after some development such as levelling, laying down of drainage lines, water lines, electricity lines, etc.</p> <p>Sale of such developed land is also sale of land and is covered by S. No. 5 of Schedule III of the CGST Act, 2017 and accordingly does not attract GST</p> <p>However, supply of development rights over land or a plot of land (TDR) by land owner to developer under a Joint Development Agreement or otherwise is obviously taxable.</p> <p>Clarification may accordingly be issued by way of a circular.</p>
19.	To clarify applicability of GST on payments in the nature of liquidated damages, compensation, penalty, cancellation charges, late payment surcharge etc. arising out of breach of contract or otherwise.	A number of cases have been brought to the notice of the Board where question has been raised regarding taxability of an activity or transaction as the supply of service of agreeing to the obligation to refrain from an act or to tolerate an act or a situation, or to do an act.	<p>Agreeing to the obligation to refrain from an act or to tolerate an act or a situation, or to do an act" has been declared to be a supply in para 5 (e) of Schedule I of CGST Act.</p> <p>Various transactions have been sought to be classified by the tax authorities under the said description and in many cases this has led to disputes and litigation.</p> <p>The issues arising out of taxation of activities by way of "agreeing to the obligation to refrain from an act or to tolerate an act or a situation, or to do an act" were deliberated in detail. It was felt that the entry is being very widely and at times erroneously interpreted which is leading to a lot of disputes and litigations. It was generally felt that a circular clearly</p>



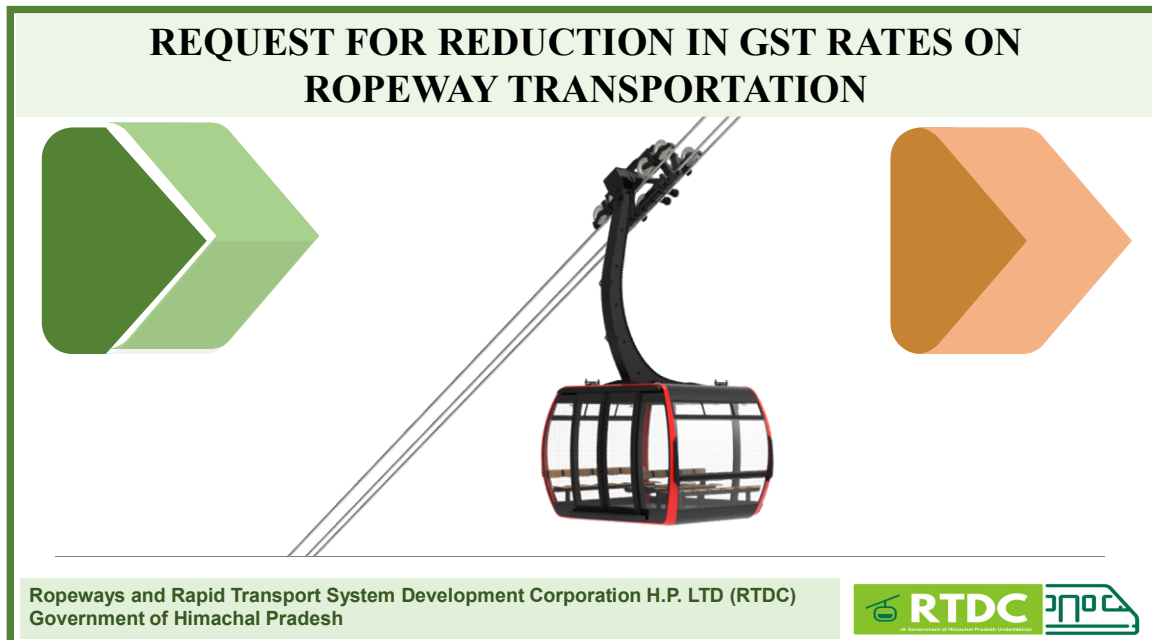
Sl. No.	Proposal	Details of Request	Discussions in FitCom and its recommendation
			<p>explaining the situations in which an activity shall amount to a supply of service by way of agreeing to refrain from an act or to tolerate an act or a situation etc. may be issued. After detailed deliberations over course of two meetings, the Fitment Committee recommended that the issues involved may be clarified by way of the enclosed draft circular placed at Annexure B. The draft circular incorporates the basic principles of GST law, Indian and international jurisprudence and international VAT/GST guidelines and practices and elucidates guiding principles with the help of suitable examples/ illustrations.</p> <p>Issuance of the guidance note/ circular is expected to resolve/ reduce litigation.</p>
20.	To clarify whether RCM is applicable on transportation of passengers (Heading 9964) or renting of motor vehicle designed to carry passengers (Heading 9966).	<p>Transportation of passengers by any motor vehicle designed to carry passengers is covered under HSN 9964.</p> <p>Renting of motor vehicle designed to carry passengers is covered under HSN 9966. The GST rate is 5% in both the cases (where ITC is not availed).</p> <p>With the introduction of reverse charge on renting of motor vehicle designed to carry passengers w.e.f. 01/10/2019, confusion has been created as to which services are covered under reverse charge.</p> <p>For instance, whether rent a cab service availed by employees of the Company be treated as transportation of passenger services (9964) or renting of motor</p>	<p>GST rate for renting of vehicles is 5% with ITC of input services in the same line of business or 12% with full ITC.</p> <p>Based on recommendations of the 37<sup>th</sup> GST Council Meeting services provided by way of renting of any motor vehicle for transport of passengers, provided by a non- body corporate to a body corporate was brought under RCM.</p> <p>Renting of motor vehicle with operator for transport of passengers falls under Heading 9966. According to the explanatory notes to heading 9966, the service covered here is renting of motor vehicle for transport of passengers for a period of time where the renter defines how and when the vehicles will be operated, determining schedules, routes</p>

Sl. No.	Proposal	Details of Request	Discussions in FitCom and its recommendation
		vehicle (9966)? Also, whether the bus services utilised in the factories for to and fro movement of employees would be covered under reverse charge?	<p>and other operational considerations.</p> <p>Therefore, where the body corporate hires the motor vehicle (for transport of employees, etc.) for a specified period of time, during which the motor vehicle shall be at the disposal of the body corporate, the service would fall under Heading 9966, and the body corporate shall be liable to pay GST on the same under RCM.</p> <p>However, where the body corporate hires the motor vehicle for specific journeys or voyages, and not for any particular period of time, the service would fall under Heading 9964 and the body corporate shall not be liable to pay GST on the same under RCM.</p> <p>Clarification may accordingly be issued by way of a circular.</p>
21.	To clarify whether the engagement of vehicles by firms for transportation of their employees to and from work is exempt under entry at Sr. No. 15(b) of Notification No. 11/2017-CTR.	<p>Transportation of passengers by non-air-conditioned contract carriage is exempt from GST.</p> <p>However, this exemption is not applicable for transportation of passengers by way of tourism, conducted tour, charter or hire.</p> <p>There is a big ambiguity in this entry. It is not clear as to what are the services which are exempted under the said entry.</p> <p>Where factories are engaging buses for transportation of employees to and fro factory under a contract, whether the services of transport would be taxable</p>	<p>Sr. No. 15 (b) of Notification 12/2017-CTR exempts <i>“transport of passengers, with or without accompanied belongings, by non-air-conditioned contract carriage, other than radio taxi, for transport of passengers, excluding tourism, conducted tour, charter or hire.”</i></p> <p>‘Charter or hire’ excluded from the above exemption entry is charter or hire of a motor vehicle for a period of time, where the renter defines how and when the vehicles will be operated, determining schedules, routes and other operational considerations.</p> <p>Thus, the exemption does not apply to time charter. Only voyage charter service is covered under this exemption.</p>

Sl. No.	Proposal	Details of Request	Discussions in FitCom and its recommendation
		or exempt under this entry? Can it be said that the non A.C. buses are for hire or charter and therefore not eligible for exemption.	Clarification may accordingly be issued by way of a circular.
22.	Clarification of GST rate applicable for the service of “ <i>construction, supply, installation and commissioning of 2.00 LLPD Dairy Plant as per designs specification and BOQ at Purnea under Kosi Dairy Project a unit of COMFED on Turn-Key basis under NCBC fund</i> ”.	<p>Diversion ruling have been given by the authorities of advance ruling with regard to construction of industrial plants such as dairy plant and cattle feed plants.</p> <p>In case of a turn key project for construction, supply, installation and commissioning of 2.00 LLPD Dairy Plant, it has been held by Advance Ruling Authorities of Bihar and Gujarat that the same does not result into an immovable property and is therefore not a supply of works contract. This being so, such supply is not eligible for concessional rate of 12% applicable on works contract supplied by way of construction, erection, commissioning, or installation of original works pertaining to mechanized food grain handling system, machinery or equipment for units processing agricultural produce as food stuff excluding alcoholic beverages.</p> <p>On the other hand, Advance Ruling Authority of Gujarat has ruled that supply of a functional Cattle Feed Plant, inclusive of its Erection, Installation and Commissioning and related works is Works Contract Service Supply, falling under heading 998732 and attracts GST at 18%</p>	<p>Serial number 3(v)(f) of notification no. 11/2017 CTR dated 28.06.2017 prescribes GST rate of 12 % on the composite supply of works contract by way of construction, erection, commissioning, or installation of original works pertaining to mechanized food grain handling system, <u>machinery or equipment for units processing agricultural produce as food stuff excluding alcoholic beverages.</u>”</p> <p>A contract of the nature described here for construction, installation and commissioning of a Dairy Plant constitutes supply of works contract.</p> <p>There is no doubt that dairy plant which comes into existence as a result of such contracts is an immovable property.</p> <p>Such works contract services are also eligible for concessional rate of 12% GST under serial number 3(v)(f) of notification no. 11/2017 CTR dated 28.06.2017.</p> <p>Clarification may accordingly be issued by way of a circular.</p>

## Annexure-A

Power Point Presentation (PPT) as Annexure-A regarding reduction of GST on ropeway travel from 18% to 5% in respect of Point 13 of above Annexure-IV



## BACKGROUND

The history of ropeways dates back to the 1600s in Himachal Pradesh. At that time these were primarily used for transportation for timber and crossing of rivers Jhullas. With the advancement of technology and innovations, there has been an increase in the demand for Ropeways. Also, there is an increase in passenger transportation from this mode.

Ropeways are the safest mode of passenger and material transportation and are an eco-friendly solution for providing connectivity, the Government of Himachal Pradesh is mulling an idea for ropeways as a mode of transportation throughout the state with the following **objectives**:

1. To decongest cities- Shimla, Manali and Dharamshala.
2. To connect eligible **283 habitations (250 + population)** under PMGSY that are still unconnected due to non-availability of land or forest problems.
3. To provide connectivity to unexplored new tourist places and increase tourism potential of existing location.
4. To **provide all-weather ropeway** connectivity to remote/tribal areas that are not accessible due to heavy snowfall in winters.
5. To provide **first and last mile connectivity**.
6. To provide overhead transportation (Sky Buses etc.) on high density roads in the state.



## BACKGROUND

The Government of Himachal Pradesh has in the recent past created the Ropeways and Rapid Transportation System Development Corporation (RTDC) under the Transport Department, a single nodal agency for the construction of ropeways and other mass rapid transportations systems in the state.

The transportations by means of ropeways will not only be restricted to tourism purposes but **will be mode for urban as well as rural transportations**.

Ropeway as **mass transit is used in many countries** i.e. Bolivia, Brazil, Singapore, Mexico, etc.

In Mexico MEXICABLE, a cable car line 4.9 km (three miles) long soars above Ecatepec, a poor suburb of Mexico City open for just over a year, its 185 gondolas carry 18,000 people a day between San Andres De La Canada, at the top of the hill and Santa Clara Coatitla at the bottom.

Mi Telefericol Cable Car is serving the La Paz-El Alto metropolitan area in Bolivia.

As of September 2018, the system consists of 25 stations along eight lines:  
Red, Yellow, Green, Blue, Orange, White, Sky Blue, and Purple.



## Reduction in GST Rates in Ropeways from 18% to 5%

### Need for Ropeways

- In India, aerial ropeways have **the potential to be developed** as a means of public transportation and has a huge scope in promoting tourism.
- Mass transit systems provide settlements with **significant advantages** for social, economic and environmental improvements.
- **Geographical & topographical barriers** and infrastructure costs prevent the implementation of 'conventional public transportation systems' in regions like hilly terrains and inland waterways whereas ropeways can be easily installed in these locations.
- The **maintenance** of existing **roads is another problem** due to heavy **rainfalls, soil erosion, landslides and even snowfall** in certain regions
- **Seamless connectivity is one of the main ingredients** in development of an area.



## Reduction in GST Rates in Ropeways from 18% to 5%

### Advantage of Ropeways

- To improve connectivity between the villages of hilly terrain in states like **Himachal Pradesh**, **simple and cost-effective aerial ropeway system** can be introduced because **road transport fails** when it **snows or rains heavily**.
- Help in overall development of state by developing the district, town and village as a tourism hub and provide employment.

### Sustainability and Environment

- Ropeway provide a **high-quality transport experience**, contribute **little to air pollution or climate change**, and are particularly well suited to the challenging terrain.
- Ropeways are also able to maintain the general landscape of the space and **are eco-friendly** means of transportation.



## Reduction in GST Rates in Ropeways from 18% to 5%

The factors unique to ropeway systems which make them ideal for not only tourist destinations but for densely populated towns & cities are:

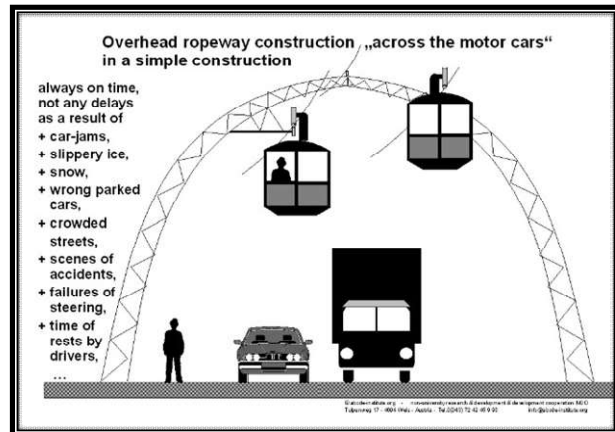
- Least capital investment amongst all mass transit systems
- Minimal footprint with least traffic disruption
- Zero pollution at point of installation
- Incremental scalability
- Least cost of operation and maintenance among mass transportation systems
- Ropeway systems (CEN) have been rated as the safest mode for commuting



## Reduction in GST Rates in Ropeways from 18% to 5%

Major Benefits realize from Ropeways are:

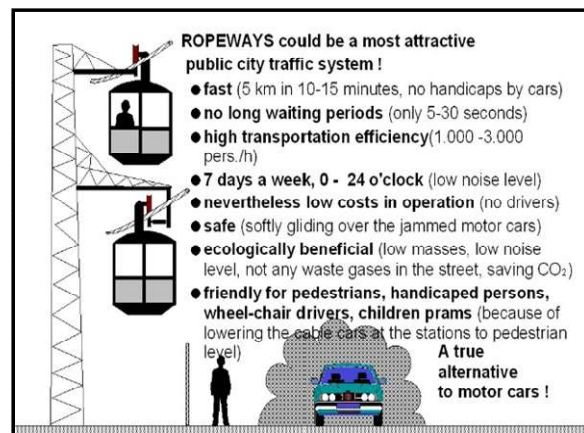
- Barrier-free mobility
- Low-space requirement
- Short realization times
- Seamless integration with other modes of public transportation
- Flexible station design options



## Reduction in GST Rates in Ropeways from 18% to 5%

Ropeways are economically, environmentally & socially sustainable source of transportation as elaborated below:

- **Economic sustainability:** Costs (acquisition to operation and maintenance) of a cable car system are in equilibrium in terms of the cost-benefit ratio.
- **Environmental sustainability:** Addresses important aspects like cutting emissions, reducing waste, and noise pollution.
- **Social sustainability:** This requires the system to be inclusive, accessible, and affordable for all





## **ROPEWAY PROJECTS AND INNOVATIVE TRANSPORT SOLUTION WITH AN AIM TO PROVIDE FIRST AND LAST MILE CONNECTIVITY**

Keeping in view the aforesaid benefits the government of Himachal Pradesh is promoting the ropeways in a big way and have created a **dedicated nodal agency “Ropeways and Rapid Transport System Development Corporation H.P. Ltd. (RTDC)”**. RTDC is undertaking identification, planning, construction, and implementation of ropeway projects and innovative transport solutions in Himachal Pradesh with an aim to provide first/last mile connectivity.

Therefore, to further provide boost to ropeway industry, it is requested:

- to reduce GST rate on transportation by ropeway **to 5% from current 18%** by creating a specific entry related to ropeways and other conventional mode of transportation in the category of services



## **Reduction in GST Rates in Ropeways from 18% to 5%**

### **Benefits of Reduction in GST from 18% to 5% :**

- It will further reduce the infrastructure cost of ropeways which may attract huge investments in the sector
- It will provide the much-needed boost to the sector
- The combined effect of reduced rate on ropeway projects and transportation by ropeway will reduce the cost of travelling by ropeways
- Thus, it will benefit the ultimate consumer and the Industry as well.



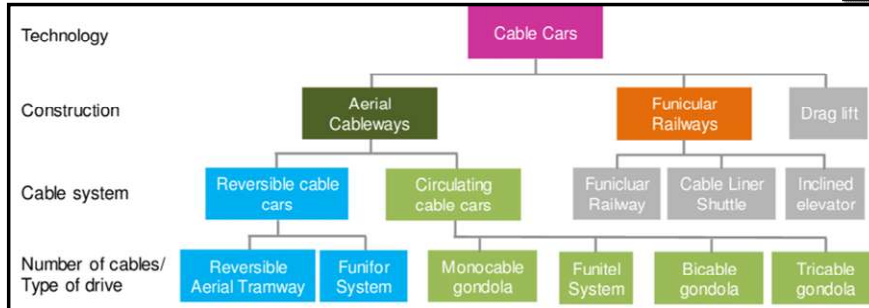


## Reduction in GST Rates in Ropeways from 18% to 5%

### Benefits to the stakeholders:

**Businesses** – The major benefits to be derived by the businesses are:

- Reduction in the cost of infrastructure and thereby lower capital requirements
- Increased sales by jump in demand due to lower price of transportation



## Reduction in GST Rates in Ropeways from 18% to 5%

### Benefits to the stakeholders:

**Consumers** – The major benefits to be derived by the consumers are:

- Reduced cost of transportation by ropeways
- **Safer and reliable** mode of transportation
- Helps in **overall decongestion** on roads and reduces the traffic jams
- Time savings as
  - offers frequent service, flexible operating schedule & better service frequency
  - it takes most of the direct routes
- Easy accessibility of transportation methods in remote areas of hilly terrains
- Allows transportation of goods at village level
- Increases access to market and services



## Reduction in GST Rates in Ropeways from 18% to 5%

### Benefits to the stakeholders:

**Government** – The major benefits to be derived by the government are:

- Contribute to state development by availability of better connectivity in hilly terrains and remote areas.
- To connect left out habitations where construction of roads is not possible due to non-availability of land or forest clearance
- To decongest cities by providing overhead means of transportation
- Lower infrastructure cost for transportation facilities in the state
- Ultimate revenue enhancement by development of area and promotion of tourism encourage economic activity around the ropeway stations for example shops, restaurants, hotels, connecting transport services. It will provide higher employment opportunities in the city as well as services to the tourists and locals
- Ease of travel would put religious and picturesque destinations on international map
- Better administration and avoidance of a lot of inconvenience for local population and visitors during large seasonal inflow of tourists and pilgrims by avoiding/reducing traffic congestion and overbearing foot load



## Reduction in GST Rates in Ropeways from 18% to 5%

### Benefits to the stakeholders:

**Environmental** – The major environmental benefits are:

- Non-polluting for the atmosphere
- Zero degrees of noise
- Non-Hazardous by-products
- Non-Cutting of trees
- Does not contribute towards Global Warming
- Maintains original landscape



## Ropeway Projects and Innovative Transport Solution with an aim to provide first and last mile connectivity



- The Union Finance Minister in the Union Budget for 2022-23 announced National Ropeways Development Programme – “Parvatmala” to **improve connectivity** in hilly areas.
- The rail and air transport networks are limited in these areas, while the development of road network has technical challenges.
- The goal is to provide a **sustainable mobility solution**, improve commuter **connectivity** and **convenience** while also promoting tourism.
- This may also include congested urban regions where conventional mass transit systems are not feasible.



### Budget 2022-23: GatiShakti

PM GatiShakti **encompass the seven engines** (Roads, Railways, Airports, Ports, Mass Transport, Waterways and Logistics Infrastructure).

It also include the **infrastructure developed by the state governments** as per the GatiShakti Master Plan.

The touchstone of the Master Plan will be **world-class modern infrastructure** and logistics synergy among **different modes of movement** – both of people and goods – and location of projects.

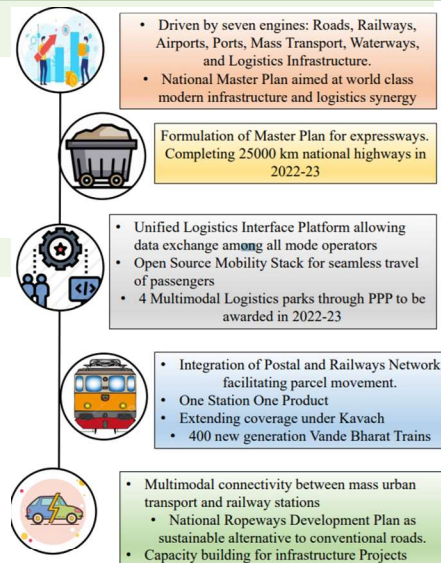
### Parvatmala: National Ropeways Development Programme

As a preferred ecologically sustainable alternative to conventional roads in difficult hilly areas, National Ropeways Development Programme may be taken up on PPP mode.

The aim is to improve connectivity and convenience for commuters, besides promoting tourism.

This may also cover congested urban areas, where conventional mass transit systems are not feasible.

With technical support from the Capacity Building Commission, central ministries, state governments, and their infra-agencies will have their skills upgraded. This will ramp up capacity in **planning, design, financing (including innovative ways), and implementation management** of the PM GatiShakti infrastructure projects.



## MAKE IN INDIA

- Ropeway in India is relatively a new subject and in a nascent stage in India.
- It has to be handled with utmost care as its success depends on its initial grooming.
- We should adopt latest & safest technologies as initial success will open this area for huge investment and generating employment in this sector.
- With establishment of world class equipment manufacturing facility in India, it will contribute to our export in a big way.



## Proposal for Reduce GST Rate through Specific Entry

### **1. Reduce GST rate on Construction Service - Specific Ropeway Project**

- At present, works contract service provided by way of construction of ropeway is fall under entry at Sl. No. 3(xii) of notification 11/2017 – CT (Rate) and attract GST at the rate @ 18%.
- We are proposing a new entry in Sl. No. 3 of notification 11/2017 to reduce GST rate @12% on Specific Ropeway Project.

Construction Services - Ropeway Project						
Sl. No.	Chapter(99) Section (6) / Heading	Description of Service	CGST Rate%	SGST/UTGST Rate%	IGST Rate%	Condition
3 (Proposed)	Heading 9954 (Construction Services)	Composite supply of works contract as defined in clause (119) of section 2 of the Central Goods and Service Tax Act, 2017: - Construction of Specified ropeway project	6%	6%	12%	--

### **2. Reduce GST rate on Transportation by Ropeway**

- At present, passenger transport service provided by ropeway is fall under entry at Sl. No. 8 (vii) of notification 11/2017 – CT (Rate) and attract GST at the rate @18%.
- We are proposing a new entry in Sl. No. 8 of notification 11/2017 to reduce GST rate @5% on Transportation by Ropeway.

Passenger Transport Service – by Ropeway						
Sl. No.	Chapter(99) Section (6) / Heading	Description of Service	CGST Rate%	SGST/UTGST Rate%	IGST Rate%	Condition
8 (Proposed)	Heading 9964 (Passenger transport Services)	Transportation of Passenger, with of without accompanied belongings, by ropeway	2.5%	2.5%	5%	--

**Note** - Specific ropeway project means government specified project like “Parvatmala” to improve connectivity in hilly areas.



### **IGST ON OTHER MODES OF TRANSPORTATION**

**The IGST on air, rail, luxury taxis/buses etc. under heading 9964-(i),(ii), (vi) is also 5% (CGST @ 2.5% + SGST/UTGST @ 2.5%).**

Passenger Transport Service					Condition
Chapter(99) Section (6)/Heading	Description of Service	CGST Rate%	SGST/UT GST Rate%	IGST Rate%	Condition
Heading 9964 (Passenger Transport Service)	(i)Transport of passengers, with or without accompanied belongings, by rail in first class or air conditioned coach	2.5%	2.5%	5%	Provided that credit of input tax charged in respect of goods used in supplying the service is not utilized for paying central tax or integrated tax on the supply of the service
Heading 9964 (Passenger Transport Service)	(ii) Transport of passengers, with or without accompanied belongings by- (a) air conditioned contract carriage other than motor cab; (b) air conditioned stage carriage; (c) radio taxi. Explanation.- (a) "contract carriage" has the meaning assigned to it in clause (7) of section 2 of the Motor Vehicles Act, 1988 (59 of 1988); (b) "stage carriage" has the meaning assigned to it in clause (40) of section 2 of the Motor Vehicles Act, 1988 (59 of 1988); (c) "radio taxi" means a taxi including a radio cab, by whatever name	2.5%	2.5%	5%	Provided that credit of input tax charged on Goods and Services used in supplying the service has not been taken [Please refer to Explanation no. (iv)]

### **IGST ON OTHER MODES OF TRANSPORTATION**

Passenger Transport Service					Condition
Chapter(99) Section (6)/Heading	Description of Service	CGST Rate%	SGST/UTGST Rate%	IGST Rate%	Condition
Heading 9964 (Passenger Transport Service)	called, which is in two way radio communication with central control office and is enabled for tracking using Global Positioning System (GPS) or General Packet Radio Service (GPRS)	2.5%	2.5%	5%	
Heading 9964 (Passenger Transport Service)	(iii)Transport of passengers, with or without accompanied belongings, by air in economy class	2.5%	2.5%	5%	Provided that credit of input tax charged on Goods and Services used in supplying the service has not been taken [Please refer to Explanation no. (iv)]



## **IGST ON OTHER MODES OF TRANSPORTATION**

Passenger Transport Service					Condition
Chapter(99) Section (6)/Heading	Description of Service	CGST Rate%	SGST/ UTGS T Rate%	IGST Rate%	Condition
Heading 9964 (Passenger Transport Service)	(iv) Transport of passengers, with or without accompanied belongings, by air, embarking from or terminating in a Regional Connectivity Scheme Airport, as notified by the Ministry of Civil Aviation.	2.5%	2.5%	5%	Provided that credit of input tax charged on Goods and Services used in supplying the service has not been taken [Please refer to Explanation no. (iv)]
Heading 9964 (Passenger Transport Service)	(iva) Transportation of passengers, with or without accompanied baggage, by air, by non scheduled air transport service or charter operations, engaged by specified organisations in respect of religious pilgrimage facilitated by the Government of India, under bilateral arrangement.	2.5%	2.5%	5%	Provided that credit of input tax charged on Goods and Services used in supplying the service has not been taken [Please refer to Explanation no. (iv)]



## **IGST ON OTHER MODES OF TRANSPORTATION**

Passenger Transport Service					Condition
Chapter(99) Section (6)/Heading	Description of Service	CGST Rate%	SGST/ UTGS T Rate%	IGST Rate%	Condition
Heading 9964 (Passenger Transport Service)	(iv) Transport of passengers, with or without accompanied belongings, by air, embarking from or terminating in a Regional Connectivity Scheme Airport, as notified by the Ministry of Civil Aviation.	2.5%	2.5%	5%	Provided that credit of input tax charged on Goods and Services used in supplying the service has not been taken [Please refer to Explanation no. (iv)]
Heading 9964 (Passenger Transport Service)	(iva) Transportation of passengers, with or without accompanied baggage, by air, by non scheduled air transport service or charter operations, engaged by specified organizations in respect of religious pilgrimage facilitated by the Government of India, under bilateral arrangement.	2.5%	2.5%	5%	Provided that credit of input tax charged on Goods and Services used in supplying the service has not been taken [Please refer to Explanation no. (iv)]



## IGST ON OTHER MODES OF TRANSPORTATION

Passenger Transport Service					Condition
Chapter(99) Section (6)/Heading	Description of Service	CGST Rate%	SGST/ UTGS T Rate%	IGST Rate%	Condition
Heading 9964 (Passenger Transport Service)	(v) Transport of passengers by air, with or without accompanied belongings, in other. than economy class.	6%	6%	12%	
Heading 9964 (Passenger Transport Service)	(vi) Transport of passengers by any motor vehicle designed to carry passengers where the cost of fuel is included in the consideration charged from the service recipient.	2.5%	2.5%	5%	Provided that credit of input tax charged on Goods and Services used in supplying the service, other than the input service in the same line of business (i.e. service procured from another service provider of of transporting passengers in a motor vehicle or renting of a motor vehicle), has not been taken. [Please refer to Explanation no. (iv)]



## IGST ON OTHER MODES OF TRANSPORTATION

Passenger Transport Service					Condition
Chapter(99) Section (6)/Heading	Description of Service	CGST Rate%	SGST/ UTGS T Rate%	IGST Rate%	Condition
Heading 9964 (Passenger Transport Service)	(vi) Transport of passengers by any motor vehicle designed to carry passengers where the cost of fuel is included in the consideration charged from the service recipient.	6%	6%	12%	
Heading 9964 (Passenger Transport Service)	(vii) Passenger transport services other than (i), (ii) (iii), (iv), (iva), (v) and (vi) above.	9%	9%	18%	



## **PROPOSAL**

**Proposal:-**

The higher component of IGST @18% on its fare make this mode of transportation financially unviable. Therefore, it is proposed to reduce the IGST on fare of ropeway transportation to 5% from existing 18%.

**Request:-**

It is requested to consider that, IGST rate on this mode of passenger transportation should be at par with other conventional mode of passenger transportation, it is therefore requested to reduce IGST rate on this mode of passenger transportation @18% to @5%.

*“For the first time in the country, the 'Parvatmala scheme' is being started for areas such as Himachal Pradesh, Uttarakhand, Jammu-Kashmir and the North-East. This scheme will create a modern system of transportation and connectivity on the mountains. It will also strengthen the border villages of our country, which need to be vibrant, and which is also necessary for the security of the country.”*

**PRIME MINISTER NARENDRA MODI**



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***THANK YOU!***

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**Annexure-B**

**Draft Circular regarding GST applicability on liquidated damages, compensation and penalty arising out of breach of contract or other provisions of law in respect of Point 19 of above Annexure-IV**

**F. No. 354//TRU**  
Government of India  
Ministry of Finance  
Department of Revenue  
Tax research Unit  
\*\*\*\*\*

**Room No. 146G, North Block,  
New Delhi, the \_\_\_\_\_ 2022**

To,

The Principal Chief Commissioners/Chief Commissioners/ Principal Commissioners/  
Commissioner of Central Tax (All) /  
The Principal Director Generals/ Director Generals (All)

Madam/Sir,

**Subject: GST applicability on liquidated damages, compensation and penalty arising out of breach of contract or other provisions of law – reg.**

In certain cases/instances, questions have been raised regarding taxability of an activity or transaction as the supply of service of agreeing to the obligation to refrain from an act or to tolerate an act or a situation, or to do an act. Applicability of GST on payments in the nature of liquidated damage, compensation, penalty, cancellation charges, late payment surcharge etc. arising out of breach of contract or otherwise and scope of the entry at para 5 (e) of Schedule II of CGST Act in this context has been examined in the following paragraphs.

2. “Agreeing to the obligation to refrain from an act or to tolerate an act or a situation, or to do an act” has been specifically declared to be a supply of service in para 5 (e) of Schedule II of CGST Act if the same constitutes a “supply” within the meaning of the Act. The said expression has following three limbs: -

**(a) Agreeing to the obligation to refrain from an act-**

Example of activities that would be covered by this part of the expression would include non-compete agreements, where one party agrees not to compete with the other party in a product, service or geographical area against a consideration paid by the other party.

Another example of such activities would be a builder refraining from constructing more than a certain number of floors, even though permitted to do so by the municipal authorities, against a compensation paid by the neighbouring housing project, which wants to protect its sunlight, or an industrial unit refraining from manufacturing activity during certain hours against an agreed compensation paid by a neighbouring school, which wants to avoid noise during those hours.

**(b) Agreeing to the obligation to tolerate an act or a situation-**

This would include activities such as a shopkeeper allowing a hawker to operate from the common pavement in front of his shop against a monthly payment by the hawker, or an RWA tolerating the use of loud speakers for early morning prayers by a school located in the colony subject to the school paying an agreed sum to the RWA as compensation.

(c) **Agreeing to the obligation to do an act-**

This would include the case where an industrial unit agrees to install equipment for zero emission/discharge at the behest of the RWA of a neighbouring residential complex against a consideration paid by such RWA, even though the emission/discharge from the industrial unit was within permissible limits and there was no legal obligation upon the individual unit to do so.

3. The description “*agreeing to the obligation to refrain from an act or to tolerate an act or a situation, or to do an act*” was intended to cover services such as described above. However, over the years doubts have persisted regarding various transactions being classified under the said description.

3.1. Some of the outstanding examples of such cases are Service Tax/GST demands on –

- (i) Liquidated damages paid for breach of contract;
- (ii) Compensation given to previous allottees of coal blocks for cancellation of their licenses pursuant to Supreme Court Order;
- (iii) Cheque dishonour fine/penalty charged by a power distribution company from the customers;
- (iv) Penalty paid by a mining company to State Government for unaccounted stock of river bed material;
- (v) Bond amount recovered from an employee leaving the employment before the agreed period;
- (vi) Late payment charges collected by any service provider for late payment of bills;
- (vii) Fixed charges collected by a power generating company from State Electricity Board for supply of electricity under a power purchase agreement which requires the power generation company to sell entire power generated from its plant to State Electricity Board or sell to any other entity only with the permission of State Electricity Board, referred to by Ministry of Power;
- (viii) Cancellation charges recovered by railways for cancellation of tickets, etc.

In some of these cases, tax authorities have initiated investigation and in some advance ruling authorities have upheld taxability.

4. In Service Tax law, ‘Service’ was defined as any activity carried out by a person for another for consideration. As discussed in service tax education guide, the concept ‘activity for a consideration’ involves an element of contractual relationship wherein the person doing an activity does so at the desire of the person for whom the activity is done in exchange for a consideration. An activity done without such a relationship i.e., without the express or implied contractual reciprocity of a consideration would not be an ‘activity for consideration’. The element of contractual relationship, where one supplies goods or services at the desire of another, is an essential element of supply.

5. The description of the declared service in question, namely, agreeing to the obligation to refrain from an act or to tolerate an act or a situation, or to do an act in para 5 (e) of Schedule II of CGST Act is strikingly similar to the definition of contract in the Contract Act, 1872. The Contract Act defines 'Contract' as a set of promises, forming consideration for each other. 'Promise' has been defined as willingness of the 'promisor' to do or to abstain from doing anything. 'Consideration' has been defined in the Contract Act as what the 'promisee' does or abstains from doing for the promises made to him.

6. This goes to show that the service of agreeing to the obligation to refrain from an act or to tolerate an act or a situation, or to do an act is nothing but a contractual agreement. A contract to do something or to abstain from doing something cannot be said to have taken place unless there are two parties, one of which expressly or impliedly agrees to do or abstain from doing something and the other agrees to pay consideration to the first party for doing or abstaining from such an act. There must be a necessary and sufficient nexus between the supply (i.e. agreement to do or to abstain from doing something) and the consideration.

6.1 A perusal of the entry at serial 5(e) of Schedule II would reveal that it comprises of the aforementioned three different sets of activities viz. (a) the obligation to refrain from an act, (b) obligation to tolerate an act or a situation and (c) obligation to do an act. All the three activities must be under an "agreement" or a "contract" (whether express or implied) to fall within the ambit of the said entry. In other words, one of the parties to such agreement/contract (the first party) must be under a contractual obligation to either (a) refrain from an act, or (b) to tolerate and act or a situation or (c) to do an act and further some "consideration" must flow in return from the other party to this contract/agreement (the second party) to the first party for such (a) refraining or (b) tolerating or (c) doing. Such contractual arrangement must be an independent arrangement in its own right. Such arrangement or agreement can take the form of an independent stand- alone contract or may form part of the same contract. . Such activity of (a) refraining or (b) tolerating or (c) doing must not merely be part of a built-in penal arrangement to prevent non-performance or breach of another contract. Thus, a person (the first person) can be said to be making a supply by way of refraining from doing something or tolerating some act or situation to another person (the second person) if the first person was under an obligation to do so and then performed accordingly.

#### **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. An agreement to do an act or abstain from doing an act or to tolerate an act or a situation cannot be imagined or presumed to exist just because there is a flow of money from one party to another. Unless there is an express or implied promise by the recipient of money to agree to do or abstain from doing something in return for the money paid to him, it cannot be assumed that such payment was for doing an act or for refraining from an act or for tolerating an act or situation. Payments such as liquidated damages for breach of contract, penalties under the mining act for excess stock found with the mining company, forfeiture of salary or payment of amount as per the employment bond for leaving the employment before the minimum agreed period, penalty for cheque dishonour etc. are not a consideration for tolerating an act or situation. They are rather amounts recovered for not tolerating an act or situation and to deter such acts; such amounts are for preventing breach of contract or non-performance and are thus mere 'events' in a contract. Further, such amounts do not constitute payment (or consideration) for tolerating an act, because there cannot be any contract: (a) for breach thereof, or (b) for holding more stock than permitted under the mining contract, or (c) for leaving the employment before the agreed minimum period or (d) for

doing something leading to the dishonour of a cheque. As has already been stated, unless payment has been made for an independent activity of tolerating an act under an independent arrangement entered into for such activity of tolerating an act, such payments will not constitute 'consideration' and hence such activities will not constitute "supply" within the meaning of the Act. Taxability of these transactions is discussed in greater detail in the following paragraphs.

### **Liquidated Damages**

7.1 Breach or non-performance of contract by one party results in loss and damages to the other party. Therefore, the law provides in Section 73 of the Contract Act, 1972 that when a contract has been broken, the party which suffers by such breach is entitled to receive from the other party compensation for any loss or damage caused to him by such breach. The compensation is not by way of consideration for any other independent activity; it is just an event in the course of performance of that contract.

7.1.1 It is common for the parties entering into a contract, to specify in the contract itself, the compensation that would be payable in the event of the breach of the contract. Such compensation specified in a written contract for breach of non-performance of the contract or parties of the contract is referred to as liquidated damages. Black's Law Dictionary defines 'Liquidated Damages' *as cash compensation agreed to by a signed, written contract for breach of contract, payable to the aggrieved party.*

7.1.2 Section 74 of the Contract Act, 1972 provides that when a contract is broken, if a sum has been named or a penalty stipulated in the contract as the amount or penalty to be paid in case of breach, the aggrieved party shall be entitled to receive reasonable compensation not exceeding the amount so named or the penalty so stipulated.

7.1.3 It is argued that performance is the essence of a contract. Liquidated damages cannot be said to be a consideration received for tolerating the breach or non-performance of contract. They are rather payments for not tolerating the breach of contract. Payment of liquidated damages is stipulated in a contract to ensure performance and to deter non-performance, unsatisfactory performance or delayed performance. Liquidated damages are a measure of loss and damage that the parties agree would arise due to breach of contract. They do not act as a remedy for the breach of contract. They do not reconstitute the aggrieved person. It is further argued that a contract is entered into for execution and not for its breach. The liquidated damages or penalty are not the desired outcome of the contract. By accepting the liquidated damages, the party aggrieved by breach of contract cannot be said to have permitted or tolerated the deviation or non-fulfilment of the promise by the other party.

7.1.4 In this background a reasonable view that can be taken with regard to taxability of liquidated damages is that where the amount paid as 'liquidated damages' is an amount paid only to compensate for injury, loss or damage suffered by the aggrieved party due to breach of the contract and there is no agreement, express or implied, by the aggrieved party receiving the liquidated damages, to do or abstain from doing anything for the party paying the liquidated damages, in such cases liquidated damages are mere a flow of money from the party who causes breach of the contract to the party who suffers loss or damage due to such breach. Such payments do not constitute consideration for a supply and are not taxable.

7.1.5 Examples of such cases are damages resulting from damage to property, negligence, piracy, unauthorized use of trade name, copyright, etc. Other examples that may be covered here are the penalty stipulated in a contract for delayed construction of houses. It is a penalty paid by the builder to the buyers to compensate them for the loss that they suffer due to such delayed construction and not for getting anything in return from the buyers. 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".

7.1.6 If a payment constitutes a consideration for a supply, then it is taxable irrespective of by what name it is called; it must be remembered that a "consideration" cannot be considered *de hors* an agreement/contract between two persons wherein one person does something for another and that other pays the first in return. If the payment is merely an event in the course of the performance of the agreement and it does not represent the 'object', as such, of the contract then it cannot be considered 'consideration'. For example, a contract may provide that payment by the recipient of goods or services shall be made before a certain date and failure to make payment by the due date shall attract late fee or penalty. A contract for transport of passengers may stipulate that the ticket amount shall be partly or wholly forfeited if the passenger does not show up. A contract for package tour may stipulate forfeiture of security deposit in the event of cancellation of tour by the customer. Similarly, a contract for lease of movable or immovable property may stipulate that the lessee shall not terminate the lease before a certain period and if he does so he will have to pay certain amount as early termination fee or penalty. Some banks similarly charge pre-payment penalty if the borrower wishes to repay the loan before the maturity of the loan period. Such amounts paid for acceptance of late payment, early termination of lease or for pre-payment of loan or the amounts forfeited on cancellation of service by the customer as contemplated by the contract as part of commercial terms agreed to by the parties, constitute consideration for the supply of a facility, namely, of acceptance of late payment, early termination of a lease agreement, of pre-payment of loan and of making arrangements for the intended supply by the tour operator respectively. Therefore, such payments, even though they may be referred to as fine or penalty, are actually payments that amount to consideration for supply, and are subject to GST, in cases where such supply is taxable. Since these supplies are ancillary to the principal supply for which the contract is signed, they shall be eligible to be assessed as the principal supply, as discussed in detail in the later paragraphs. Naturally, such payments will not be taxable if the principal supply is exempt.

### **Compensation for cancellation of coal blocks**

7.2 In the year 2014, coal block/mine allocations were cancelled by the Hon'ble Supreme Court vide order dated 24.09.2014. Subsequently, Coal Mines (Special Provisions) Act, 2015 was enacted to provide for allocation of coal mines and vesting of rights, title and interest in and over the land and mines infrastructure together with mining leases to successful bidders and allottees. In accordance

with section 16 of the said Act, prior (old) allottee of mines were given compensation in the year 2016 towards the transfer of their rights/ titles in the land, mine infrastructure, geological reports, consents, approvals etc. to the new entity (successful bidder) as per the directions of Hon'ble Supreme Court.

7.2.1 There was no agreement between the prior allottees of coal blocks and the Government that the previous allottees shall agree to or tolerate cancellation of the coal blocks allocated to them if the Government pays compensation to them. No such promise or offer was made by the prior allottees to the Government. The allottees had no option but to accept the cancellation. The compensation was given to them for such cancellation not under a contract between the allottees and the Government but under the provisions of the statute and in pursuance of the Supreme Court Order. Therefore, it would be incorrect to say that the prior allottees of the coal blocks supplied a service to the Government by way of agreeing to tolerate the cancellation of the allocations made to them by the Government or that the compensation paid by the Government for such cancellation in pursuance to the order of the Supreme Court was a consideration for such service. Therefore, the compensation paid for cancellation of coal blocks pursuant to the order of the Supreme Court in the above case was not taxable.

#### **Cheque dishonor fine/ penalty**

7.3 No supplier wants a cheque given to him to be dishonoured. It entails extra administrative cost to him and disruption of his routine activities and cash flow. The promise made by any supplier of goods or services is to make supply against payment within an agreed time (including the agreed permissible time with late payment) through a valid instrument. There is never an implied or express offer or willingness on part of the supplier that he would tolerate deposit of an invalid, fake or unworthy instrument of payment against consideration in the form of cheque dishonour fine or penalty. The fine or penalty that the supplier or a banker imposes for dishonour of a cheque is a penalty imposed not for tolerating the act or situation but a fine, or penalty imposed for not tolerating, penalizing and thereby deterring and discouraging such an act or situation. Therefore, cheque dishonor fine or penalty is not a consideration for any service and not taxable. It is a mere flow of money.

#### **Penalty imposed for violation of laws**

7.4 Penalty imposed for violation of laws such as traffic violations, or for violation of pollution norms or other laws are also not consideration for any supply received and are not taxable, which are also not taxable. Same is the case with fines, penalties imposed by the mining Department of a Central or State Government or a local authority on discovering mining of excess mineral beyond the permissible limit or of mining activities in violation of the mining permit. Such penalties imposed for violation of laws cannot be regarded as consideration charged by Government or a Local Authority for tolerating violation of laws. Laws are not framed for tolerating their violation. They stipulate penalty not for tolerating violation but for not tolerating, penalizing and deterring such violations. There is no agreement between the Government and the violator specifying that violation would be allowed or permitted against payment of fine or penalty. There cannot be such an agreement as violation of law is never a lawful object or consideration. The service tax education guide issued in 2012 on advent of negative list regime of services explained that fines and penalties paid for violation of provisions of law are not considerations as no service is received in lieu of payment of such fines and penalties.

7.4.1 It was also clarified vide Circular No. 192/02/2016-Service Tax, dated 13.04.2016 that fines and penalty chargeable by Government or a local authority imposed for violation of a statute, by-laws, rules or regulations are not leviable to Service Tax. The same holds true for GST also.

**Forfeiture of salary or payment of bond amount in the event of the employee leaving the employment before the minimum agreed period**

7.5 An employer carries out an elaborate selection process and incurs expenditure in recruiting an employee, invests in his training and makes him a part of the organization, privy to its processes and business secrets in the expectation that the recruited employee would work for the organization for a certain minimum period. Premature leaving of the employment results in disruption of work and an undesirable situation. The provisions for forfeiture of salary or recovery of bond amount in the event of the employee leaving the employment before the minimum agreed period are incorporated in the employment contract to discourage non-serious candidates from taking up employment. The said amounts are recovered by the employer not as a consideration for tolerating the act of such premature quitting of employment but as penalties for dissuading the non-serious employees from taking up employment and to discourage and deter such a situation. Further, the employee does not get anything in return from the employer against payment of such amounts. Therefore, such amounts recovered by the employer are not taxable as consideration for the service of agreeing to tolerate an act or a situation.

**Compensation for not collecting toll charges**

8. In the wake of demonetization, NHAI directed the concessionaires (toll operators) to allow free access of toll roads to the users from 8.11.2016 to 1.12.2016 for which the loss of toll charge was paid as compensation by NHAI as per the instructions of Ministry of Road Transportation and Highways. The toll reimbursements were calculated based on the average monthly collection of toll. A question arose whether the compensation paid to the concessionaire by project authorities (NHAI) in lieu of suspension of toll collection during the demonetization period (from 8.11.2016 to 1.12.2016) was taxable as a service by way of agreeing to refrain from collection of toll from users.

8.1 It has been clarified vide Circular No. 212/2/2019-ST dated 21.05.2019 that the service that is provided by toll operators is that of access to a road or bridge, toll charges being merely a consideration for that service. During the period from 8.11.2016 to 1.12.2016, the service of access to a road or bridge continued to be provided without collection of toll from users. Consideration came from the project authority. The fact that for this period, for the same service, consideration came from a person other than the actual user of service does not mean that the service has changed. No tax was accordingly payable on such payment as toll did not attract tax.

**Late payment surcharge or fee**

9. The facility of accepting late payments with interest or late payment fee, fine or penalty is a facility granted by supplier naturally bundled with the main supply. It is not uncommon or unnatural for customers to sometimes miss the last date of payment of electricity, water, telecommunication services etc. Almost all service providers across the world provide the facility of accepting late payments with late fine or penalty. Even if this service is described as a service of tolerating the act of late payment, it is an ancillary supply naturally bundled and supplied in conjunction with the principal supply, and therefore should be assessed as the principal supply. Since it is ancillary to and naturally

bundled with the principal supply such as of electricity, water, telecommunication, cooking gas, insurance etc. it should be assessed at the same rate as the principal supply. However, the same cannot be said of cheque dishonor fine or penalty as discussed in the preceding paragraphs.

### **Fixed Capacity charges for Power**

10. The price charged for electricity by the power generating companies from the State Electricity Boards (SEBs)/DISCOMS or by SEBs/DISCOMs from individual customers has two components, namely, a minimum fixed charge (or capacity charge) and variable per unit charge. The minimum fixed charges have to be paid by the SEBs/DISCOMS/individual customers irrespective of the quantity of electricity scheduled or purchased by them during a month. They take care of the fixed cost of generating/supplying electricity. The variable charges are charged per unit of electricity purchased and increase or decrease every month depending on the quantity of electricity consumed.

10.1 The fact that the minimum fixed charges remain the same whether electricity is consumed or not or it is scheduled/consumed below the contracted or available capacity or a minimum threshold, does not mean that minimum fixed charge or part of it is a charge for tolerating the act of not scheduling or consuming the minimum the contracted or available capacity or a minimum threshold.

10.2 Both the components of the price, the minimum fixed charges/capacity charges and the variable/energy charges are charged for sale of electricity and are thus not taxable as electricity is exempt from GST. Power purchase agreements may have provisions that the power producer shall not supply electricity to a third party without approval of buyer. Such agreements which ensure assured supply of power to State Electricity Boards/DISCOMS are ancillary arrangements; the contract is essentially for supply of electricity.

### **Cancellation charges**

11. A supply contracted for, such as booking of hotel accommodation, an entertainment event or a journey, may be cancelled by a customer or may not proceed as intended due to his failure to show up for availing the same at the designated place and time. The supplier may allow cancellation of supply by the customer within a certain specified time period on payment of cancellation fee as per commercial terms of the contract. In case the customer does not show up for availing the service, the supplier may retain or forfeit part of the consideration or security deposit or earnest money paid by the customer for the intended supply.

11.1 It is a common business practice for suppliers of services such as hotel accommodation, tour and travel, transportation etc. to provide the facility of cancellation of the intended supplies within a certain time period on payment of cancellation fee. Cancellation fee can be considered as the charges for the costs involved in making arrangements for cancellation of supply, such as cancellation of reserved tickets by the Indian Railways.

11.2 Services such as transportation travel and tour constitute a bundle of services. The transportation service, for instance, starts with booking of the ticket for travel and lasts at least till exit of the passenger from the destination terminal. All services such as making available an online portal or convenient booking counters with basic facilities at the transportation terminal or in the city, to reserve the seats and issue tickets for reserved seats much in advance of the travel, giving preferred



seats with or without extra cost, lounge and waiting room facilities at airports, railway stations and bus terminals, provision of basic necessities such as soap and other toiletries in the wash rooms, clean drinking water in the waiting area etc. form part and parcel of the transportation service; they constitute the various elements of passenger transportation service, a composite supply. The facilitation service of allowing cancellation against payment of cancellation charges is also a natural part of this bundle. It is invariably supplied by all suppliers of passenger transportation service as naturally bundled and in conjunction with the principal supply of transportation in the ordinary course of business.

11.3 Therefore, facilitation supply of allowing cancellation of an intended supply against payment of cancellation fee or retention or forfeiture of a part or whole of the consideration or security deposit in such cases should be assessed as the principal supply. For example, cancellation charges of railway tickets for a class would attract GST at the same rate as applicable to the class of travel (i.e., 5% GST on first class or air-conditioned coach ticket and nil for other classes such as second sleeper class). Same is the case for air travel.

11.4 Accordingly, the amount forfeited in the case of non-refundable ticket for air travel or security deposit or earnest money forfeited in case of the customer failing to avail the travel, tour operator or hotel accommodation service or such other intended supplies should be assessed at the same rate as applicable to the service contract, say air transport or tour operator service, or other such services.

11.5 However, as discussed above, forfeiture of earnest money by a seller in case of breach of 'an agreement to sell' an immovable property by the buyer or such forfeiture 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.

12. Field formations are advised that while the taxability in each case shall depend on facts of that case, the above guidelines may be followed in determining whether tax on an activity or transaction needs to be paid treating the same as service by way of agreeing to the obligation to refrain from an act or to tolerate an act or a situation, or to do an act.

13. Any difficulty in implementation of the circular may be brought to the notice of the Board.

Yours Sincerely,

( )

## **Annexure-IVA**

### **(Recommendations of Fitment Committee on issues related to Tour and hospitality Sector)**

#### **A Existing rate structure and place of supply provisions**

##### **(I) On tour operators**

###### **a. GST rate**

**5% without ITC** (but ITC of input services in the same line of business is allowed) subject to the **condition** that the amount charged for the tour operator services must include charges for accommodation and transportation both.

*Or*

18% with ITC

[Refer S. No. 23 of notification No. 11/2017-CT(R)]

###### **b. Place of supply of service of tour operator:**

For domestic supplies: Location of recipient [ default rule]-Section 12 of the IGST Act, 2017.

For international supplies:

(i) The location where services are actually performed (location of physical presence)-Section 13(3)(b) of the IGST Act, 2017.

(ii) If service is provided both in taxable and non-taxable territory (say a composite tour of India and Nepal) the place of supply of service is India for whole service by virtue of section 13(6) of the IGST Act, 2017.

##### **(II) Hotel accommodation services:**

###### **a. GST rate:**

Nil upto a rent of Rs 1000 per day

12% (Rent>Rs1000 ,<=7500)

18% (Rent>Rs 7500)

[Refer S. No. 7 of notification No.11/2017-CT(R), and S. No. 14 of notification No.12/2017- CT(R))

**b. Place of Supply of service:** Location of hotel [ in all scenarios - domestic as well as international supplies- (section 12(3) and 13(4) of the IGST Act, 2017 refers)

##### **(III) Restaurant services:**

###### **a. GST rate:**

5% without ITC in all cases except restaurants within hotels where room tariff is higher than Rs 7500.

18% - specified premises (restaurants within hotels where room tariff is higher than Rs 7500)

[Refer S. No. 7 of notification No. 11/2017-CT(R)]

**b. Place of Supply of service:** Location where services are actually performed, i.e. location of the restaurants [section 12(4) and 13(3)(b) of the IGST Act, 2017 refers]

##### **(IV) Passenger Transport services:**

**a. GST rate:**

By road	5% without ITC (except ITC of input service in the same line of business); 12% (with ITC)
By rail (AC or First Class)	5% (with ITC of input services) <u>Exempt</u> other than AC or first class
By Air	Economy 5% (with ITC of input services) Business 12% (with ITC)  <u>Exempt</u> To or from NE States and RCS airports
By inland waterways	Exempt
By sea including cruise ships	18%

[Refer S. No. 8 of notification No. 11/2017-CT(R), and S. No. 15, 16 and 17 of notification No.12/2017- CT(R))

**b. Place of Supply of service:**

For domestic supplies:

- (i) Supply to registered person – location of such person
  - (ii) For unregistered person – place where the passenger embarks on the conveyance for a continuous journey.
- (section 12(9) of the IGST Act, 2017 refers)

For international supplies:

Place where the passenger embarks on the conveyance for a continuous journey. (section 13(10) of the IGST Act, 2017 refers)

**B. Issues and request by tour operators**

**The rate structure and place of supply as above leads to a situation that 18% with ITC is not a viable option and hence most tour operators pay GST at the rate of 5% without ITC. The tour operators have been arguing that effective GST tax rate on tour operators is very high. The issues raised are discussed below.**

**(a) Issue**

PoS of hotel accommodation is the location of the hotel. As a result, tour operators are not able to take ITC of GST paid on hotel accommodation in the outside their States. Similarly, they may not be able to take ITC of transport services and restaurant services in many instances in view of place of supply thereof. The tour operators have requested that they should be facilitated ITC of all goods and input services including the hotel

accommodation service if standard rate is to apply.

**Request**

For this purpose, PoS of hotel accommodation service may be suitably changed.

*Alternatively,*

They may be charged GST @ 1.8% without ITC on the gross value charged by them. Tour operators have stated that they work on a margin of 10%. Hence GST @18% on 10%.

**(b) Issue:**

Services supplied by tour operators to foreign tourists in India against payment in foreign exchange do not qualify as exports and attract GST. This is because PoS of tour operator service is the place where the service is performed.

The 288<sup>th</sup> Report of the Department Related Parliament Standing Committee on Transport, Tourism and Culture on demands for grants (2021-22) has recommended that *“in order to enhance export competitiveness of Indian tourism as also to provide relief to the tourism and hospitality sector, the payments received by all the tourism and hospitality entities in convertible foreign exchange be considered as deemed export and be exempted from GST and the concept of zero-rating also be applied to tourism foreign exchange earnings”*.

The tax charged on tour operator services by competing countries like Thailand, Singapore, Maldives and other South East Asian countries is much lower as compared to India. This makes the Indian tour packages less competitive as compared to tour packages in countries like Thailand and Singapore where the GST rates are lower at 7%. Industry has requested that the tour operator services supplied to the foreign tourists in India may be treated as exports/deemed exports.

**Request:**

Service provided to a foreign tourist be treated as exports [at least where it is against foreign exchange receipt]

**(c) Issue:**

Tours having a foreign component and an Indian component are taxed as if the entire tour happened in India in view of the PoS provisions.

**Request:**

Foreign component may be exempted.

**(d) Issue**

**Reduce GST on private ferry tickets at Andamans:**

The industry has represented that presently GST @ 18% is applicable on

private ferry tickets in Andamans as per cruise GST rate. The ferry is not luxury ferry or cruise but it is a means of transport. These are normal AC transport ferries. There is no other way of transportation to reach from one island to another island and is the only source of connectivity between small islands and Port Blair.

## C Facts and Analysis

- The PoS of hotel accommodation service is the State where the hotel is located. As a result, a tour operator, say registered in Delhi is not able to take ITC of Maharashtra State GST paid on hotel accommodation in Maharashtra. This PoS provision in the Indian GST law is not in harmony with the international practice. As per International VAT/GST guidelines, 2015 brought out by OECD in the context of cross-border trade, place of B2B supply of hotel accommodation service is the location of the recipient.
- The PoS of tour operator service is the place where the tour is performed (Section 13 (3) of IGST Act, 2017 refers). This PoS provision is in harmony with the international practice. In Singapore, Australia, EU etc the PoS of B2C supply of tour operator service is the place where the tour is conducted. Accordingly, these countries do not treat tour operator services supplied to a foreign tourist as zero rated.
- GST charged on tour operator services by Thailand and Singapore is 7%. They are major competitors of India in tourism sector.
- The Travel and Tourism Competitive Index, 2019 places India at an overall rank of 34 but at a much lower rank of 118 when evaluated on the basis of total taxes paid by this sector [Travel and Tourism Competitive Index, 2019 published by World Economic Forum, <https://reports.weforum.org/travel-and-tourism-competitiveness-report-2019/rankings>]
- The proposal to change PoS of B2B supply of hotel accommodation service was taken to the GST Council. However, the same was not agreed to in view of competing arguments of revenue to states where services are performed.

## D Options available for resolving the above issues

### 1. PoS of hotel accommodation service

- Change PoS of B2B supply of hotel accommodation service, transport services and restaurant services from the exiting rule to the default rule (location of recipient). This would require change in law and hence a long process.

Alternatively,

- **Allow tour operators a margin scheme, as an alternative option**, under which they may pay GST on value arrived at on deemed basis [ certain % of gross tour cost] that represent their fair competitive margin no ITC is availed on any input and input services. Margin scheme would be allowed where tour is all inclusive or includes either the hotel accommodation or transport. This will make the tax incidence on tour operator competitive.

**2. Tours conducted partially in India and partially outside India**

- The POS provision in section 13(6) of IGST Act, 2017, as far as tour operator service is concerned, maybe aligned with Explanation to section 12(7) of IGST Act, 2017. Or
- Considering the genuineness of the issue, and also taking into account that foreign component is actually performed outside India, for excluding the proportionate value of the foreign component of the tour.
- To avoid disputes/ misuse, we may prescribe valuation of the foreign and domestic components of such composite tours based on the proportion of the number of nights for which tour was conducted outside and within India. To ensure that balance remains in favour of domestic tourism in such composite tours, we may prescribe that this concession shall be provided for say maximum of half of the duration of the tour or actual period whichever is less.

**3. GST on private ferry tickets at Andamans:**

Sr. No 17 (d) of said notification No. 12/2017-CTR dated 28.06.2017 exempts “transportation of passengers by public transport, other than predominantly for tourism purpose, in a vessel between places located in India”.

We may clarify that this exemption would apply on tickets purchased for transportation from one point to another irrespective of whether the ferry is owned or operated by a private sector enterprise or by a PSU/government. The expression ‘public transport’ used in the exemption notification only means that the transport should be open to public. It can be privately or publicly owned. Only exclusion is on transportation which is predominantly for tourism, such as services which may combine with transportation, sightseeing, food and beverages, music, accommodation such as in shikara, cruise etc.

**4. Export status to tour operator service supplied to foreign tourists against foreign exchange by way of tours conducted in India.**

Such services are not treated as exports internationally. Margin scheme would address the concern of tour operators. A reasonable margin scheme will reduce the burden of tour operators.

**Recommendation of Fitment Committee:**

1. In principle approval of GST Council may be obtained for formulating a Margin Scheme for Tour Operators. Once approval is given by the council, the scheme shall be worked out by Fitment Committee after consultation with stakeholders.
2. In principle the Council may approve that in case of tours conducted for foreign tourists partially in India and partially outside India, proportionate value of the foreign component of the tour may be excluded from the value for the purposes of payment of GST. To ensure that balance remains in favour of domestic tourism in such composite tours,

we may prescribe that this concession shall be provided for say maximum of half of the duration of the tour or actual whichever is less. Once in principle approval is given, the exact methodology would be worked out by Fitment Committee after consultation with tour operators.

3. **It may be clarified by way of circular that exemption at Sr. No 17 (d) of notification No. 12/2017-CTR dated 28.06.2017 [which exempts “*transportation of passengers by public transport, other than predominantly for tourism purpose, in a vessel between places located in India*”] would apply on tickets purchased for transportation from one point to another irrespective of whether the ferry is owned or operated by a private sector enterprise or by a PSU/government. The expression ‘public transport’ used in the exemption notification only means that the transport should be open to public. It can be privately or publicly owned. Only exclusion is on transportation which is predominantly for tourism, such as services which may combine with transportation, sightseeing, food and beverages, music, accommodation such as in shikara, cruise etc.**

#### **Annexure-IVB**

#### **(Recommendations of Fitment Committee on positive list of services to be specified in Sr. No. 3/3A of Notification No. 12/2017-CT(R))**

By way of background, it is stated that the entries at Sr. No. 3 and 3A of exemption notification number 12/2017-CT(R) dated 28.06.2017 exempt supply of pure services and composite services (goods component 25% or less) supplied to Government, Local Authority, Governmental Authority or Government Entity by way of any activity in relation to Municipal or Panchayat functions.

2. Post the amendments made with effect from 1.1.2022, the entries read as below:

#### Entry 3 of Notification No. 12/2017- CT(R) :

*“Pure services (excluding works contract service or other composite supplies involving supply of any goods) 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.”*

#### Entry 3A of Notification No. 12/2017- CT(R):

*“Composite supply of goods and services in which the value of supply of goods constitutes not more than 25 per cent. 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.”*

3. With reference to these entries, the following a proposal placed before the GST Council in the 45th Council meeting held on 17.09.2021 was that the entries were being interpreted too widely, the issue as to the scope of the term “in relation to” appearing in the said entries was placed the Fitment Committee and GST Council. The Fitment Committee recommended that as the scope of the

expression “in relation to” used in the said exemption entries is too wide and prone to interpretation disputes, a list of services may be specifically notified as exempt under the said entries.

[Agenda No 14, Annexure IV, Sl. Nos. 25 of 45<sup>th</sup> GST Council may please be seen]

4. In Service Tax regime, since the intent of the exemption was to exempt only the services directly connected with the functions carried out by Government and local authorities of water supply, public health, sanitation conservancy, solid waste management or slum improvement and up-gradation, the relevant entry 25 of Notification No. 25/2012- Service Tax read as:

*“Services provided to Government, a local authority or a governmental authority by way of-*

*(a) water supply, public health, sanitation conservancy, solid waste management or slum improvement and up-gradation;”*

5. During discussion on this issue, in the 45<sup>th</sup> meeting Council was of the view that while the approach to specify a positive list of exempt services was agreed to, the list recommended by Fitment Committee needs to be pruned and refined. It was agreed that the list of services shall be circulated to all states for their inputs for refining the list which may be brought before GST Council for approval.

6. Accordingly, as per the direction of the Council, the List was circulated to States vide email dated 22.11.2022. Comments were received from West Bengal, Bihar and Tamil Nadu.

7. The issue was discussed at length in the Fitment Committee. After long deliberation the Fitment Committee was of the view that the exemption under said entries should confine to those services which are directly connected with the functions entrusted to Panchayat or Municipality and not services remotely or vaguely connected with those functions. Further, it was felt that only few services constitute bulk of input services by the local authority. Hence the List could be pruned down significantly while ensuring that major services by these bodies remain exempted. This approach would ensure that exemption entries are not interpreted widely, local authority continue to have major relief on supply of input services, and in respect of other general services the normal design of GST could be applied. Fitment Committee also felt that in respect of purchase of goods no special concession is allowed to procurement by Government or Local Authority. They suffer same incidence on goods as any private person (for example cement, iron and steel, vehicle, furniture etc). In service, the special concession crept in as services were taxed differently in pre-GST regime wherein tax was only imposed by Centre and there was no VAT on services. However, In GST there should not be any appreciable difference in the approach for goods and services. As is the case in goods, the Government and Local Authority should also bear the normal rate of GST on input services barring exceptions. Accordingly, Fitment Committee carved out a positive list of services for consideration of the Council.

8. With this positive List approach, it was also felt that the authorities constituted by in different states for such civic work as fall in the proposed positive list should also be included in the ambit of these exemptions alongside the local authority.



**Recommendation of Fitment Committee:-**

I. The following list of services may be specified in Sl. No. 3/3A of Notification No. 12/2017-CT(R) dated 28.06.2017 :

Supply of **pure services**, or **composite supply of goods and services, in which the value of goods constitutes not more than 25% of the value of composite supply**, to Central Government, State Government, Union territory, a local authority or a **public authority** by way of ,-

- 1) Water treatment and/or supply
- 2) Public Health activities, Sanitation Conservancy and Solid or Liquid Waste management
- 3) Slum Improvement and Up gradation
- 4) Maintenance and operation of street lights, bus stops, public conveniences, public parks and gardens, burial ground and crematorium.
- 5) Renting of motor vehicles for carrying out functions listed at Sr. No. 1 to 4 above.
- 6) Supply of manpower services for carrying out functions listed at Sr. No 1 to 4 above.

***II. Public authority may be defined as under:***

“Public Authority” means an authority or a board or any other body established by the Government to carry out the functions listed in S. No. 1 to 4 of the entry.

**e) Issues where no change has been proposed by the Fitment Committee in relation to services - Annexure V.**

**Annexure-V**

<b>Sl. No.</b>	<b>Request</b>	<b>Details of Request</b>	<b>Fitment Committee discussions and recommendation</b>
1.	Option to developers to choose GST on commercial projects - @ 12% with ITC or 5% without ITC.	GST is levied @ 12% on Commercial projects with ITC benefits.	GST on real estate was decided by GST Council after due deliberation and following due process.  No change recommended.
2.	Transfer of development rights, long term lease akin to sale of land.	The promoter/developer of such project is to pay GST at the rate of 18% on the value of the Development rights/lease premium (limited to 1% on the value of the apartment for affordable apartments & 5% for other than affordable apartments) on the units remaining unsold at the time of issuance of occupancy certificate (OC) or first occupation under reverse charge.	1.A supply of service is taxable if two conditions are fulfilled, -  i. There must be a supply of service by the service provider to service recipient and  ii. Service recipient pays a consideration in cash or kind to the service provider.  2. In case of transfer of development right (TDR) by a landowner to a developer/ builder, both the above two conditions get fulfilled. Land owner allows the builder to develop and construct on his land without transferring the ownership or title of land and receives as consideration from the builder either money or constructed apartment as per the terms and conditions of the agreement, and constitutes a supply under section 7 of the CGST Act, 2017.  3. TDR was taxable in-Service Tax regime also. With introduction of Goods and services tax, CGST is levied on TDR by virtue of notification No. 11/2017-CT(R) dated 28.06.2017.  No change recommended.
3.	Request to exempt External	1. EDC and IDC contribute to Government funding for developmental needs, GST or	EDC/IDC are not taxes but charges or fee payable to the Government by

Sl. No.	Request	Details of Request	Fitment Committee discussions and recommendation
	Development charges and Infrastructure Development Charges	<p>other charges should not be charged on EDC/IDC.</p> <p>2. With reference to Section 7(2)(b) of the CGST read with Article 243W of Constitution of India and RERA Act, 2016, imposition of GST will amount to Double taxation.</p> <p>3. GST on EDC and IDC is not applicable, since it is a government due not a consideration for supply of goods and services.</p>	<p>builders/developers against service supplied by the Government in the form of granting them permission/licenses.</p> <p>Hence these are liable to GST.</p> <p>Request for exemption may not be agreed to.</p>
4.	Valuation of Land may be prescribed by state authorities on the basis of pin code, area etc.	The value of land may have huge variation from one place to the other. In certain areas of the metro cities, the value of land may run up to 80% of the total amount charged while in the smaller developing areas, it can be as low as 15% of the total amount charged. So, there can be a huge under or overvaluation of the amount to be charged as GST.	<p>Section 15(5) of CGST Act, 2017 empowers Government to notify supplies the value of which will be determined in the manner as prescribed. Accordingly, modalities of valuation have been prescribed, exercising this power, on the recommendations of the Council.</p> <p>This matter has been litigated in the courts and is sub-judice. No action proposed by the Fitment at this stage.</p>
5.	Reduction of GST rate on rental Materials of scaffolding and centering materials from 18% to 4%.	The building contractor can execute more and more projects and will also create more employment opportunities and more housing to the public.	<p>Such reduction of rate may create inversion of duty structure and impact revenue as well.</p> <p>Request may not be accepted.</p>
6.	Reduction in GST rates from 18% to 12% for private construction projects.	Similar to Govt. contractors, the GST rate on all private projects carried out through works contracts by private contractors may also be reduced to 12% from existing 18% which will give huge boost to the construction industry in these Covid pandemic difficult times.	<p>The GST rate structure for real estate has evolved with extensive deliberation in GoM and the Council.</p> <p>Therefore, status quo should be maintained.</p>
7.	Reducing/waiving the GST on brokerage services	The heavy percentage of 18% on brokerage services and 12% on purchase of property is becoming out of reach for the common	Exempting the services would lead to blockage of ITC of the agents and would eventually lead to increase in

Sl. No.	Request	Details of Request	Fitment Committee discussions and recommendation
	on sale and purchase of property.	man of the nation and is making real estate a farfetched dream for a lot of people.	cost of services provided.  Brokerage is a pure professional service and hence standard rated.  No change recommended.
8.	GST rate in respect of onshore works contract within 12 nautical miles may be reduced to 12%.	CGST rate on works contract in offshore area beyond 12 nautical miles is 12%.	Rate of GST on works contract services in the offshore area beyond 12 nautical miles procured by E&P sector was reduced to 12% in view of the fact that in pre-GST regime, VAT was not levied on goods component of the offshore works contracts; only service tax was levied on service component.  There is no justification for reduction of GST rate on onshore works contract services which were levied to both service tax and VAT in the pre-GST regime.  No change recommended.
9.	Request to exempt GST on site restoration activities.	Such activities are primarily for protection of environment and restoration of water bodies.  Since crude oil is outside GST, ITC of GST paid on such activities is not available.	Request is for new exemption. Exemptions block ITC chain and distort tax structure.  No change recommended.
10.	Request for exempting services by way of drilling bore wells for water supply to produce any agricultural produce by a Farmer.	The activities undertaken by the way of drilling of bore wells for the supply of water relating to production of any agricultural produce by a farmer is inclusive in nature for the agricultural operations and support services and exempted clearly by the legislature from the purview of service tax regime and thus GST regime.	This is a new exemption request. Not much rationale for exemption. Exemptions block ITC chain and distort tax structure.  Earlier also, similar request was not acceded to by the Council in its 31 <sup>st</sup> meeting held on 22.12.2018.  No change recommended.
11.	Removal of GST on Life & Health	Life Insurance: The GST 18% imposed is of 3 types. One is GST on Insurance Risk premium. Second, GST is collected on late	This is a new exemption request. Exemption/lowering GST rate will lead to cascading of input taxes and result in

Sl. No.	Request	Details of Request	Fitment Committee discussions and recommendation
	Insurance	<p>fee and delayed loan interest paid due to delay in payment of premium and interest in time. This is unfortunate. Thirdly, GST is imposed on Annuity policies which doesn't contain any risk premium. GST is not collected on investment in Banks, Post office savings schemes etc.</p> <p>Health Insurance: 18% GST on Health Insurance policies is hampering the penetration which is the need of the day. If one wants to invest Rs. 1 lakh per year for Health insurance his premium would be Rs. 1,18,000/- every year. This huge amount of GST is discouraging the prospect not to go for Health insurance. Health insurance Policies should be GST free.</p>	<p>distortion of tax structure.</p> <p>No change recommended.</p>
12.	Reduce GST on term insurance premium.	GST premium on life insurance is charged at 4.5% in the first year and at 2.25% in the subsequent years and the policy holder or nominee gets benefits. However, in case of term insurance where the policy is in force for several years, the GST is charged on the premium at 18%.	<p>This is a new exemption request. Exemption/lowering GST rate will lead to cascading of input taxes and result in distortion of tax structure. Further, providing exemption or special rates for a particular user group or a particular type of insurance cover goes against the basic principles of GST. It also has revenue implication.</p> <p>Moreover, the request was also placed before GST Council, in its 37<sup>th</sup> meeting, where it was not acceded to by the Council.</p> <p>No change recommended.</p>
13.	Exempt GST on personal line of insurance.	GST on insurance based on personal lines like medi-claim, householder's policy, personal accident policy may be withdrawn as most of the insured are paying tax on their income. GST is an added expenditure.	<p>This is a request for new exemption. Exempting GST on a particular line of insurance would be against the fundamental tenets of GST and ITC on inputs would stick as cost to insurers.</p> <p>Request may not be accepted.</p>

Sl. No.	Request	Details of Request	Fitment Committee discussions and recommendation
14.	To exempt GST on third party insurance for commercial vehicles (18/12 % to 0)	<p>The mandatory third-party premium on heavy goods vehicles has been abnormally increased over past few years and is high though the category wise share of accidents from trucks as per Ministry's data is far less.</p> <p>No ITC for GST is claimed by majority of truck operators.</p> <p>Data reveals that majority of privately owned 2/3/4 wheelers are not getting the insurance renewed.</p> <p>On one hand 3<sup>rd</sup> party insurance is mandatory for vehicle owner, on the other hand GST is high, which is causing difficulty.</p> <p>It is requested to save the road transport sector by easing a bit of its financial burden and this request of exempting commercial vehicles insurance premium from GST should be considered to pass on the relief.</p>	<p>Motor third-party insurance or third-party liability cover, is a statutory requirement under the Motor Vehicles Act. It is referred to as a 'third-party' cover since the beneficiary of the policy is someone other than the two parties involved in the contract (the car owner and the insurance company). The policy does not provide any benefit to the insured. However, it covers the insured's legal liability for death/disability of third-party or loss or damage to the third-party property.</p> <p>As per S. No. 15(vi) of notification No 11/2017-CTR dated 28.06.2017, GST rate of 12% is applicable on the premium of third-party insurance of goods carriage at present w.e.f. 1.1.2019. It was conscious decision of the GST Council to reduce it from 18% to 12%. Further reduction in GST will result in revenue loss, and distort the ITC chain</p> <p>Earlier, similar request to reduce the GST on third party insurance was not acceded to by the Council in its 37<sup>th</sup> meeting.</p> <p>In view of the above, the request to reduce the GST rate for the said service may not be accepted.</p>
15.	Exempt GST on general micro-insurance on the lines of life micro insurance.	At present, life micro insurance products having sum insured upto 2 lakhs are exempt from GST [sl no 36(c) of notification No. 12/2017 CTR dated 28.06.2017 refers]. Such exemption is not available for micro insurance products offered by general and standalone health insurers. Micro insurance, whether life or general/health, serves a class of people having similar economic profile.	<p>As per IRDA website, a general micro-insurance product is any:</p> <ul style="list-style-type: none"> <li>▪ Health insurance contract</li> <li>▪ Any contract covering belongings such as hut, livestock, tools or instruments</li> <li>▪ Any personal accident contract that can be on an individual or group basis</li> </ul>

Sl. No.	Request	Details of Request	Fitment Committee discussions and recommendation
			<p>Sl.No.35 of 12/2017-CTR already provides exemption to the general insurance schemes which fit the description of micro insurance products such as Hut Insurance Scheme; Janata Personal Accident Policy and Gramin Accident Policy; Jan Arogya Bima Policy; Universal Health Insurance Scheme; Rashtriya Swasthya Bima Yojana; Coconut Palm Insurance Scheme; Pradhan Mantri Suraksha Bima Yojna etc. The schemes which were exempt under service tax continue to be exempt under GST.</p> <p>It is relevant to mention in this context that LIC has requested for withdrawing exemption on their schemes as it requires them to reverse ITC and they suffer a loss due to such reversal particularly in case of related party transactions, which they did not suffer in service tax period.</p> <p>Therefore, there may not be much merit for giving a blanket exemption on all general micro insurance products.</p> <p>No change recommended.</p>
16.	Reduce GST on insurance of dwelling units.	<p>Premium paid on insurance of dwelling units is chargeable to GST @ 18%. There is very little awareness among the general public on the need to insure their dwellings though the premium payable is very small.</p> <p>In times of natural catastrophe, the Central and State governments have had to give relief to citizens who are affected, however,</p>	<p>This is a new exemption request. Exemption/lowering GST rate will lead to cascading of input taxes and result in distortion of tax structure.</p> <p>It will also necessitate ITC reversals which will also increase compliance burden on part of the insurance companies and also increase cost of</p>

Sl. No.	Request	Details of Request	Fitment Committee discussions and recommendation
		with insurance, the insurers would have been able to pay for the loss of their homes in the midst of such natural disasters and crisis.	output services to the consumer.  No change recommended.
17.	(a) Exempt GST on premium payable on group insurance policy for senior citizens.  (b) Reduce GST on health insurance premium for senior citizens.	(a) This would help increase access of health insurance to senior citizens.  (b) Out of Pocket expenditure on healthcare is 58.7% of total health expenditure in India. Studies indicate that senior citizens are some of the most under insured groups with only 15% health cover buyers in the age group of 60-80.  (c) Presently a standard 18% is applied on insurance premium and raises the overall cost to senior citizens. As the age of the insured gradually increases, the cost of financial protection from medical risks also increases.  (d) Medical insurance has become a necessity and GST @ 18% makes it expensive.	(a) Request for new exemption. The same was taxable in service tax regime too. Further, the request has already been rejected in 31 <sup>st</sup> and 37 <sup>th</sup> GST Council Meeting.  (b) Exemption/lowering GST rate will lead to cascading of input taxes and result in distortion of tax structure.  Request may not be accepted.
18.	Exempt GST on life insurance service provided by way of annuity under Pension Schemes regulated by insurers other than PFRDA	Finance Act, 2016 has exempted the service of life insurance business provided by way of annuity under the NPS regulated by PFRDA w.e.f. 01.04.2016.  However, no such exemption has been extended to Annuity under the pension schemes of LIC and other life insurers. GST is levied on premiums paid for pension products at the applicable rates.  After the accumulation stage, when the customer has to opt for an Annuity product for receiving the annuity post the investing period, GST is again levied on the accumulated savings which is invested in buying the annuity, thereby affecting the returns and the quantum of annuity received by the customer.	This is a new exemption request. Exemption/lowering GST rate will lead to cascading of input taxes and result in distortion of tax structure.  Earlier, similar request was not acceded to by the Council in its 37 <sup>th</sup> meeting held on 20.09.2019.  No change recommended.



Sl. No.	Request	Details of Request	Fitment Committee discussions and recommendation
19.	Waive GST on Annual Premium of group medi-claim insurance scheme for bank retirees	The Annual Premium of group medi-claim insurance scheme for bank retirees has become unaffordable in the recent years.	<p>Exemption/lowering GST rate will lead to cascading of input taxes resulting in increase in the cost of output services to the consumers resulting in distortion of tax structure.</p> <p>Further, providing exemption or special rates for a particular user group or a particular type of insurance cover goes against the basic principles of GST.</p> <p>No change recommended.</p>
20.	Clarification may be issued by the GST Council/CBIC exempting the reinsurance services of the specified insurance schemes from payment of the GST liability for the period from 1st July 2017 to 24/01/2018 in order to align it with the exemption available to reinsurance service earlier during erstwhile service tax regime and now under GST regime from 25/01/2018 onwards.	<p>For the period prior to 1st July 2012, the government had issued Notification Number 3/94 dated 30/06/94 and a Circular to include re-insurer within the purview of the term insurer.</p> <p>Post 1st July 2012, a Notification Number 25/2012-ST dated 20.06.2012 was issued. Sr. No. 26 of this Notification exempted services concerning general insurance business provided under certain specified schemes.</p> <p>The aforesaid notification stated that the general insurance business has the same meaning as assigned to it in clause (g) of section 3 of the General Insurance Business (Nationalization) Act, 1972 (57 of 1972).</p> <p>Section 3(g) of the General Insurance Business (Nationalization) Act, 1972 defines “general insurance business” as under:</p> <p><i>“general insurance business means fire marine or miscellaneous insurance business, whether carried on singly or in combination with one or more of them, but does not include capital redemption business and annuity certain business;”</i></p>	<p>1. There was no exemption on services of re-insurance in Service Tax period.</p> <p>2. In 25th GST Council meeting held on 18.01.2018, it was decided to exempt re-insurance services in respect of services related to insurance schemes already exempt under S. Nos. 35 and 36 of notification No. 12/2017-CT (Rate). The exemption is prospective w.e.f 25.01.2018.</p> <p>The request for retrospective exemption from GST on re-insurance services is untenable.</p> <p>3. While insurance service is provided by an insurance company to a policy holder, service of re-insurance is provided by re-insurance company to the insurance company. Therefore, re-insurance service is an input service of the insurance company.</p> <p>4. It was a conscious decision of Council to grant prospective exemption to such re-insurance services.</p> <p>No change recommended.</p>

Sl. No.	Request	Details of Request	Fitment Committee discussions and recommendation
		<p>The term “general insurance business” as defined above specifically excludes capital redemption business and annuity certain business but does not exclude reinsurance service business. Since the general insurance business does not exclude reinsurance from its ambit, the aforesaid definition of the general insurance business is wide enough to cover even reinsurance business within its scope and under its purview.</p> <p>In line with the Service Tax regime and to carry forward similar exemption/benefit to the insurance/reinsurance industries, an identical exemption has been provided in the GST regime vide Entry no. 35 of Notification Number 12/2017 - Central Tax (Rate) dated 28/06/2017.</p> <p>The insurance service is a contract under which the insurer indemnifies the insured against certain contingencies and assumes the risk. Reinsurance is nothing but an insurance service received by insurance companies whereby a part or whole of the risk assumed by an insurance company is passed on to the reinsurance companies.</p> <p>Since the re-insurance policy is in the nature of sharing of risk assumed under various insurance policies, the re-insurance services in respect of such exempted policies covered under the schemes would fall under the purview of exemption under the aforesaid Notification.</p> <p>The reinsurance service provided to insurance companies is a part and parcel of the same activity provided by the insurance company to the farmers. No GST is required to be paid on supply of such reinsurance services as the said reinsurance services are required to be provided in relation to the insurance policies which are exempted from payment of GST under the</p>	

Sl. No.	Request	Details of Request	Fitment Committee discussions and recommendation
		Notification Number 12/2017 CT(Rate) as amended.	
21.	To exempt GST on premium collected from banks by Deposit Insurance & Credit Guarantee Corporation (DICGC) for deposit insurance.	<p>DICGC was established as a statutory body in 1961 to provide safety net to depositors in the event of liquidation of banks by paying upto Rs 5 lakhs (as amended) per depositor as deposit insurance claims.</p> <p>DICGC covers all commercial banks, cooperative banks to safeguard financial stability as a public good and it is engaged in discharging liability from pooled funds to the affected depositors</p> <p>It was brought under General Insurance Business (Miscellaneous insurance) since 2008. Further, after 2021 amendments, depositors can access their deposited money to the extent of the deposit covered under insurance by way of interim payments by DICGC.</p> <p>All services rendered by RBI are exempt from GST payment and DICGC is a wholly owned subsidiary of RBI and, it may also be given exemption.</p> <p>General insurance service is not DICGC's core business.</p>	<p>There is no blanket exemption to statutory bodies in GST. Many statutory bodies like Warehousing Development and Regulatory Authority (WDRA), Petroleum and Natural Gas Regulatory Board pay GST on their services.</p> <p>Further, the nature of work of DICGC differs from RBI.</p> <p>The recipient of service of DICGC could avail ITC on such services.</p> <p>No change recommended.</p>
22.	To waive GST payment for minimum 3 quarters for all the transport operators	The transport sector is adversely affected due to various reasons like Diesel Prices, Toll Fees, Steep hike in Taxes, RTO Expenses, interstate taxes etc. The problems have been further aggravated by Covid 19 pandemic.	<p>This is a new exemption request. The Covid -19 pandemic has affected all sectors. Exemption/lowering GST rate will lead to cascading of input taxes and result in distortion of tax structure.</p> <p>Request may not be accepted.</p>
23.	The GST should be applicable only on hire charges & not on the total gross invoice value i.e., excluding the	Currently, the GST applicable on the total invoice value which includes vehicles hire charges + toll taxes + inter-state taxes & parking fee. In certain cases (see example below) the tax component put together amounts to 44% of the gross invoice	GST is applicable on the value determined in accordance with section 15 of the CGST Act and this value includes any taxes, duties, cesses, fees and charges levied under any law for the time being in force other than GST

Sl. No.	Request	Details of Request	Fitment Committee discussions and recommendation
	amount incurred towards toll taxes + inter-state taxes & parking fee.	amount. This translates that one ends-up paying tax on tax & the whole purpose (double taxation) of introducing GST remains defeated.	Acts, if charged separately by the supplier.  No change recommended.
24.	Review the differential taxation rate for transport of containers by rail and other modes of transport, and bring them at par to ensure a level playing field	Services of Goods Transport Agency (GTA) for transportation of goods by road are taxed uniformly at 5% with no Input Tax Credit (ITC). On the other hand, transport of goods in container by rail by any person other than Indian Railway (Container Transport operators, i.e., CTOs) is taxed at 12% with full ITC. This kind of tax differential on transport of containers by rail viz-a-viz road proves to be highly uncompetitive for rail. Full ITC is not sufficient to bridge high-rate gap of 7%. The high-rate gap of 7% tax is driving away the customers from rail to road.	<p>1. CTOs are paying GST @12% with full ITC. GST rate on other goods transport varies as follows:</p> <ol style="list-style-type: none"> <li>For vessels, import freight and coastal transport is taxable at 5% with ITC of services and vessels including bulk carriers and tankers.</li> <li>Transport of goods by inland waterways and export freight is exempt.</li> <li>Domestic transport of goods by air is taxable at 18%, while import and export freight are exempt.</li> <li>Road transport by GTAs and transport of Natural Gas, Petroleum Crude, Motor Spirit, HSD, ATF by pipelines have been given an option of 5% with no ITC or 12% with full ITC.</li> <li>Domestic Multimodal transport is taxable at 12% while international multimodal transport is taxable at the rate applicable for the predominant mode of transport.</li> <li>Disrupting ITC chain is not advisable in a value-added tax.</li> </ol> <p>2. As per available data, GST paid in cash by CTOs in FY 2018-19 ranged from 4% to 6%. GTA service suffers GST @ 5% payable in cash under RCM.</p> <p>3. Therefore 12% rate with ITC is not hurting most of the CTOs.</p> <p>4. No change recommended.</p>
25.	Services of transportation of fertilizers by road through a GTA or by rail be exempted	Fertilizer industry is facing the issue of huge accumulation of ITC wherein refund of unutilized ITC is not available in respect of input services	Sale of fertilizers is taxable at the rate of 5%. GST on services of transportation of fertilizers by rail or road is available as ITC.

Sl. No.	Request	Details of Request	Fitment Committee discussions and recommendation
	from GST.	In erstwhile service tax regime, services of transportation of chemical fertilizer by rail or by road through a GTA were exempt from service tax.	Request may not be accepted
26.	To exempt transportation of dairy products like butter milk, lassi, curd and cattle feed etc. from GST.		<p>Under Service Tax regime also, only transport of milk, salt and food grain including flours, pulses and rice was exempt. Transportation of other dairy products attracted service tax.</p> <p>This is a request for widening of exemption and would invite similar request for transport of many other items.</p> <p>No change recommended.</p>
27.	<p>(a) Reduce the rate of GST on EV charging and battery swapping service to 5% from the current rate of 18%.</p> <p>(b) Exclude the cost of electricity from taxable value while charging GST on EV charging service.</p>	<p><b>(a)</b></p> <p>1. Reduction in GST rate will provide the impetus for accelerating adoption of electric vehicles, this is in line with govt policy and initiatives.</p> <p>2. Govt. has already reduced the GST rate on EVs, chargers and charging stations to 5% but operational costs continue to remain high due to 18% GST on charging and swapping services.</p> <p>3. Battery charging and battery swapping essentially achieves same objective as that of EV charger and charging station, they should be taxed at similar rates. NITI Aayog has also recommended the same.</p> <p><b>(b)</b></p> <p>1. Supply of electricity is exempt but subjected to electricity duty levied under respective state legislations for which no ITC is available. The cost of electricity constitutes 50% of total cost of EV charging service. Thus, charging GST at 18% on EV charging service, including cost of electricity is not justified.</p>	<p>1.1 The GST Council has already approved reduction of GST rate from 12% to 5% on all electric vehicles and from 18% to 5% on charging stations and hiring of electric buses by municipalities.</p> <p>1.2 Bringing such services to 5% will deepen the inversion. As such, it is a periodic cost, unlike EV which may be one time high cost for user.</p> <p>Request may not be accepted.</p>

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		<p>2. In Goods Transport Agency (GTA), the GST rate has been kept at minimum to exclude the fuel cost from the ambit of GST. Similarly, for EV charging service also, GST rate may be kept at minimum to exclude cost of electricity.</p> <p>3. As per Ministry of Power Circular, the charging station does not require any license under provisions of Electricity Act, 2013 as it is not making sale of electricity nor performing activities of transmission, distribution or trading.</p>	
28.	To reduce GST from current 18% on output service of airport operators to 12%	Infrastructure industry is a thrust sector and affects common man as 18% is charged on output services of Airport Operators. Aeronautical services and user fees should be given preferential treatment and GST rate should be brought down to 12% from current 18%.	<p>There is no rationale for a concessional GST rate on services of airport operators. As it is in most cases recipient could avail ITC.</p> <p>No change recommended.</p>
29.	Suspend payment of IGST on aircraft lease rentals under Reverse Charge mechanism up to 31 <sup>st</sup> March, 2023.	Airlines pay GST on aircraft lease rentals under RCM and then claim credit against the same for payment of GST liability on passenger tickets. To avoid cash flow problems, it is recommended to put payment of IGST on lease rentals under abeyance.	<p>(i) IGST payable on lease rentals @ 5% is available to airlines as ITC for setting off against their output GST liability.</p> <p>(ii) A number of measures have been taken by the Government to promote setting up of aircraft leasing industry in India. Suspending payment of IGST on lease rentals on aircrafts leased from foreign lessors may adversely affect the domestic aircraft leasing industry.</p> <p>(iii) At the request of MoCA and GIFT SEZ Ltd. necessary changes have recently been made to the GST rate notifications to allow domestic aircraft leasing units in IFSC-SEZ to pay GST on aircraft leasing under forward charge mechanism.</p> <p>(iv) DEA was requested to examine the issue in consultation with GIFT SEZ Ltd and IFSCA. Both IFSCA and GIFT SEZ Ltd are of the view that providing short-term relief to airlines by way of one year exemption or suspension of IGST</p>

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			<p>will put domestic aircraft lessors at a disadvantage. It has been argued that any relief in IGST provided to airline operators under RCM should also be extended to domestic aircraft lessors under forward charge.</p> <p>Status quo recommended.</p>
30.	To reduce GST rate on Air Cargo Services from 18% to 12%.	<p>Post Covid 19 air cargo has become the lifeline for movement of essential goods and commodities including medicines and vaccine etc.</p> <p>In line with low GST rates on movement of cargo through other modes, GST rates on air cargo may be reduced.</p>	<p>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.</p> <p>In Service Tax regime also, transport of goods by air attracted Service Tax at the standard rate of 15%. The business recipients of goods transportation services are entitled to ITC and therefore it is a pass-through tax.</p> <p>No change recommended.</p>
31.	To have uniform rate of 5% for helicopter charter and sale of seat tickets.	Will make helicopter travel more affordable for common man	<p>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 the common man.</p> <p>In Service Tax regime too, chartering of helicopter attracted service tax at the standard rate of 15%.</p> <p>The normal point to point passenger transport on a ticket by a helicopter attract 5% GST. This may also be clarified to remove any doubt.</p>
32.	To reduce GST on all services rendered in relation to helicopters,	GST applicable on MRO services is 5% and GST applicable on MRO hangarage is 18%.	GST rate on MRO services has been reduced from 18% to 5% w.e.f 1 <sup>st</sup> April, 2020 so as to ease cash flow issues for the MRO and aviation industry at the

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	including rental paid for hangarage to 5%.	No impact on revenue as Helicopter MROs have not yet taken root in India.	request of Ministry of Civil Aviation (MoCA).  MROs are entitled to take ITC of all goods and services used by them for supplying the MRO services. Therefore, GST paid on input goods and services by MRO is available to them as ITC and does not become a cost for them.  No change recommended.
33.	Request for GST exemption on service provided by roadside vendors for “pollution under control” certificate (PUC) on the vehicles.	18% GST is levied on pollution under control certificate (PUC) on the vehicles provided by roadside vendors which is very high.	Request is for a new exemption.  Threshold exemption upto Rs 20 lakhs composition scheme upto Rs. 50 lakhs (@6%) is available.  If the service is exempted, the roadside vendor will not be able to avail input tax credit of GST paid on pollution equipment, and other goods and services procured by him to provide PUC on vehicle service.  No change recommended.
34.	Request to: a. Issue clarification that the GST rate of 18 % is applicable on job work related to manufacture of alcoholic beverages prospectively w.e.f 01.10.2021 and no demands should be made for the preceding period.  b. advise local GST authorities to withdraw notices	The applicable rate of GST on subject services were explicitly introduced for the first time vide notification 06/2021 w.e.f 01.10.2021.  As the issue got resolved on account of the recommendations of GST Council meeting in its 45 <sup>th</sup> meeting. However, there was a doubt on taxability of subject services prior to 01.10.2021.  About one third of members were under the bonafide belief that alcoholic liquor for human consumption is ‘food’ and were accordingly paying GST @ 5%, which is the rate applicable on job work services in relation to food and food products.	As decided by the GST Council, in the 45 <sup>th</sup> meeting alcoholic liquor for human consumption is not food or food products. The 5 % rate of GST prescribed for job work services in respect to food and food products was never applicable on job work services in relation to manufacture of alcoholic liquor for human consumption. Therefore, GST was payable at 18% on job work services in relation to manufacture of alcoholic liquor for human consumption during the period prior to 1.10.2021.  No retrospective exemption is merited in this case. No change recommended.



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	issued for payment of difference between 18% and GST already paid for the period preceding 01.10.2021		
35.	<p>1. Job Worker or the Karigar of gold should be exempt from GST. If not, (i) the threshold limit for registration for a job worker may be increased substantially; and (ii) the rate of GST on job work charges may be reduced from 5% to 3%, at par with the supply of gold/jewellery.</p> <p>2. A separate classification entry may be given for repairing/alteration/modification/remaking of articles of jewellery with the rate being 3%. Alternatively, the definition of job work may be changed to include within its ambit the process of repairing/alteration/modification.</p>	The job workers face difficulty in complying with the GST system. They belong to MSME sector and levying of GST puts burden on them.	<p>Small job workers whose turnover is less than 20 lakhs are exempt from taking registration under GST.</p> <p>Beyond the threshold, the gold job work attracts GST at a nominal rate of 5%. It is a pass through tax and jeweller could avail ITC of this service.</p> <p>No change recommended.</p>
36.	Proposal to amend section 13(3)(a) of the IGST Act to	In case the goods are supplied domestically by the foreign customer for job work, the place of supply is considered as the	Requires amendment in law. Further, this affects all the services where delivery of physical goods is required.

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	change place of supply in case of job work services on goods supplied domestically by the foreign customer.	location where the services are actually performed. This leads to export of taxes in cases where such goods after job work are exported.	
37.	The GST rate on dyeing job work may be revised to 12%	<p>GST rate for textiles processing industry was revised from 5% to 12% to be implemented with effect from 01.01.2022. But decision was taken in the 46<sup>th</sup> GST Council meeting held on 31.12.2021 to maintain the status quo for textiles till further notification in this regard.</p> <p>In this regard, we wish to bring the following to your kind knowledge and take necessary steps to revise the GST rate for dyeing job work to 12% so as to solve the problems being faced by the member dyeing units of Common Effluent Treatment Plants (CETPs) at Tirupur.</p> <p>Since the GST rate for textiles CETP is not revised to 5%, revision of GST rate to 12% for dyeing job work will give relief to the member dyeing units of textile CETPs. This will avoid accumulation of GST in their GST account and also erosion of working capital.</p>	Status quo may be maintained. As the issue is pending with GoM.
38.	Reduce the rate of GST on machine job work from 12% to 5%.	The job workers belong to MSME sector. Reduction of rate will benefit them a lot.	<p>The request to reduce GST rate on all job work services from 18% to 5% was examined by Fitment Committee and GST Council in September, 2019. It was observed that job workers in the engineering and automobile sector have substantial ITC. The inputs and input services used by them attract GST @ 18%. Reducing the rate on job work services in this sector from 18% to 5% will result in inversion at the level of Job worker.</p> <p>Therefore, it was decided that the rate of GST on all job work services (except bus body building), which are not</p>

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			currently eligible for the 5% rate may be reduced to 12%.
39.	To exempt chilling and packing of milk in pouches	<p>Sr. 24 of Notification no. 11/2017-CT(R) dated 28.06.2017 provides for exemption from GST to support services provided for agricultural produce. The agriculture produce is defined as any produce out of cultivation, rearing of all life forms of animals as is usually done by the cultivator or producer.</p> <p>Presently 5% GST is applicable on the packing of pouch milk by third party plants or through contractors in own plants by dairy cooperatives. Milk is exempted from GST</p> <p>No milk producer at village level is equipped to perform chilling, storage, packing to sell the product in the market. Under, AMUL pattern, the milk producer is the owner at every level i.e village, district and state levels. Thus, practically all activities are carried out by milk producers only through cooperatives. This is not considered as activity carried out by the milk producers. The present exemption under GST is practically not feasible.</p> <p>Further, in case of fruits and vegetables, the entire exercise of pre-conditioning, pre-cooling, ripening, waxing, retail packing etc are exempted vide entry 57 of Notification 12/2017-CT(R) dated 28.06.2017 while these activities are performed by job workers</p>	<p>1. This request was made by Gujarat Co-operative Milk Marketing Federation Ltd (GCMMF) earlier also vide letter dated 01.08.2018. The request was examined and it was conveyed to GCMMF vide letter dated 09.08.2018 that <i>Chilled and packed milk for retail sale is not covered by the definition of 'agricultural produce' as the process of chilling and retail packing of milk are usually not done by a cultivator or a producer. The processes of chilling and packing are also not processes carried out at an agricultural farm. Thus, chilling and packing of milk is not exempt from GST and the said activity of chilling and packaging of milk provided by way of job work, attracts levy of GST @ 5%. It was also conveyed that as informed by AMUL, job workers make substantial investment in plant and machinery for chilling and packing of milk. Exempting chilling and packing of milk would block input credit of job workers and increase their costs.</i></p> <p>2. However, GCMMF challenged the said communication in the High Court of Gujarat.</p> <p>3. Gujarat High Court quashed the said letter vide judgement dated 13.12.2019 in 8320 of 2019 (M/s. Gujarat Co-operative Milk Marketing Federation Ltd and Ors.) on the ground that chilling of milk does not alter its essential characteristics and it still remains raw milk. Therefore, storage, chilling and packing of milk is exempt from GST.</p> <p>4. The exemption from GST has been provided to packing of agricultural</p>

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			<p>produce. Agricultural produce has been defined in the relevant notification as produce of cultivation of plants or rearing of animals on which either no processing has been done or such processing has been done which is mostly done by a cultivator or producer. The process of chilling or packing of milk is not carried out by the producer of milk.</p> <p>5. SLP has been filed against the Gujarat High Court order.</p> <p>6. Since the matter is sub-judice and an exemption would block ITC of job workers and increase their costs, the request of Gujarat Co-operative Milk Marketing Federation Ltd may not be accepted.</p> <p>7. The request for exemption from GST on packing of processed milk into packets by job worker was also examined by GST Council in its 22nd meeting held on 06.10.2017. The council did not accede to the same and recommended that Job work services in relation to food and food products falling under Chapters 1 to 22 of the HS Code would attract GST rate of 5%.</p> <p>No change recommended.</p>
40.	<p>The following processes should be exempted from the levy of GST:</p> <ul style="list-style-type: none"> <li>• Cutting, Salting, Brining, syrupeing of fruits and vegetables.</li> <li>• Drying and grinding of fruits and vegetables</li> </ul>	<p>Most of the units undertaking such operations belong to MSME, SHG etc. They have to bear the load of GST and spend their valuable time to fulfil documentary compliance for GST.</p>	<p>GST on job work related to food and food products already attracts lower rate of 5%. [Sr No. 26 (i) (f) of Notification No. 11/2017-Central Tax (Rate).</p> <p>Further, small suppliers are covered by threshold exemption provided for registration and composition scheme has also been provided for ease of compliance.</p> <p>Request may not be accepted</p>

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	• Pulping or pureeing of fruits and vegetables		
41.	To exempt GST on Salt handling charges (Loading-unloading and clearing-forwarding)	<p>Salt as a commodity as well as its transportation is exempted from GST as it is an essential commodity.</p> <p>GST on salt handling services such as loading-unloading and clearing-forwarding services, increases the cost of transportation especially when done by railways or vessels</p> <p>Salt manufactures and traders do not get ITC of the GST paid by them.</p>	<p>This is a new exemption request. No rationale for exemption. Exemptions block ITC chain and distort tax structure.</p> <p>Request may not be accepted</p>
42.	Reduce GST on stevedoring service for import of Coal from 18% to 5%.	<p>GST on sale of coal is 5% while the input services like stevedoring, sampling etc. used in the business are at 18%. Since the refund of ITC accumulated on account of input services is not eligible, it leads to huge accumulation of utilized ITC.</p>	<p>Commodity based rate on input services may not be feasible nor it is desirable. Further, reducing GST on stevedoring might lead to inversion on the end of the supplier of stevedoring service.</p> <p>As such recipient could avail ITC. Hence no change recommended.</p>
43.	<p>To clarify that loading and unloading, storage and warehousing of containers with agricultural produce at the port terminals is exempt from GST.</p> <p>Alternatively, allow credit of GST charged by the ports on such services in respect of agricultural produce despite there being an exemption on services of logistics service provider.</p>	<p>The entry at Sr. No. 54, of Notification No. 12/2017 – Central Tax (Rate), dated 28 June 2017 grants exemption services relating to cultivation of plants and rearing of all life forms of animals, except the rearing of horses, for food, fibre, fuel, raw material or other similar products or agricultural produce by way of:</p> <p><i>“...(e) loading, unloading, packing, storage or warehousing of agricultural produce; ...”</i></p> <p>The services of terminal handling and storage facility by Ports clearly involve activities of loading and unloading, storage, warehousing etc., and hence when rendered for agricultural produce are exempt.</p>	<p>Handling of such goods, loading, unloading etc, at a port is not covered by the exemption.</p> <p>Request is for deepening of exemption. This may not be agreed to.</p>

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44.	Services provided by units operating within the Free Trade & Warehousing Zone (FTWZ) to foreign entities availing services of Indian FTWZ may be exempted.	<p>While FTWZ is deemed to be a foreign territory and is also considered to be a tax-free enclave, however, GST is being levied on services provided to foreign entities (who do not have any presence in India) availing services of Indian FTWZ.</p> <p>This is mainly because of the GST provision with respect to "Place of Service".</p> <p>The following may be mentioned with respect to the above:</p> <ul style="list-style-type: none"> <li>• In case of services rendered by any IT SEZ to foreign entities within a SEZ located in India, GST is zero rated/exempted.</li> <li>• FTWZ Units provide various services to foreign entities like storage for their goods; value added services, transportation, etc. within its SEZ area in India.</li> <li>• These foreign entities have no physical presence within FTWZ or in India, except for their goods lying within the FTWZ area.</li> </ul> <p>However, presently these foreign entities are required to pay GST @18%. GST paid by such foreign entity is cost to them as they cannot take input credit on the GST paid. Also, there is no mechanism for refund of GST charges on such services thereby discouraging foreign entities to avail services of Indian FTWZ's.</p>	<p>Exempting the services provided by units in FTWZ provided to foreign entities, where place of supply of service is in India, say, storage, warehousing, cargo handling etc, it would create distortion in tax structure since this would lead to a situation where the same service provided by units located outside FTWZ to foreign entities will be taxable and those provided by unit located in FTWZ would be not taxable. The unit located outside the FTWZ is at a disadvantage.</p> <p>Further, the same service was taxable under service tax.</p> <p>As such the foreign entity has option to register which would facilitate them. Even today, if the foreign entity is operating in FTWZ, they would have their authorised representative considering that they are involved in import, export ( in and out of India) and DTA clearances etc ( which entail GST and customs duty liability.</p> <p>No change recommended.</p>
45.	To exempt GST on participation at trade fairs	Exporters of garments from MSME cannot survive in the sophisticated markets unless they regularly participate in Trade Fairs and Exhibitions of global benchmarks. It would be helpful if GST is exempted on participation at these events.	<p>This is a new exemption request. GST rate will lead to cascading of input taxes and result in distortion of tax structure. Further, providing exemption or special rates for a particular user group goes against the basic principles of GST.</p> <p>Request may not be accepted.</p>

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46.	To extend exemptions to non-governmental entities and their sub-contractors providing such services as are applicable to Governmental authority by way of any activity in relation to any function entrusted to a Panchayat/ Municipality under article 243G/243W of the Constitution are also exempt vide entry 3 & 3A of Notification No. 12/2017-Central Tax (Rate) dated 28th June, 2017.	<p>In certain townships maintained by industries, civic amenities like sanitation, solid waste management, supply of water etc are provided by the industries operating in such region instead of the local bodies like Panchayat or Municipality. These services are provided by the industries either by themselves or using the service of the sub-contractor.</p> <p>These activities are mostly covered under function entrusted to a Municipality /Panchayat under article 243W/243G of the Constitution. Accordingly, when these activities are undertaken by governmental authority it is exempted vide entry no. 4 &amp; 5 of Notification No. 12/2017-Central Tax (Rate) dated 28th June, 2017.</p> <p>Further, supplies of sub-contractors in nature of pure service and composite supply provided to Governmental authority by way of any activity in relation to any function entrusted to a Panchayat/ Municipality under article 243G/243W of the Constitution are also exempt vide entry 3 &amp; 3A of Notification No. 12/2017-Central Tax (Rate) dated 28th June, 2017.</p> <p>The above exemptions are not available in the cases where such services are provided by the industrial undertaking as they do not qualify as Governmental authority and further their sub-contractors are also not eligible for. The applicable GST on such service are ultimately adds up to the cost of civic amenities, and thereby discourages proper civic amenities in industrial areas.</p>	The said exemption has already been pruned w.e.f. 1.1.2022 and Governmental Authority /Government entity have been excluded from the ambit of said exemption.
47.	Request for Applicability of CGST notification No. 15/2021 & 16/2021 both dated 18.11.2021 w.r.t	The contracts awarded by the Governmental Authority or by Government Entity considering the concessional GST rate @ 12% and allocated the fund, accordingly the contract conditions were	On the recommendations of the Council, benefit of concessional rate of duty on work contract supplied to Governmental Authority and governmental entity was withdrawn vide CGST notifications dated

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	removal of concessional rate of duty available for projects meant for Governmental Authority and governmental entity, on contract entered only after 01.01.2022	<p>made and accepted by the contractor.</p> <p>Amendment by omitting the “Governmental authority” &amp; “Government Entity” from the concessional GST rate will increase the cost of the project without any budget allocation, which may lead to non-payment or delayed payment by the awarder of the contractor. Consequently, it will jeopardize various on-going projects which are under execution.</p> <p>It is represented that government should not change the existing rate of tax for the ongoing contracts, which may offend by the principle of promissory estoppels.</p>	<p>18.11.2021.</p> <p>GST law clearly provides for the manner in which continuous supply are subject to GST in case of rate change.</p> <p>Any request, if agreed for one sector, would invite similar request from other sectors. There are similar requests for grandfathering in solar, renewable energy and other sectors. Further, in goods also in case of any rate increase, the company seek continuation of lower rate of all goods in the pipe lines, i.e. cleared from factory but pending in supply chain. Their request has not been accepted.</p> <p>If 12% rate is continued for old contracts, multiple rates of 12% and 18% would be there for many years in future leading to complex rate structure.</p> <p>Concessional rate has been withdrawn only for Government entities and Government Authorities. As such, Government and local authorities are not affected.</p> <p>No change recommended.</p>
48.	<p>i. Request to provide facility for payment of GST on receipt basis in respect of rentals as a specific case.</p> <p>ii. To grant exemption to</p>	<p>The Mumbai Port Trust (MbPT) is facing severe challenges in clearing tax liabilities. The Port is paying tax on rental income received from its tenants on accrual basis instead of receipt basis.</p> <p>However, only 40% of billed amount is recovered by the Port from the tenants owing to disputes in various forums.</p>	<p>GST law has been consciously framed to collect GST on accrual basis. Service tax was also collected on accrual basis (except small taxpayers).</p> <p>No change recommended.</p>



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	<p>Mumbai Port trust on penalty/ interest for outstanding GST amount.</p> <p>iii. Grant necessary relief/ concession to Mumbai Port Trust till recovery of final dues and arrears.</p>	<p>Presently, MbPT has paying its tax liability from its own fund. This is severely affecting the cash flow of the port. Therefore, it has been requested to grant specific relief to MbPT.</p>	
49.	<p>GST payable on the royalty paid to the Government for obtaining licence to extract and sale of rough boulder stone from earth may be exempted for initial two years of GST regime.</p>	<p>Mine owners are entities who are engaged in extraction of rough boulder stone from earth. Boulders are crushed into small stones, known as Gitti. These entities are required to pay GST on royalty paid to the State Government under reverse charge mechanism.</p> <p>However, in the initial years of GST implementation, they were not aware of the said provisions and due to lack of knowledge, did not pay GST on the royalty payments made to the State Government. They have also stated that had the mine owners paid taxes, the same would have been available to them as ITC and thus, the whole exercise would be revenue neutral. It has also been contended by the association that royalty is a tax and levying tax again on royalty will lead to double taxation.</p>	<p>1. Any activity undertaken by Government or local authority against a consideration constitutes a service and the amount charged for performing such activity is liable to GST. Services provided by the Government or a local authority to business entities were made liable to Service Tax w.e.f. 01.04.2016. The same has continued in the GST regime. Thus, it is not a new levy introduced only in the GST regime.</p> <p>2. Granting exemption on such services would not be revenue neutral.</p> <p>3. The contention that royalty is a tax and GST on the same amounts to tax on tax, lacks substance.</p> <p>Request may not be accepted</p>
50.	<p>To clarify that National Permit fee is not a consideration for any service therefore not liable to Service Tax/GST for period 30.06.2017 to 01.07.2017.</p>	<p>Exemption for service by way of grant of national permit to a goods carriage on payment of fee exempted from GST w.e.f 1.10.2021.</p> <p>Liability to pay Service Tax for the period from April, 2016 to June 2017 and thereafter GST for period 1.07.2017 to 30.09.2021 remains</p>	<p>1. The Fitment Committee generally was of the view that national permit fee is not a tax but a fee or consideration for a service supplied by the Government in the form of grant of national permits for plying of vehicles.</p> <p>2. The Fitment Committee, however, felt that National permit fee may be specifically exempted from GST prospectively. This was approved by the</p>

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			<p>GST Council.</p> <p>3. The exemption on National Permit Fee is applicable prospective w.e.f 1.10.2021. National Permit Fee was taxable during the period 1.07.2017 to 30.09.2021.</p> <p>No change recommended.</p>
51.	Exempt GST on MSME- Cluster Development Approach scheme for Malegaon, Nashik.	It is a textile hub and GST component in the project is creating a bottleneck.	<p>Request for new exemption. Area-based exemptions are not in consonance with the principles of GST. Support to industry cluster, if any, should be considered where considered necessary by the respective government.</p> <p>Request may not be accepted</p>
52.	GST exemption for works under MPLAD funds or refund the GST paid on works back to the MPLADS funds of the MP.	At present, all development works undertaken under MPLADS come under purview of GST. Most works and materials used in such works are charged @ 18% of GST, leading to strain on the works done as the amount of funds demarcated for such work under MPLADS proportionally reduces due to levy of GST. It also leads to decrease in the quantity of the work done and is not in the interests of the people.	<p>End use-based exemptions are not advisable. They are difficult to monitor and prone to misuse.</p> <p>Exemption will block ITC of suppliers and increase cost.</p> <p>No change recommended.</p>
53.	GST on licence fee paid to railways by small licence holders, vendors, retailers etc. may be exempted from GST.  These licencees should be treated as retailers rather than service providers.	<p>GST on licence fee paid to railways is a new tax and is a burden on small vendors.</p> <p>Further, their activities are similar to retailers as most of their sales are of tax paid bought items like biscuits, cold drinks, wafers etc.</p>	<p>The request of Railway licencees for exemption of GST on the license fees of the catering licences at the railway stations was examined by the GST Council in 28<sup>th</sup> meeting held on 21.07.2018. The GST Council did not recommend any change in GST rate.</p> <p>Request may not be accepted.</p>
54.	Exempt GST on the fee paid by co-	Co-operative spinning mills have been struggling to survive and a lot of working	Request for new exemption. GST paid on such membership fee is available as

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	operative spinning mills to Maharashtra State textile Co-operative Federation Ltd.	capital is blocked in paying GST on the membership fee	ITC to the spinning mills.  Request may not be accepted
55.	Exempt services supplied by the Food Safety and Standards Authority of India (FSSAI) from Service Tax/ GST prior to 27.07.2018.	Services by way of licensing, registration and analysis or testing of food samples supplied by the Food Safety and Standards Authority of India (FSSAI) to Food Business Operators have been exempted from GST w.e.f. 27.07.2018.	It was decided in 32 <sup>nd</sup> GST Council meeting that as a matter of principle, retrospective exemptions would be avoided. Council had taken a conscious decision for a prospective exemption in this case.  Request may not be accepted.
56.	(a) Exempt Delhi Electricity regulatory Commission (DERC) from GST  (b) Request to exempt regulatory functions of Central Electricity Regulatory Commission (CERC) (and also SERCs and JERCs) from GST  (c) Request to issue a clarification that the GST on the services provided by Real estate regulatory Authority (RERA) by way of registration of Real Estate projects and real estate agents is covered under	<b><u>DERC:</u></b>  DERC is a statutory body regulating the licensing companies engaged in generation, transmission and distribution of electricity.  DERC was exempt in service tax regime  Electricity transmission Service (by an electricity transmission distribution utility) is also exempt from GST  Further, services provided by regulators such as SEBI, RBI, IRDA are exempt from GST  <b><u>CERC:</u></b>  As per various provisions of Electricity Act 2003, the CERC functions as a quasi-judicial body. Moreover, SC in Civil Appeal No. 14697 of 2015 between state of Gujarat and others vs Utility Users' Welfare Association and other declared that "...this thus leaves no manner of doubt that the State commission, though defined as 'commission' has all the trappings of the court".  As per clause 2 of schedule III of CGST	<b><u>CERC/DERC</u></b>  1. CERC/DERC, besides having quasi-judicial functions which are a no-supply under Schedule III, also has functions which are in the nature of regulatory functions for which fee are levied. CERC has requested for exempting the fee levied for regulatory functions also.  2. There is no blanket exemption to statutory bodies in GST. Many statutory bodies like Warehousing Development and Regulatory Authority (WDRA), Petroleum and Natural Gas Regulatory Board) pay GST.  3. In the 45 <sup>th</sup> GST Council meeting, request of International Financial Services Centres Authority which is a regulatory body for International Financial Services Centers to exempt the fee charged by them from GST was not accepted.  <b><u>RERA:</u></b>

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	Heading 9983 or 9991 of Notification No. 12/2017 — Central Tax (Rate) 28 <sup>th</sup> June, 2017 and hence exempt as per S.N. 47 of the notification.	<p>Act 2017, services by any court or tribunal established under any law for the time being in force shall neither be treated as supply of goods nor a supply of services</p> <p><b><u>RERA:</u></b></p> <p>Registration of Real Estate projects and agents is a <u>statutory function</u> of Real Estate Regulatory Authority as per RERA and not a official se transaction.</p> <p>In this regard, it has been pointed out by Punjab RERA and All India Forum of Real Estate Regulatory Authority (AIFORERA) that GST Authorities feel that the ‘service’ of registration of real estate projects and real estate agents is subject to the levy of GST.</p> <p>Regulatory bodies such as Insurance Regulatory and Development Authority of India (IRDAI), Securities and Exchange Board of India (SEBI) and Employees’ Provident Fund Organisation (EPFO) are also exempt from the purview the GST Act. Further, Central Board of Direct Taxes (CBDT) has notified that the Real Estate Regulatory Authorities are eligible for exemption under Section 10(46) of the Income Tax Act, 1961.</p> <p>In view of the above, it is requested to either exempt the GST on the service of registration of real estate projects and real estate agents or issue a clarification that the same is covered under Heading 9983 or 9991 (SN 47) of Notification No. 12/2017 —Central Tax (Rate) 28<sup>th</sup> June, 2017, issued by Department of Revenue, Ministry of Finance.</p>	<p>4. S.N. 47 of 12/2017 provides that services (Heading 9983 and 9991) provided by the Central Government, State Government, Union territory or local authority by way registration required under any law for the time being in force, is exempt from GST.</p> <p>5. However, RERA is not covered under central or state government. Therefore, it does not come under the ambit of entry 47 of the notification no. 12/2017-CTR dated 28.07.2017.</p> <p>6. Many of the govt agencies/authorities even if they are doing statutory function are not exempt from GST viz - Competition Commission of India, Inland Water Supply Authority of India.</p> <p>7. Further, GST exemption results in inversion of tax rates and distortion of tax structure. Therefore, the request should not be acceded to.</p>
57.	Exempt GST on services provided by Forum of	FOR is a statutory body to provide a common platform to the electricity regulators to share their experiences and	Request for new exemption. Further, the GST paid on such membership fee is available as ITC to the members.

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	Regulators (FOR)	best practices.  Forum's main source of income is from the membership fees it receives.	Request may not be accepted.
58.	Stressed Asset Stabilisation Fund (SASF) be granted exemption from GST.	<p>SASF is an SPV constituted in the form of <u>Trust</u> vide Trust Deed dated 24.09.2004 with the object of acquiring Stressed Assets.</p> <p>It has been notified as a <u>financial institution</u> under section 2(h)(ii) of the Recovery of Debts due to Banks and Financial Institutions Act, 1993.</p> <p>It has been authorised to realise Stressed Assets by restructuring, arriving at compromise settlements with borrowers, taking legal measures or adopting such measures as they may deem fit.</p> <p>The entire amount realised from the stressed assets is directly remitted to GOI as revenue to be utilised to redeem the zero-interest bearing Special Securities issued by the GOI and transferred to IDBI Ltd.</p>	<p>This is a new exemption request. Exemption/lowering GST rate will lead to cascading of input taxes and result in distortion of tax structure.</p> <p>Request may not be accepted.</p>
59.	Request to exempt the activities undertaken by the Bharat Sevak Samaj from ST/GST	<p>The Bharat Sevak Samaj (BSS) is the National Development Agency established by erstwhile Planning Commission on the recommendation of the Indian Parliament in the year 1952 to undertake the extension activities of the Development programs initiated by the Govt. BSS extends and implements various developmental initiatives with the participation of its dedicated workers.</p> <p>It also develops the man power through vocational/ skill training programs and capacity building programs through its member institutions. The main focus of BSS is to develop the manpower through training programmes and to utilize the manpower to cater to National development. These training programs</p>	<p>The proposal to exempt BSS was discussed by the GST Council in the 28<sup>th</sup> Meeting held on 21 July 2018. The request of BSS was not acceded to.</p> <p>Following exemptions are already available for skill development/ vocational training programs.</p> <p><u>Sl. No 69 of the notification No. 12/2017- Central Tax (Rate)</u> Services provided by a training partner approved by the National Skill Development Corporation or the Sector Skill Council.</p> <p><u>Sl. No 71 of the above notification</u> Services provided by training providers (Project implementation agencies)</p>

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		mainly cater to the marginalized sections, socially and economically backward groups and educational drop outs with the aim to bring them into the main stream of the society and to make them capable enough to support the national development process.	<p>under Deen Dayal Upadhyaya Grameen Kaushalya Yojana by way of offering skill or vocational training courses certified by the National Council for Vocational Training.</p> <p><u>Sl. No 72 of the above notification</u> Training programmes funded (75% or more of the expenditure) by Central or State Government.</p> <p>No change recommended.</p>
60.	Reduce GST on commission earned on e-service charges collected on services provided by Common Service Centres (CSC) from 18% to 5%.	<p>CSC e-Governance Services India Ltd. is a SPV under Companies Act, 1956 for monitoring and implementing the Common Services Centres Scheme. CSC network comprises of rural and urban IT enabled delivery outlets established across the country providing various e-services to residents.</p> <p>Out of approximately 3,65,000 centres, around 70% are in far flung rural areas or in small towns delivering various G2C services and government privileged services such as Pradhan Mantri Fasal Bima Yojna, Pension schemes, digital literacy, legal literacy schemes, PAN card services, income tax filing and GST return filing etc.</p> <p>These CSCs are owned by independent entrepreneurs; i.e., Village Level Entrepreneurs (VLEs). This project promotes rural entrepreneurship and would create rural employment opportunities.</p> <p>The service charges are fixed on every G2C and B2C services, which includes taxes (GST @ 18%). These VLEs are last mile service providers, who are getting a substantially reduced rate of revenue sharing due to severe tax compliances at the rate of 18%.</p>	<p>This request is for a new exemption.</p> <p>Most of the inputs, input services used in CSCs like hiring of premises, manpower supply, computers, etc. are taxed at 18%. Reducing the rate of GST on output services from 18% to 5% may lead to accumulation of ITC.</p> <p>Request may not be accepted.</p>

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		Reduction of GST rate to 5% will contribute to net worth of service charges, which is a major component for running their livelihood.	
61.	Request for tax exemption on all the expenses made by an organization on sanitation and hygiene as per guidelines of Government and to treat such expense as CSR expenses	No justification provided.	<p>Such blanket exemption on supplies of sanitation and hygiene material and services to organizations would be prone to misuse.</p> <p>ITC of GST paid on such input supplies is available.</p> <p>Exemption shall lead to blockage of ITC of the suppliers of sanitation &amp; hygiene goods and services.</p> <p>No change recommended.</p>
62.	Exempt GST on CSOs (Civil Society Organizations)	CSOs work on no profit basis.	<p>Specified activities performed by entities registered under section 12AA of the IT Act are exempt from GST vide serial No. 1 of notification No. 12/2017-CT(R).</p> <p>CSOs registered under section 12AA of the IT Act are eligible for the said exemption in respect of the activities specified in the said notification.</p> <p>Providing a blanket exemption to activities performed by CSOs may not be considered.</p>
63.	Request to remove exemption limits of renting of premises as provided at Sl. no. 13 for entities registered under 12(AA) of the Income-tax Act, 1961, or a trust or an institution registered under sub-clause (v) of clause (23C) of	<p>BAPS, a charitable trust provide following services:</p> <p><u>Renting of Immoveable Properties by individual trusts</u>, whose focus is on social service, like education, health care, and publications related to religion and spirituality and herbal medicines etc. Certain other independent trusts carry out various social welfare activities from the premises leased / rented out by main trust; the BAPS charges rent from the service</p>	<p>i. There is no merit to reduce the existing limit of exemption towards renting of precincts of a religious place or completely exempt the renting activity.</p> <p>ii. Internal transaction between individual 12AA entities are taxable if such transaction value exceeds the exemption limit provided under Sl. No. 13 of the notification No. 12/2017- Central Tax (Rate). Exemption to such internal transactions may not be granted</p>

Sl. No.	Request	Details of Request	Fitment Committee discussions and recommendation
	<p>section 10 of the Income-tax Act.</p> <p>OR</p> <p>Request to exempt renting by one 12(AA) entity to another 12(AA) entity registered under the Income Tax Act, 1961, who are engaged in activities of relief to poor, education, healthcare, environment protection, spread of religion, spirituality, yoga-related activities etc.</p>	<p>specific trust for the usage of property at reasonable rates.</p> <p>Till introduction of GST, renting of premises by a religious trust was exempt from Service Tax. But in GST, this exemption has been curtailed by prescribing limits on amount charged for these services.</p>	<p>Similar reference from Auroville Foundation has not been accepted by GST Council in its 28<sup>th</sup> Meeting held on 21<sup>st</sup> July, 2018.</p> <p>No change recommended.</p>
64.	Request to provide GST exemption on works contract service on buildings owned by an entity registered under section 12AA of IT Act and where such buildings are meant predominantly for religious use by general public.	<p>In Service Tax, an exemption was available on WCS related to buildings owned by religious and charitable trusts registered under section 12AA of Income Tax Act.</p> <p>In GST regime, erstwhile ST exemption has been discontinued.</p>	<p>In Service Tax, only the service tax component of WC was exempted. There was no exemption from VAT. Moreover, there were embedded taxes on inputs, input services and capital goods (such as service tax, excise duty and VAT). Further, most of the states levied VAT under composition scheme ranging from 1 to 5%.</p> <p>Keeping the overall pre-GST tax incidence in mind, composite supply of works contract service, supplied by way of construction, erection, commissioning, or installation of original works pertaining to a building owned by an entity registered under section 12AA, is presently taxed at 18% with ITC.</p>



Sl. No.	Request	Details of Request	Fitment Committee discussions and recommendation
			No change recommended.
65.	Request for GST exemption on the user fee paid by researchers to custodian institutions for use of R&D equipment and facilities.	<p>The I-STEM Web Portal is a platform that links researchers and R&amp;D institutions having R&amp;D equipment and facilities. Using the gateway facility available on I-STEM, users locate specific facility (equipment) they need for their R&amp;D work and identify the one that is either located closest to them or available the soonest.</p> <p>By paying certain amount of user fees through the portal or the web site of the organization, where the desired facility is located, one can make a reservation for using such facility. The user fee varies depending on whether the user is an academia, a public institution, or an industry.</p> <p>I-STEM facility optimizes the use of R&amp;D facilities which are often underutilized.</p>	<p>Request is for a new exemption.</p> <p>Exemption will block ITC of R&amp;D institutions. Services provided by Government R&amp;D institutions (CSIR, BARC, DRDO, Atomic Mineral Division labs etc.) to individual researchers are already exempt.</p>
66.	<p>(i) To exempt GST on the services provided by Technology Innovation Hubs (TIHs)</p> <p>(ii) Expand the scope of exemption to include such incubators which are recognized under any Centre/State government schemes, funded partially or fully by Government</p>	<p>(i) Department of Science and Technology (DST) is implementing the National Mission on Inter disciplinary Cyber-Physical Systems (NM-ICPS), which is aimed at developing advanced technologies and applications as per the requirements of the Central Ministries, Departments, State governments, PSU, Industries etc.</p> <p>Accordingly, DST has established 25 Technology Innovation Hubs (TIHs) as Section 8 Companies (not for profit) under the Companies Act, 2013, across the country in reputed academic institutes such as IITs. Complete seed grant has been provided by DST and TIHs are open to raise funds from the industry and other institutions.</p> <p>These TIHs are focused on technology &amp; product development, human resource development, development of technology business incubators/ Start-ups and</p>	<p>To promote the Science and Technology ecosystem, following exemptions are already available:</p> <ul style="list-style-type: none"> <li>• GST is exempt on services provided <b>by an incubatee</b> (an entrepreneur located within the premises of and having an agreement with a recognised Technology Business Incubator or Science and Technology Entrepreneurship Park, to develop and produce hi-tech and innovative products) up to a total turnover of fifty lakh rupees in a financial year subject to some conditions [Sl. No. 44 of notification no. 12/2017- CTR].</li> <li>• GST is exempt on taxable services, provided or to be provided, <b>by</b> a recognised Technology Business</li> </ul>

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		<p>international collaborative research.</p> <p>TIHs have been recognised as Scientific and Industrial Research Organisations by the Department of Scientific and Industrial Research, GOI and are thereby, eligible to get Income Tax Exemption. Further, all host institutes are exempt from GST also. However, same exemption is not applicable to TIHs as they are independent entities created under Company Laws.</p> <p>(ii) Incubators established as section 8 Companies (not for profit) under the Companies Act, 2013 are important for the development of Start Ups and thereby promote innovation and entrepreneurship.</p>	<p><b>Incubator</b> or by a recognised Science and Technology Entrepreneurship <b>Park</b> or by recognized <b>bio-incubators</b> [Sl. No. 48 of notification no. 12/2017- CTR].</p> <p>To avail the benefit of above exemptions, incubators or Sci Tech parks are required to be recognised by Dept. of Science and Technology, GoI.</p> <p>Requests of exemption for specific companies may result in distortion of tax structure and break the seamless flow of credit, hence further expansion of exemptions is not desirable. Therefore, no change recommended.</p>
67.	Reduce GST on telecom services from 18% to 12%	<p>Telecom is a capital intensive and technology driven sector requiring considerable capital investment.</p> <p>Reduction in GST will make telecom services more affordable and will have multiplier effect on different sectors as well.</p>	<p>Exemption/lowering GST rate may lead to cascading of input taxes distortion of tax structure and shall also have revenue implication. Already telecom company's have been complaining on account of accumulated ITC at their end.</p> <p>Request may not be accepted.</p>
68.	Request to reduce GST on software products to 12% from current 18%	<p>IT companies are badly impacted due to COVID 19.</p>	<p>The Covid -19 pandemic has affected all sectors. Exemption/lowering GST rate will lead to cascading of input taxes and result in distortion of tax structure. It will also impact revenue collection.</p> <p>Request may not be accepted</p>
69.	Suspension of GST under RCM on import of services for mainly export oriented companies in software sector	<p>Software firms import technical services used for export of their services, for which they pay GST @18% under RCM.</p> <p>They are unable to set off ITC accumulated through this payment since they are into exports which is zero rated under GST and have no other output tax liability. While refund can be claimed of this accumulated ITC, it requires them to have a lot of documentation, collect FIRC's and face</p>	<p>(i) The basic principle of GST is to tax supply of goods and services at each stage of value addition and to allow ITC of tax paid at the preceding stage for discharge of tax at the succeeding stage.</p> <p>(ii) Since exports are zero rated, refund of the GST under RCM on import of services (or for that matter, goods) for export-oriented units is available to the importer. Refunds are envisaged to be expedited in</p>

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		technical IT constraints as well. Therefore, they have requested that this GST under RCM be suspended to improve their cash flows.	GST regime. No change recommended.
70.	Increase GST on OIDAR Services from 18 to 28%	Switching companies and industries over to OIDAR services in lockdown period and huge GST revenue loss due to closure of theatres and multiplexes which contributes considerable in the GST.	OIDAR services are not just restricted to online entertainment and gaming but also include advertising services, cloud services, provisioning of e-books, software digital data storage etc. The highest GST rate of 28% on such services may not be reasonable.  No change recommended.
71.	Zero-rating the healthcare services	Input supplies forms a large chunk of expenditure which the patients have to incur for availing healthcare services. Zero-rating will not only ensure that the credit chain is intact but also that the input taxes are not loaded into the cost of healthcare services. Many countries like Canada, Ecuador, Saudi Arabia and UEA have adopted to provide 'zero rating' benefit to healthcare sector.	In 37 <sup>th</sup> GST council meeting, Council did not agree to the proposal of zero rating of healthcare services. The healthcare services are already exempt from GST.  There is a wide variety of input goods and input services consumed by healthcare industry, many of which are common across other businesses.  No change recommended.
72.	Request to exempt GST on rent paid by hospitals.	To reduce high capital costs, buildings are taken on rent for setting up healthcare facilities. Hospitals are not entitled to avail the ITC of GST paid on rent. Tax burden is shifted to the patients.	Services by way of healthcare services by a clinical establishment, an authorized medical practitioner or paramedics are exempt from GST.  The request is for zero rating/deepening of exemption. Such zero rating has wider implications.  No change recommended.
73.	Request to exempt driver training and refresher training	There are 1.49 lacs of fatal accidents in India and Western India Automobile Association are trying its bit to reduce such	Following exemptions are already available for skill development/vocational training programs.

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	imparted by training schools to fresh drivers.	accidents by imparting driver training and refresher training for fresh drivers for last 70 years. 18% GST is very high.	<p><u>Sl. No 69 of the notification No. 12/2017- Central Tax (Rate)</u> Services provided by a training partner approved by the National Skill Development Corporation or the Sector Skill Council.</p> <p><u>Sl. No 71 of the above notification</u> Services provided by training providers (Project implementation agencies) under Deen Dayal Upadhyaya Grameen Kaushalya Yojana by way of offering skill or vocational training courses certified by the National Council for Vocational Training.</p> <p><u>Sl. No 72 of the above notification</u> Training programmes funded (75% or more of the expenditure) by Central or State Government</p> <p>Request is for a new exemption. May not be accepted.</p>
74.	<p>(i) To exempt the sports training or coaching services availed by an educational institution.</p> <p>(ii) Exempt GST on sports activities.</p>	<p>(i) These are core services availed by educational institutions for the benefit of its students.</p> <p>The services are exempt only if the entity providing the sports training services are registered under section 12AA of the IT Act, 1961.</p> <p>Sports is a core element of education system and in line with 'Khelo India – National Programme for Development of Sports' initiative of Ministry of Youth Affairs and Sports, GoI for promoting sports at school level, the school outsource such services to specialized service providers in providing world class coaches and training/coaching to students.</p> <p>These services were exempt in Service tax regime as entry in notification No.</p>	<p>In 14<sup>th</sup> GST Council meeting held on 18-19<sup>th</sup> May 2017, certain existing exemptions under then service tax was reviewed (Annexure VI, List B). One of the services under review was the instant sports training and coaching services. So, a conscious decision by the Council to prune the exemption.</p> <p>Further, in the 15<sup>th</sup> GST Council meeting held on 3<sup>rd</sup> June, 2017, the entry as existing under service tax was modified to limit its scope by inserting rider that the entity should be registered under section 12AA of the IT Act.</p> <p>Many of the sports institutions are for profit entities and charge considerable amount for their training/coaching services, therefore, there does not appear need to broaden the scope of the</p>

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		<p>25/2012-ST read “8. <i>Services by way of training or coaching in recreational activities relating to arts, culture or sports;</i>” while the same has been restricted in GST “<i>Services by way of training or coaching in recreational activities relating to sports by charitable entities registered under section 12AA of the Income-tax Act</i>”</p> <p>(ii) Rate of 18% on sports events or booking sports facilities increase the price of availing such facility.</p>	<p>exemption.</p> <p>As regards, exempting GST on sports activities, it is a request for new exemption. If exempted, the GST paid on inputs/input services would stick as cost, which might not allow any reduction in price of such facilities.</p> <p>No change recommended.</p>
75.	Request for Exemption from levy of GST on the NSQF aligned courses offered by National Institute of Electronics & Information Technology. (NIELIT)	<p>1. Exemption from levy of GST on the courses offered by NIELIT since courses are aligned with NSQF, and it will provide education to the poor and deprived students at lower fees and ultimately help in the upliftment of the youth of the country by making them skilled and employable.</p> <p>2. Courses are available for youth and public at large.</p>	<p>1. NIELIT is an autonomous society under the administrative control of Ministry of Electronics &amp; Information Technology Government of India imparting training and skill to youth and public.</p> <p>2. S. No. 69 and 71 of Notification No. 12/2017 dated 28.06.2017 already provide exemption to a number of skill development activities. Any service provider satisfying the criterion laid therein could claim GST exemption.</p> <p>3. As far as, NSQF is concerned, it is deemed to be a universal quality standard framework for training as well as education imparted throughout India. It has no implication to taxability or otherwise in GST.</p> <p>No change recommended.</p>
76.	Allow body corporates to pay GST on forward charge basis in case of receipt of sponsorship service.	The body corporate providers are not able to claim input tax credit on the sponsorship services.	<p>The request was taken to 28<sup>th</sup> GST Council meeting held on 21.07.2018 [Agenda item 7, para 5, Annexure VI]. The Council did not agree to the same. Sponsorship service is provided even by many non-commercial establishment, institution etc. A separate dispensation merely for body corporate is not desirable.</p>

Sl. No.	Request	Details of Request	Fitment Committee discussions and recommendation
			No change recommended.
77.	Reduce GST from 28% to 12% on services by way of admission to events whose tickets are sold through a digital platform.	<p>GST Council has been removing items from the 28% bracket excluding sin and luxury items.</p> <p>High GST of 28% meant for sin or luxury items is affecting the growth of the live entertainment sector. Apart from live entertainment events, only services provided by race clubs and gambling are taxed at 28%.</p> <p>Some of the live events like Indian classical dance, folk dance, theatrical performance, drama is taxed at 18%. Other live entertainment events like theme parks, water park, joyrides, sporting events like IPL, horse racing are taxed at for way of admission 28%.</p>	<p>28% is levied only on certain activities like horse racing, IPL, facilities having casino etc.</p> <p>Entry to other entertainment activities attract GST at the standard rate of 18%.</p> <p>Hence no change recommended.</p>
78.	To waive GST for 1 year from date of resumption of regular cinema operations.	<p>Multiplexes and cinema halls have been closed since Mar, 2020 in the wake of COVID 19 pandemic, this has resulted in nil revenues and zero cash flow for the industry.</p> <p>However, operating expensed like staff salaries, electricity bills, rent and maintenance charges, other administrative costs have to be borne.</p>	<p>This is a new exemption request. Exemption/lowering GST rate will lead to cascading of input taxes and result in distortion of tax structure.</p> <p>No change recommended.</p>
79.	Exempt GST on film and entertainment industry including sale of tickets OR reduce GST to 5% uniformly on film and entertainment industry including sale of tickets.	<p>The industry has been severely hit by the pandemic. The producers are to pay GST irrespective of the fact whether the expenses incurred on making the film have been recovered or not. A uniform rate across states is required to reduce the disparity between Hindi Films and regional films.</p>	<p>Exemption/lowering GST rate will lead to distortion of tax structure. Further, providing exemption or special rates for a particular user group goes against the basic principles of GST. The GST rate applies uniformly across states.</p> <p>No change recommended.</p>

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80.	Waiver of GST for animation film on Sri Aurobindo made by Sri Aurobindo Society	On the 150 <sup>th</sup> birth anniversary of Sri Aurobindo, a freedom fighter, the society has decided to make an animation film on Sri Aurobindo's role in India's freedom movement to inspire youth and students of the country. The film is non-commercial in nature.	This is a new exemption request. Exemption for a specific case may not be desirable.
81.	To amend the law regarding Place of Supply of Intermediary service providers.	<p>Commission paid to Indian agents is included in the price paid by the importer and hence the commission is subjected to double taxation.</p> <p>Overseas suppliers export goods to Indian importers attracting a levy of customs duties. As per section 2(13) read with section 13(8) of the IGST Act relating to place of supply in case of cross border services, IGST at 18% is leviable on such commission as it is not considered as export of services.</p> <p>The intermediaries are unable to recover such IGST from their foreign customers, as they do not pay Indian taxes for which no credit/set off are available to them in their home countries.</p>	<p>CBIC vide Circular No. 159/15/2021-GST dated 20.09.2021 has already clarified the scope and nature of intermediary services along with illustrations.</p> <p>No change recommended.</p>
82.	Extend GST exemption to all payment intermediaries involved in settlement of transactions undertaken over digital networks upto Rs. 2000/-.	Settlement of payment through digital means requires minimum of 4 intermediaries viz. the Customer's Bank, Merchant's Bank, Fintech Company and an Aggregator (such as Transmart). Exempting only one part of the transaction [Merchant's bank] chain leads to blocking of ITC since the service of Transmart is exempt.	<p>Sl. No. 34 of Not. No. 12/2017- CT (R) 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.</p> <p><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, who makes the payment to any person who accepts such card.</i></p> <p>Therefore, exemption is to the</p>



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			<p>entity/person that makes the payment to any person (merchant in this case) who accepts such cards. In the instant case, Merchant bank is the acquiring bank as it only makes payment. Hence, this exemption is available to merchant banks and not to others.</p> <p>Request may not be accepted.</p>
83.	To exempt GST on overseas correspondent bank charges.	<p>GST authorities have taken a position that the banks in India are the recipient of services provided by the overseas correspondent bank and the charges charged by that overseas bank becomes part of consideration for the overall services rendered by the bank in India. Therefore, banks in India are liable to pay GST under the reverse charge mechanism.</p> <p>On the other hand, the banking industry has taken a position that the customer (and not the bank in India) is the recipient of the overseas bank's services for the following reasons:</p> <ul style="list-style-type: none"> <li>- <u>no specific written contract</u> between banks in India and overseas correspondent bank(s).</li> <li>- E-transaction commences at the <u>behest of the customer</u></li> <li>- Bank charges are not a cost of operation for the bank in India and the same are <u>borne by the customer</u>.</li> </ul> <p>Further, FAQs published by CBIC on June 3, 2018 for the financial services sector, covering banks, NBFCs and insurance companies, clarified that in the present situation, there are two supplies namely, <i>one from the bank in India to the importer/exporter and one from the overseas correspondent banks to the bank in India</i>. Hence, the liability to discharge GST on such supplies will be required to be determined accordingly.</p>	<p>Overseas banks provide service to the recipient bank in India. The default place of supply provisions as prescribed in section 13(2) of the IGST Act will apply and consequently, <u>place of supply</u> is the location of the recipient which is India.</p> <p>IGST is levied on import of service and has to be discharged by the service recipient on <u>reverse charge basis</u> {Sl no 1 of notification No 10/2017-Integrated Tax (Rate) dated 28.06.2017 refers}, for which the recipient is entitled to ITC that can be utilised to set off tax liability.</p> <p>The domestic banks could avail ITC of tax paid by them on reverse charge. Hence, it is neutral regime.</p> <p>No change recommended.</p>



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		<p>For the first supply, (i.e., the bank in India to the exporter/ importer), the bank in India would be paying GST on the fee/commission income for the services provided to the customer.</p> <p>For the second supply, the bank in India would communicate the total charges deducted as overseas correspondent bank charges to the customer. Thus, the recipient (the customer) should pay IGST on the overseas bank's charges, under the reverse charge mechanism.</p>	
84.	GST be eliminated on management fees or extend the deemed export status for services rendered to AIFs.	<p>IVCA has submitted that investment management fee is the biggest expenditure for the AIF industry. Typically, such investment management fees constitute 2-3% of the value of the assets managed in an AIF per year. While management fees charged to VC/PE fund located in an offshore jurisdiction is exempt from GST, the management fees charged to an onshore fund located in India/ AIF attracts GST@18%. Since an AIF is only a pooling vehicle for investments and does not provide any service, there is no output GST liability and it is not able to utilize input tax credit of GST. Thus, this incremental GST becomes an additional cost for the foreign investors in the AIF and acts as an impediment to onshoring of funds into India via AIFs.</p> <p>2 Further, it is submitted that the impediments to onshoring from an income tax perspective has been addressed and a beneficial treatment from a Foreign Direct Investment (FDI) perspective has already been instituted. Thus, the economic and taxation policy should now address the GST challenge described above which is posing an impediment to onshoring of VCPE funds from overseas jurisdictions due to the incremental GST costs. A suitable clarification be issued under the</p>	<p>The said issues were also placed before the GST Council in its 43<sup>rd</sup> meeting held on 28.05.2021. The Council did not accede to the request.</p> <p>As such management of a fund, even if AIF is pass through, is a taxable service. Applicable tax is 18% on 2-3 % management fee. AIF could also avail ITC on their inputs (which also normally attract 18% GST).</p> <p>As regards place of supply, it is the recipient's location for such financial services. Hence, if AIF provided service (as per agreement, billing etc) to a recipient located outside India, they would be entitled to benefit of export of service if the other condition like receipt of consideration in foreign currency etc are met.</p> <p>Request may not be accepted.</p>

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		<p>GST regulations to elucidate the pass-through mechanism on the following bases:</p> <p>(a) The investors to the AIF are considered as the recipients as they bear the cost of fund management services; while the AIF only functionally uses such fund management for the making the investment;</p> <p>(b) The services provided by the Fund Manager are treated to be rendered to the investors who are ultimately liable to be pay for such services; and</p> <p>(c) The place of supply for the services provided by the Indian Fund Managers is the location of the investors investing in such AIF.</p> <p>3. It is also submitted that the Fund Managers providing the services should be accorded a proportionate export benefit on the fund management fees charged on foreign investments being pooled in the AIF upon meeting the specified conditions. The Fund Manager would need to raise tax invoices as prescribed under the GST law on the offshore investors (being the recipient of services) for claiming this export benefit. The quarterly declaration of foreign and domestic investments made by the AIF to the Securities and Exchange Board of India (SEBI) can be a basis to assess this. A similar approach has been adopted in various countries (especially Singapore), including via offering outright exemptions.</p>	
85.	To rationalize/reduce the GST on services in the capital market sector and reduce it to 12 % from 18 %.	The capital market in India is burdened with numerous transaction cost which includes various direct and indirect taxes, i.e., STT, GST, Stamp Duty, etc. Capital market has continuously seen an upswing in the service tax/GST rates from a nominal 5% to 18%. Reducing the rate will help stimulate further demand and attract	There is not much rationale for a concessional GST rate on services in the capital market services. GST rates have been fixed based on after detailed deliberations, considering, inter alia, the past tax incidence, the tax applicability on inputs and the revenue neutrality of GST rates. Lowering GST rate will lead

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		investments.	to cascading of input taxes.  No change recommended.
86.	Restriction (with respect to non-availment of ITC), prescribed under entry 7(ii) of Notification No. 11/2017-CT (rate) dated 28.06.2017 may be relaxed at least where input and input services are used for any activity which is obligatory for an employer to provide the same to its employees under any law (time being in force) thereby aligning the same with provisions contained in Section 17(5) of the CGST Act, 2017.	<p>1. Sec.17(5)(b) of the CGST Act, 2017 allows ITC on food and beverages, outdoor catering etc. is allowed provided it is obligatory for an employer to provide the same to its employees under any law for the time being in force.</p> <p>2. However, entry 7(ii) of Notification No. 11/2017-CT (rate) dated 28.06.2017 disallows the availment of the ITC while prescribing 5% GST rate.</p> <p>3. Relaxation in this regard will remove the dichotomy present in GST Law.</p>	<p>ITC is blocked on restaurant and catering services. However, there is no bar in entry 7(ii) of notification No. 11/2017-CT (rate) on the recipient of food and beverages for availing ITC if otherwise eligible for such ITC in terms of section 17(5)(b), could avail ITC (obligatory services to be provided an employer).</p> <p>No change recommended.</p>
87.	(a) Request for restoration of ITC for restaurant industry by revising the GST rate to 12% with ITC; (b) To provide two rates of GST for restaurant service i.e., existing 5% without ITC and also new rate of 12% with ITC (similar to service of goods transport agency)	<p>(a) The requested new rate of GST at 12% with ITC would address the concerns of 6 Lakh numbers of restaurants who have ITC more than 4 to 8 % of their turnover. It may be noted that any additional benefit to industry will result in benefit to the end customers. Thus, it is a win – win situation both for the industry/Government as well as the consumers.</p> <p>(b) GST may be increased from 5% to 12% with ITC as an option to restaurants. Nearly 50% of the inputs are from unregistered service providers to reduce to operating cost by 4%. Input costs are high from rent, air conditioners, furniture, manpower</p>	<p>The 23rd GST Council meeting held on 10 November 2017 based on the recommendations of GoM recommended the rate of 5% without input tax credit on restaurant service.</p> <p>Further, 37<sup>th</sup> GST Council meeting held on 20.09.2019 did not accede to the request for giving two rates for restaurant sector.</p> <p>No change recommended.</p>

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	<p>(c) To continue existing rate of GST for restaurant service provided by standalone restaurants, dhaba, canteen etc @ 5% without ITC.</p> <p>(d) Request to rationalise GST rates for restaurant sector with three tier tax structure on the lines of hotel industry as follows:            Restaurant companies with turnover of upto Rs 2 cr @ 0% GST.            Restaurant companies with turnover above Rs 2 cr but less than Rs 7.5cr @ 5% GST.            Restaurant companies with turnover above Rs 7.5 cr @ 12% GST with ITC.</p>	<p>supply, performing artists.</p> <p>Government is losing revenue in excess of Rs 4,000 crores per annum because of break in the supply chain of restaurant due to ITC blockage.            Also, growth of restaurant chains has decreased and more than 20,000 restaurants closed down in previous financial year due to high input costs and COVID pandemic.</p> <p>(c) The Covid pandemic has affected the restaurant sector adversely. Nearly 40% of all restaurants are facing complete closure permanently due to lockdowns.</p> <p>There is low footfall of customers at restaurants and high fixed costs such as electricity, rents and staff wages amongst others.</p> <p>(d) Hospitality sector is the highest employment generator in the vertical and due to pandemic, there have been severe job losses.</p> <p>Further, restaurants in the organised sector are severely hit by the denial of ITC on food services and also led to loss of revenue to government</p>	
88.	<p>(a) To rationalize GST rates prevalent on food items being served by hotel.</p> <p>(b) To enhance the threshold limit of hotel room tariff for charging 18% GST from Rs 7500/- to Rs 9500/-.</p> <p>(c) Enhance the</p>	<p>The GST on hotel accommodation for rooms with room tariff above Rs 7500/- is 18% and between Rs 1000/- to Rs 7500/- is 12%. However, the GST on food items served in these hotels have not been rationalized accordingly, which in turn raises the cost of staying/dining at hotels.</p> <p>Raising the threshold will bring parity of rates between the Rupee and the dollar. While the threshold was fixed at Rs 7500/-, the exchange rate of Dollar per Rupee stood at 64, but the same reached at Rs 76</p>	<p>Presently, on restaurant service, GST is charged at two rates- at the rate of 5% (without ITC) for all restaurants except the restaurants in premium hotels, and at the rate of 18% with ITC in case of restaurants in premium hotels.</p> <p>The Council after extensive deliberation and discussion, in its 37th meeting held on 20th September, 2019, while rationalizing the GST rate on room rent in hotels (exempts upto Rs1000, 12% for rent between Rs1001-Rs7500 and</p>

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	threshold limit for GST exemption for hotel rooms from Rs 1000/- to Rs 2000/- .	<p>per dollar today.</p> <p>It will boost the lower budget segment, which in turn will encourage more domestic travellers to venture out and thereby promote the tourism sector in a big way. Under the present situation, where foreign travel is almost zero, promotion of domestic tourism is the need of the hour.</p>	<p>18% for others), also recommended to continue GST at the rate of 18 % with input tax credit (ITC) on the restaurant service supplied in premium hotels i.e., hotels having room tariff of above Rs 7500 per unit per day.</p> <p>No change recommended.</p>
89.	To clarify as to whether Paytm which facilitates the booking of food and beverages supply only through electronic platform is required to undertake GST compliance under section 9(5) of the CGST Act, 2017.	<p>Paytm is an ECO which offers technology driven services to support booking and collecting consideration from the end customers for various food and beverages (F&amp;B) offered by restaurants, cinema theatres etc. (suppliers). Paytm does not run a food delivery application and at no point in time is involved in the delivery of any F&amp;B.</p> <p>The onus and infrastructure to supply F&amp;B is the sole responsibility of suppliers and Paytm provides a platform to book such supplies of F&amp;B.</p>	<p>The Paytm app has a sub heading called Discover with App. Under that heading, when we opt for order for food, it may show “Mini App Store”, which enables users to order food via their app. There are two options namely Order-In and Dine-Out are available there-.</p> <p><u>Order-in:</u> In Order-In, there are various restaurants listed and the users can click on the restaurant of their choice and it is <u>redirected to the web page</u> of the said restaurant, wherein further options given by the restaurant are available such as delivery/take away/dine in.</p> <p>In this case, the page is redirected to the webpage of the respective restaurant. Paytm acts as a payment gateway as well, for making payment on the webpage of the respective restaurant.</p> <p><u>Dine-out:</u> In Dine Out there are <u>various deals</u> that are offered on the platform such as multicourse meal deals, buffet deals, pizza deals, deals on drinks, thali deals and so on. Various offers and deals of restaurants, including vouchers are listed on their platform. There are <u>two offers</u> available in the Dine Out option, namely, <i>cash voucher</i> and <i>booking</i> buffet/combination meals such as brunch plus drinks (alcoholic/soft drinks) etc.</p>

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			<p><u><i>In case of cash vouchers-</i></u></p> <p>As seen from the details available on Paytm platform, it has been mentioned that it is a voucher which is being issued. Voucher is defined in the CGST Act, 2017 under section 2(118) as follows:</p> <p>“voucher” means an instrument where there is an obligation to accept it as <u>consideration</u> 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;”</p> <p>It is evident from the details as provided on Paytm platform that there is an obligation to accept it as consideration or part consideration for supply of restaurant service.</p> <p>In the case of booking pre-customized <u>buffet/combination meals</u> which are booked on the Paytm platform, the details of the validity/terms as specified on Paytm platform are as follows:</p> <ul style="list-style-type: none"> <li>• Timings are clearly defined [For instance, a certain booking is not valid on Saturday/Sunday and certain dates as specified and is valid between 12.30pm to 03.30pm on weekdays]</li> <li>• Applicable for dine-in and not valid for takeaway/home delivery</li> <li>• Non-cancellable</li> <li>• Valid for 30 days from purchase</li> <li>• The email voucher has to be presented at the restaurant</li> <li>• Prior mandatory reservation has</li> </ul>

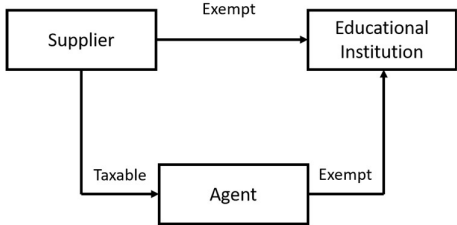
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			<p>to be made at the restaurant</p> <ul style="list-style-type: none"> <li>• Inclusive of all applicable taxes and service charges</li> <li>• Cannot be clubbed with any other offer</li> <li>• Menu is clearly specified</li> </ul> <p>It can be seen that in this case payment is made as a consideration of restaurant service only.</p> <p>Paytm has also informed to have deducted TCS u/s 52 of CGST in these scenarios.</p> <p>In view of the above, it may be seen that Paytm is engaged in different activities associated with supply of restaurant services viz. as a gateway redirecting customers to various webpages of restaurants, as a payment gateway, as an issuer of voucher as consideration. Whether a particular supply of service is made by an assessee is depending upon the facts of the case and if a supplier needs some certainty, they may approach advance ruling.</p>
90.	<p>(a) Reimbursement/exemption of GST for all businesses and tourism industry for a period of 1 – 5 years for stabilization and providing a regenerative environment in Ladakh.</p> <p>(b) Request to reduce GST on the tourism sector for the UT of Ladakh.</p> <p>(c) GST waiver for</p>	<p>Tourism is the predominant industry of Ladakh with travel industry accounting for more than 60% of the economy.</p> <p>Ladakh usually faces a steep drop in business during the winter season. And coupled with the repercussions of Covid - 19 pandemic, the region is estimated to have slowest economic recovery.</p> <p>The dependency of local economy of Ladakh is very high on tourism sector, thus there is a strong demand from the stake holders to reduce the GST rate on tourism.</p>	<p>Exemption/lowering GST rate will lead to cascading of input taxes and result in distortion of tax structure. No rationale.</p> <p>Tourism service is already taxed at the lowest slab of 5% GST with ITC of input services in the same line of business.</p> <p>Any reduction of GST rate on tourism for a particular state/UT would be against the spirit of one nation, one tax.</p> <p>However, a separate proposal has been submitted before the Council for providing relief to tourism industry considering that they have issues like non eligible ITC etc.</p>

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	three years to travel agents/tour operators in J&K  (d) GST waiver/reduction/deferment for three years for hotels, guest houses, restaurants, cafes and houseboats/shikaras in J&K.		No change recommended.
91.	1. Removal of Anomalies of GST on cruise ticket booking.  2. Removal of GST on import of cruise ships.	<p>Sale of cruise tickets / packages attracts GST at a rate of 18% while sale of airline tickets attracts GST of 5% for economy class and 12% for other classes.</p> <p>Imposition of GST@ 18% on cruise tickets is dissuading Indian and foreign nationals from boarding a cruise ship from any port in India. Most of the other foreign ports do not impose any GST on cruise tickets. The Indian cruise ship owners also indicated that most of the passenger transport service either are zero-rated or attract GST @ 5% on economy class and @ 12% on other classes.</p> <p>Indian cruise tourists when they purchase cruise tickets in India for taking cruise from foreign ports have to pay 18% GST. When the same tourist purchases tickets from foreign agent there is no GST as the service is being provided abroad. Thus, foreign agents earn profit on sale of tickets.</p> <p>India does not manufacture any cruise ships. These have to be imported and attract IGST at the rate of 5%. Imposition of 5% IGST on import of vessels will be a huge disincentive for Indian entities intending to start their own cruise services. In pre-GST regime, cruise ships were exempted from such an equivalent custom duty and the IGST should be exempted on import of</p>	<p>Proposals to reduce GST on cruise shipping have been examined earlier on the following occasions:</p> <ul style="list-style-type: none"> <li>• Fitment Committee meeting held on 9th &amp; 10th July, 2018</li> <li>• 28th GST Council meeting held on 21.07.2018</li> <li>• 31st GST Council meeting held on 22.12.2018</li> <li>• 9th Inter Ministerial Coordination Committee for Tourism Sector (IMCCTS) held on 23.07.2019</li> <li>• 37th GST Council meeting held on 20.09.2019</li> <li>• Reference received from NITI Aayog</li> </ul> <p>The proposal to reduce GST on cruise shipping were discussed and not agreed to each time.</p> <p>GST rate on cruise travel (18%) cannot be compared with or equated with GST rates on transport of passengers by air (5% without ITC in economy class and 12% in business class). ATF used by airlines is outside GST and attracts excise duty, VAT besides other indirect levies. Its ITC is not available for paying GST on the output service of transportation by air. However, cruise ships use predominantly bunker fuel</p>



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		cruise vessels in India.	<p>which is within GST. Bunker fuels for use in ships and vessels (IFO 180 CST and IFO 380 CST) attract 5% GST and its ITC is available. Further, ITC of all input goods, services, capital goods are available to a cruise ship and therefore, it attracts rate of 18%.</p> <p>The service provided by a cruise is not equivalent to transportation of passengers as the objective of the cruise is to provide luxury accommodation along with entertainment and recreation on board. Quite often the amount charged is for the duration of the stay on board, based on the tour package and also depending upon the class of accommodation booked onboard. It is also important to note that at times the place of embarkation and final destination are same in case of cruise packages. Therefore, equating the same to passengers' transportation service may not be appropriate as the service is more akin to hospitality service. [For comparison the accommodation services attract GST @ 18% for accommodations having tariff above Rs 7500/-, and admission to entertainment events attract GST @ 28%]</p> <p>The 5% IGST levied on import cruise ships falling under heading 8901 is available as ITC for payment of GST on supply of services. In so far as Customs duty on cruise ships is concerned, BCD is exempt on the import of cruise vessels.</p> <p>No change recommended.</p>
92.	Reduce rate of GST on online media from 18% to 5%.	Outdoor Advertising known as Out of Home (OOH) events has been adversely affected in the wake of the COVID pandemic. Outdoor media is taxed at 18% while newspaper advertising is taxed at 5%.	This is a request for new exemption. It was taxed in service tax regime also at the standard rate. Further, the consumer base of newspaper and online portals are very different. Also, this is mostly a

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		Outdoor media owners buy rights from Municipal Corporations, Railways, Airport Authority, Metro etc and as per their contract they are bound to pay full licence fee in any condition, whether they get their business or not. Outdoor media has become the last option for every campaign whereas newspapers, TV, radio, social media are gaining priority over outdoor media advertising resulting in reduced budget for the latter.	business service and recipient could avail ITC.  Request may not be accepted.
93.	Request to:  a. reduce taxes on all the production processes and raw materials used for publication of educational books to 5%  b. abolish GST which is payable on RCM basis on payment of Royalty to Authors for writing educational books and materials.  c. allow to claim refund of the Input tax paid.	GST is being paid at every stage of the publication process –from purchasing papers, plates to various production processes like printing, binding, lamination, transportation and even on royalties (under RCM). However, as books are under exempt category, it is not allowed to collect GST from end consumer and also not allowed to claim set off of input tax paid at various stages of production. The GST paid is nearly 450% of the taxes paid under VAT regime.  In VAT regime, it was allowed to claim refund of input the VAT paid on the inputs after remission and it helped to keep the cost of books low.	Request amounts to Zero rating / deepening of exemptions. May not be accepted.
94.	To exempt supply of online journals when supplied to a person other than educational institution also OR To make the entire	Supply of online journals to educational institutions is exempt from GST vide Notification No. 12/2017-CT (R) dated 28.06.2017.  Supply of online educational journals and periodicals are subject to GST when supplied to recipients other than	Supply of online journals to educational institutions was exempted from GST w.e.f 25.01.2018.  While supply of online journals directly to educational institutes is exempt, the same through vendors is not eligible for exemption.

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	<p>value chain taxable.</p> <p>(b) To remove the distinction in taxability of print and digitized versions of journals</p> <p><b>Reference:</b> <b>SAGE Publications India Pvt. Ltd.</b></p>	<p>educational institutions.</p> <p>Accordingly, when online journals supplied to educational institutions through subscription agents, suffer GST as shown below. This, defeats the purpose of exemption.</p> <p>SAGE has informed that around 60-70% of the journals' business is routed through distributors/subscription agents.</p>  <pre> graph LR     Supplier[Supplier] -- Exempt --&gt; EducationalInstitution[Educational Institution]     Supplier -- Taxable --&gt; Agent[Agent]     Agent -- Exempt --&gt; EducationalInstitution </pre> <p>Part of the supply chain (from supplier to agent) is taxable while the next leg of supply from supplier's agent to educational institutions is exempt. This leads to blockage of credit and hence, additional cost to education sector.</p> <p>Further, while the print journals are exempt from GST irrespective of the recipient, the online journals are subject to tax if supplied to other than educational institutions. This distinction dilutes Government's vision of Digital economy.</p>	<p>However, rate differential in such a situation is unavoidable, particularly if the intention is to exempt input services provided to the educational institute is concerned.</p> <p>Status quo may be maintained.</p>
95.	Reduce rate of GST on dry-cleaning and laundry service from 18% to 5%.	<p>GST rate on job work services in textile sector is 5%.</p> <p>The services of dry cleaning and laundry are similar to that of job work services.</p> <p>Further, it is a labour-intensive sector and provides employment to a lot of people. Further, if the rates are reduced, it will make our exports competitive since dry cleaning and laundry are an important part</p>	<p>Dry cleaning service was taxed in service tax regime at the standard rate.</p> <p>Threshold exemption upto Rs 20 lakhs composition scheme upto Rs. 50 lakhs (@6%) is available.</p> <p>Further, in case of exports, the ITC of the inputs and input services is available as refund. Thus, it does not become cost.</p>

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		for export of garments.	No change recommended.
96.	Request to have 3% GST (without ITC) on the monthly charges being levied by RWAs, irrespective of the amount.	<p>Rationalize the GST on the maintenance charges being levied by RWAs: Currently apartments incurring over Rs. 7500/- as maintenance are required to pay 18% GST.</p> <p>Living cost further goes up as RWA has to recruit a CA to do input output GST reconciliation and reversals.</p> <p>In this regard, it is requested to have one single rate of tax 3% for all irrespective of amount, no input tax. This arrangement will ward off unnecessary tax compliance burden on the residents.</p>	<p>New rate of 3% GST (without ITC) on the monthly charges, irrespective of amount collected, may unnecessarily put burden on the residents who are currently exempt from GST.</p> <p>Moreover, recourse to lower rated with restriction of ITC should generally be avoided in GST, as it results in blockage of credit and goes against the seamless transfer of ITC under GST.</p> <p>No change recommended.</p>
97.	Request to increase the limit of contribution made to Resident welfare associations (RWA) by the members from Rs 7500 to Rs 10,000.	It is requested to increase the present limit of Rs. 7,500/- to Rs. 10,000/- as several limit input costs have increased in the urban areas and with this, monthly maintenance fee has also increased.	<p>The decision to increase the limit from Rs 5000 to Rs 7500 was taken by the GST Council in its 25th meeting held on 18.01.2018 [S.N. 15, Annex –I, Vol 2] after due deliberation.</p> <p>It has revenue implication, may not be accepted.</p> <p>No change recommended.</p>
98.	GST exemption of services provided by the NCISM (National Commission for Indian System of Medicine) and NCH (National Commission for Homoeopathy), being the statutory regulatory authorities.	<p>National Commission for Indian System of Medicine (NCISM) and National Commission for Homoeopathy (NCH) are regulatory authorities constituted in the year 2021 under the NCISM Act, 2020 and NCH Act 2020 respectively.</p> <p>They carry out inspections of medical institutions of Indian System of Medicine &amp; Homoeopathy for assessing the compliance of standards before rating of colleges and granting permissions.</p> <p>Hence, the fee collected by the Commissions in executing the statutory requirement may not be considered as a Service.</p>	<p>There is no blanket exemption to statutory bodies in GST. Many statutory bodies like Warehousing Development and Regulatory Authority (WDRA), Petroleum and Natural Gas Regulatory Board) are not exempt from GST.</p> <p>In the 45<sup>th</sup> GST Council meeting, request of International Financial Services Centres Authority which is a regulatory body for International Financial Services Centres to exempt the fee charged by them from GST was not accepted.</p> <p>No change recommended.</p>

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99.	Whether career guiding course (like MPSC, UPSC preparation courses) which are approved by the university and run by colleges are taxable or exempt?		<p>Services provided by an educational institution to its students, faculty and staff are exempt vide Sl. No. 66 of not. No. 12/2017 dated 28.06.2017.</p> <p>However, guidance courses for MPSC/UPSC preparation are not the courses covered in definition of education services in either in form of education as a part of a curriculum for obtaining a qualification recognized by any law for the time being in force or, education as a part of an approved vocational education course.</p> <p>Therefore, these courses are liable to GST without any doubt.</p> <p>No change recommended.</p>
100.	<p>Request to:</p> <p>(a) Relieve ICRISAT from compliances like registration and return filing etc. under the GST laws for outward supplies.</p> <p>(b) Exempting all outward supplies of ICRISAT from GST ; or</p> <p>(c) notifying all outward supplies of ICRISAT under Reverse Charge Mechanism (RCM).</p>	<p>ICRISAT has granted privileges, benefits and exemptions under the United Nations (Privileges &amp; Immunities) Act, 1947.</p> <p>Activities of ICRISAT include: capacity building, organization of international, national scientific conferences and seminars, training and workshops, meetings, and other agriculture related events, disposal of old and used machinery/ equipment/ goods, used vehicles, waste and scrap etc. including disposal of hazardous waste etc.</p> <p>ICRISAT partners with government agencies (central/state agencies), research institutions, universities, ICAR, students and researchers of government institutions.</p> <p>If outward supplies of ICRISAT are notified under RCM, entities like PSUs, state seed corporations, corporates and other similar private bodies/organizations, NGOs and other GST registered bodies/organizations will be liable to pay</p>	<p>Request to exempt all outward supplies of goods and services made by International Crops Research Institute for semi-arid tropics (ICRISAT) was earlier considered by the 45<sup>th</sup> GST Council meeting held on 17.09.2021 and rejected.</p> <p>As regards the request to place all their output supplies under RCM, ICRISAT was requested to inform the exact description and details of outward supplies of goods and services which ICRISAT wanted to be put under RCM, the recipients of those supplies and the persons/organizations which will become liable to pay GST under RCM on those supplies.</p> <p>The statement of ICRISAT that Government departments and institutions, ICAR , individuals like scientists, students and researchers from government institutions, universities and government research organizations will not be the recipients of taxable</p>

Sl. No.	Request	Details of Request	Fitment Committee discussions and recommendation
		<p>GST under RCM.</p> <p>Government departments and institutions, ICAR, individuals like scientist, students and researchers from government institutions, universities and government research organizations will not be the recipient of taxable supplies from ICRISAT and hence they will not have any liability to pay GST under RCM.</p> <p>ICRISAT does not make any supply to farmers directly.</p>	<p>supplies from ICRISAT and hence liable to pay GST under RCM appears to be contradictory to their own statement that they partner with government agencies (central/state agencies), research institutions, universities , ICAR, students and researchers of government institutions.</p> <p>Reverse charge mechanism is primarily aimed at reducing compliance burden on small service providers in unorganized sector.</p> <p>Services of ICRISAT are consumed by scientists/ researchers / public authorities/ Government Departments/ research institutes/NGOs/PSUs/ State Seed corporations etc. Disposal of old and used machinery/ equipment/ goods, used vehicles, waste and scrap etc. is also expected to be done to individuals or small organizations. If the supplies of ICRISAT are placed under RCM, it will put compliance burden on scientists/ researchers / public authorities/ Government Departments/ research institutes/NGOs/State seed corporations etc. unless ICRISAT excludes them from its activities of capacity building, scientific conferences and seminars, training and workshops and other agriculture related events, disposal of old and used machinery/ equipment/ goods, used vehicles, waste and scrap etc.</p> <p>Shifting the tax liability from ICRISAT to scientists/ researchers / public authorities/ Government Departments/ research institutes/NGOs etc. under RCM, would be contrary to the objectives of collecting tax under RCM and add to the administrative burden of collecting tax from numerous recipients</p>

Sl. No.	Request	Details of Request	Fitment Committee discussions and recommendation
			<p>instead of the single service provider.</p> <p>Even the Rajya Sabha and Lok Sabha Secretariats have not been granted any exemption from registration. Their request in this regard was rejected in the 25<sup>th</sup> GST Council meeting.</p> <p>In view of the discussion above, we may not accede to the request of ICRISAT to notifying supply of all goods and services provided by ICRISAT under reverse charge.</p> <p>No change recommended.</p>
101.	<p><b>A.</b> Request of rolling back of amendment vide notification No. 15/2021- CTR dt 18.11.2021,</p> <p><b>OR</b></p> <p><b>B.</b> Transferring of the State Funded and Central Funded projects like Irrigation, Medical, Educational infrastructure and the like from the existing 3(iii) to 3(iv) of Notification No. 11/2017 Central Tax (Rate), dated the 28th June 2017.</p>	<p>A large share of welfare &amp; development works in Andhra Pradesh are being executed through Corporations or SPVs.</p> <p>The additional burden would only displace expenditure from development works.</p> <p>As per the amendment, roads and housing will continue to be taxed at 12% whereas irrigation projects executed by governmental authorities and government entities will face 18%.</p> <p>It is most likely that several SPVs would be shut down and their work transferred to the government departments.</p> <p>Even where the works are undertaken by a Government Entity, the actual sanctioning, Budget, Collateral guarantees etc. are from the State Governments only. Thus, in all practical sense, these are projects by the Government.</p> <p>In many cases, the contracts are entered at a fixed consideration inclusive of all taxes. A 6% increase of the overall cost of the project is a huge incidence for any contractor.</p> <p>Out of the proposed 6% hike, 3% will accrue to State Governments and 3% to Central Government. Out of the 3%</p>	<p>Decision to withdraw concessional rate of GST on works contract supplied to governmental authority and government entities was taken by GST Council after detailed deliberations.</p> <p>The decision is more or less revenue neutral for the States and Centre. It is expected to reduce interpretational disputes and plug revenue leakages. Lower rate on works contracts results into inversion as most of the inputs are at 18% and cement is at 28%.</p> <p>No change recommended.</p>

Sl. No.	Request	Details of Request	Fitment Committee discussions and recommendation
		additional revenue to Central Government, almost 40% will any way devolve back to state Governments. In all, there will be limited incremental revenue increase for any of the governments.	
102.	To reduce/exempt GST on Business Correspondent services provided to urban poor/migrant workers.	<p>The department has already exempted Business Correspondent services/intermediary services provided by Business Correspondent to a banking company w.r.t accounts in its rural area branch or PMJDY accounts from GST vide sl. No 39 of notification No. 12/2017- CTR dated 28.06.2017.</p> <p>As nearly 50% transactions in BC platform pertain to urban poor/migrant workers who are vulnerable groups needing BC services, GST may be reduced or made nil.</p>	<p>It is a request for new exemption. Exemption/lowering GST rate will lead to cascading of input taxes and result in distortion of tax structure.</p> <p>Banking companies are entitled to ITC of GST paid on services of business correspondents.</p> <p>No change recommended.</p>



**f) Issues deferred by the Fitment Committee for further examination in relation to services - Annexure VI**

**Annexure-VI**

<b>Sl. No.</b>	<b>Proposal</b>	<b>Details of Request</b>	<b>Discussions in FitCom and its recommendation</b>
1.	To notify a mechanism for availment of ITC in cases where passenger transportation services by AC buses are supplied through an e-commerce operator (ECO).	<p>The applicant hires AC buses from bus owners. The bus owners charge GST from the applicant.</p> <p>Thereafter, the applicant provides passenger transport services wherein the ticket price charged from customers includes the cost of fuel.</p> <p>Passenger transport services attract GST @ 5% with ITC of services in same line of business.</p> <p>Earlier, the applicant was discharging GST on outward supply of passenger transport services by utilizing ITC of input service that is, leasing/renting of buses.</p> <p>However, w.e.f 1.1.2022, ECOs were made liable to pay tax under Section 9(5) of CGST Act in respect of services by way of transportation of passengers by any motor vehicle.</p> <p>Therefore, the liability to pay tax in respect of passenger transportation services provided by AC buses shifted from</p>	<p>ECOs were liable to pay GST on passenger transportation services by a radio taxi, motor cab, maxi cab, motor cycle supplied through them. However, w.e.f. 1.1.2022 ECOs have been made liable to pay GST on passenger transportation services supplied through them using any motor vehicle including buses.</p> <p>The same was done at the request of the industry to reduce compliance burden faced by small bus operators. However, an option in this situation could be to restrict Section 9(5) to only those cases where the service provider supplying the said service through ECO is not registered under GST, as has been the case with hotel accommodation and housekeeping services.</p> <p>It was broadly discussed that if bus owners supplying through ECOs want to avail ITC, they should pay tax at the rate of 12% with ITC. In case the bus owners want that the ECOs should continue to be liable to pay taxes on services supplied through the ECO, they would have to forego the ITC accumulated. The ECO in such scenario would continue to pay tax at 5%.</p> <p>However, in order to understand the ramifications of the aforesaid change, it was decided to gather more data on the issue.</p> <p>The matter may be deferred.</p>

Sl. No.	Proposal	Details of Request	Discussions in FitCom and its recommendation
		<p>applicant to ECO.</p> <p>The issue which has arisen due to the aforesaid change is that ITC of input services is getting accumulated with the applicant as there is no mechanism on GST portal to transfer ITC to ECO for payment of tax.</p> <p>The ECO, thus has to discharge the entire GST liability in cash despite significant ITC accumulation with the service provider.</p> <p>The applicant has requested that (a) the GST portal be suitably amended so that the ITC available to actual service provider is reflected in electronic credit ledger of ECO or (b) a facility should be made available to actual service provider so that he may transfer the ITC available in his electronic credit ledger to the ECO.</p>	
2.	To clarify the nature and taxability of various supplies in relation to cryptos eco-system.	<p>Crypto industry in India has been facing various challenges, concerns and scepticism like any new industry.</p> <p>The Virtual Digital Assets (VDA) industry has seen astronomical growth despite ambiguities around regulations. Two unicorns have come into existence.</p>	<p>Crypto assets refer to algorithm based decentralized convertible virtual asset protected by crypto-graphy.</p> <p>Crypto ecosystem involves various activities including mining, exchange services, wallet services, payment processing, barter system, and other different transactions etc.</p> <p>Recently, definition of Virtual Digital Assets has been proposed to be inserted in IT Act by Finance</p>

Sl. No.	Proposal	Details of Request	Discussions in FitCom and its recommendation
		<p>Finance Bill provision of 1% TDS (Direct Tax) on all VDA transactions and disallowing set off is expected to adversely affect the sector.</p> <p>Any additional tax, such as GST will further pose a challenge to this industry.</p>	<p>Bill, 2022 as follows:</p> <p><i>‘(47A) “virtual digital asset” means—</i></p> <p><i>(a) any information or code or number or token (not being Indian currency or foreign currency), generated through cryptographic means or otherwise, by whatever name called, providing a digital representation of value exchanged with or without consideration, with the promise or representation of having inherent value, or functions as a store of value or a unit of account including its use in any financial transaction or investment, but not limited to investment scheme; and can be transferred, stored or traded electronically;</i></p> <p><i>(b) a non-fungible token or any other token of similar nature, by whatever name called;</i></p> <p><i>(c) any other digital asset, as the Central Government may, by notification in the Official Gazette specify</i></p> <p>....</p> <p>Further, by way of inserting Section 115BBH in IT Act, income from transfer of such virtual digital asset is taxed @ 30% and by way of Section 194 S, provisions for deducting TDS @ 1% are also proposed to be inserted.</p> <p>RBI circular of 2018 prohibited banks and financial institutions from dealing in, and providing services for facilitating dealing in virtual currencies.</p> <p>However, the circular was struck down by the Hon’ble <b>Supreme Court</b> in the <b>case Internet and Mobile Association of India Vs RBI, 2018</b></p> <p>According to the <b>Lok Sabha bulletin</b> dated 23.11.2021, a Bill in this regard is on the anvil</p>

Sl. No.	Proposal	Details of Request	Discussions in FitCom and its recommendation
			<p>and is to be introduced in the Parliament.</p> <p>Therefore, it is required to identify all relevant supplies associated with crypto-ecosystem which are under the ambit of GST; their nature whether those activities are goods or services; their applicable rate based on appropriate classification etc.</p> <p>Fitment Committee discussed in detail various activities associated with crypto currencies &amp; NFT and taxability thereof. It was felt that the issues involved in crypto ecosystem need deeper study. It was decided that Haryana and Karnataka shall study all aspects and submit a paper before the Fitment Committee in due course.</p> <p>The issue may be deferred.</p>

5. The proposals, as contained in para 4 above are placed before the GST Council for consideration.

### **Agenda Item 7: C-PACE Project for Ease of Doing Business in India**

1 A proposal was received from Ministry of Corporate Affairs stating that they are planning to launch a Centre for accelerated exit under its broader mission of Ease of Doing Business in India. Centre for Processing Accelerated Corporate Exit (C-PACE) has been announced as part of the Budget Speech 2022 and will be established through Government Process Re-engineering in order to process all applications filed for voluntary exit centrally.

2 Further, they have stated that one of the requirements for disposing such applications is to get comments or objections from Government Ministries/ Departments and Regulatory Agencies. As part of the C-PACE, the comments will be submitted online.

3 Since the initiative is to be launched in a time bound manner, they requested DoR to nominate Primary and Secondary Nodal Officers (from CBDT, GSTN, ED) for the purpose and to forward their names and emails to Ministry of Corporate Affairs at early date. These Officers will be provided credentials to submit observations on behalf of the concerned Ministry/Department or Regulatory Agency.

4 Additional Secretary (Revenue) held a meeting with the officers of CBIC and CBDT on 6th April, 2022 and it has been decided that since nodal officers will take feedback from field formations before giving any consent or clearance, it will be more practical to have CBIC officers at the national level as Nodal Officers to handle the issues related to GST on behalf of both Central as well as State Jurisdiction. The appointment of CBIC officers as Nodal Officers to deal with GST issues would be placed before the GST Council for approval.

5 Given below are the particulars of the officers nominated as Nodal Officers to handle the issues related to GST on behalf of both Central as well as State Jurisdiction.

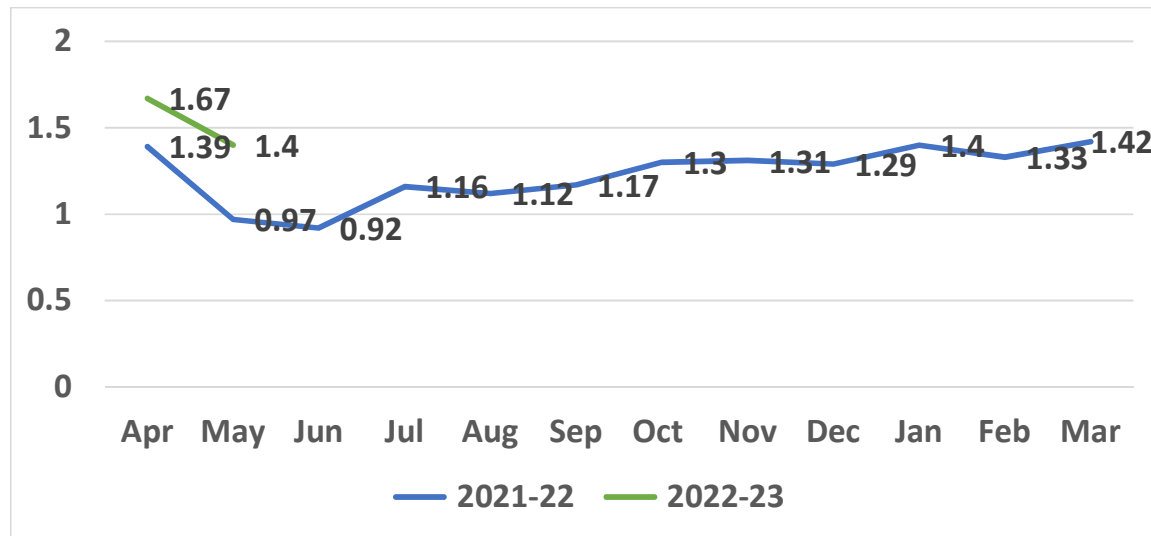
<b>Nodal Officer</b>	<b>Name of Officer</b>	<b>Designation</b>	<b>Email-Id</b>	
Primary	Shri Rajinder Singh	Commissioner/ADG (TAR), Directorate General of Performance Management (DGPM), New Delhi	r.singh93@nic.in	CBIC
Secondary	Shri Mukesh Kumar	Joint Director, (TAR), DGPM, New Delhi	mukesh.irs@nic.in	

6 Accordingly, the above agenda is placed before the GST Council for approval.

## Agenda Item 8: Review of revenue position under Goods and Services Tax

1. The Figure below shows the trend and Table 1 shows the details of the collection in FY 2022-23 vis-à-vis FY 2021-22.

**Figure 1: Monthly gross GST collection (in ₹ lakh crore)**



**Table 1: Monthly gross GST collection (₹ crore)**

GST Collection	Jan'22	Feb'22	Mar'22	Apr'22	May'22
CGST	24,869	24,435	25,830	33,159	25,036
SGST	32,239	30,779	32,378	41,793	32,001
IGST	74,182	67,471	74,470	81,939	73,345
<i>Domestic</i>	36,983	33,634	35,339	45,234	35,876
<i>Imports</i>	37,199	33,837	39,131	36,705	37,469
Comp Cess	9,696	10,340	9,417	10,649	10,502
<i>Domestic</i>	9,160	9,702	8,436	9,792	9,571
<i>Imports</i>	536	638	981	857	931
<b>Total</b>	<b>140,986</b>	<b>133,026</b>	<b>142,095</b>	<b>167,540</b>	<b>140,885</b>

2. Table 2 shows the IGST collected, refunded and settled/apportioned during FY2022-23 till May, 2022.

**Table 2: IGST Collection/Settlement/Appportionment/Refund in FY22-23**

(Figures in Rs. Crore)

<b>1</b>	Collections (+)	153299.00
<b>2</b>	Recovery from IGST Ad-hoc apportionment (+)	0
<b>3</b>	Refunds (-)	27329.00
<b>4</b>	Settlement (-)	
	i. CGST	61347.00
	ii. SGST	50085.00
<b>5</b>	Ad-hoc Settlement (-)	0
	i. CGST ad hoc	0
	ii. SGST ad hoc	0
<b>6</b>	<b>Net (1+2-3-4-5)</b>	<b>14538.00</b>

Source: PrCCA, CBIC

### Compensation Fund

3. As per provision of GST (Compensation to States) Act, 2017 the Compensation Cess collected since implementation of GST w.e.f. 01.07.2017 till May 2022 and the compensation released are shown in the table below:

**Table 3: Compensation Cess collected and compensation released**

(Figures in Rs. Crore)

	2017-18	2018-19	2019-20	2020-21	2021-22	2022-23
						(till May)
Opening Balance		21,466	47,271	55,736	9,734 <sup>^</sup>	9,344
Compensation Cess collected (net)	62,612	95,081	95,551	85,191	1,04,609	20,638
Compensation released	41,146	69,275	1,20,498	1,36,988	97,500	89,783
Balance	21,466	47,271	55,736*	3939	16,844 <sup>\$</sup>	(59,801)

\* Centre had transferred Rs. 33,412 crore from CFI to Compensation Cess Fund as part of an exercise to apportion balance IGST pertaining to FY 2017-18

<sup>^</sup> Centre had transferred Rs. 5,795 crore from CFI to cess fund as part of an exercise to apportion balance IGST pertaining to 2018-19 on 08.03.2022

<sup>\$</sup> Balance GST compensation cess available is Rs. 16844 crore. However, taking into account the interest of back to back loan of Rs. 7,500 crore, GST compensation cess carried forward to FY 2022-23 as opening balance is Rs. 9344 crore

#### Gap with respect to base Revenue

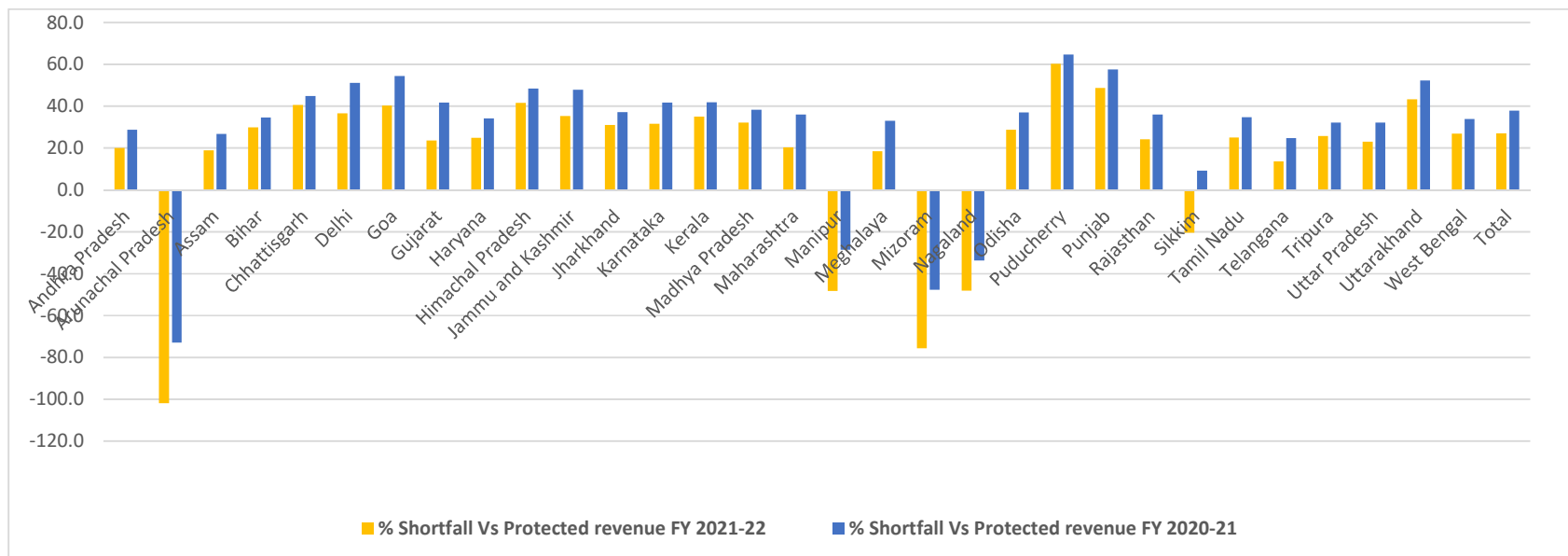
4. The State-wise details of gap between the protected revenue and the post settlement gross SGST revenue (including ad-hoc settlement) for FY 2021-22 as compared to FY 2020-21 may be seen in the Table 4. This information is also depicted in the graph placed at Figure 2.

**Table 4: Revenue Gap during the period April to March**

	State/UTs	2020-21(%)	2021-22(%)
1	Andhra Pradesh	28.8	20.1
2	Arunachal Pradesh	-72.9	-101.9
3	Assam	26.7	19.0
4	Bihar	34.7	30.1
5	Chhattisgarh	44.9	40.7
6	Delhi	51.2	36.7
7	Goa	54.5	40.4
8	Gujarat	41.8	23.7
9	Haryana	34.3	25.0
10	Himachal Pradesh	48.5	41.7
11	Jammu and Kashmir	48.0	35.4
12	Jharkhand	37.2	31.0
13	Karnataka	41.8	31.7
14	Kerala	41.9	35.0
15	Madhya Pradesh	38.3	32.3
16	Maharashtra	36.0	20.3
17	Manipur	-28.5	-48.2
18	Meghalaya	33.0	18.6
19	Mizoram	-47.6	-75.6
20	Nagaland	-33.7	-48.1
21	Odisha	37.0	28.7
22	Puducherry	64.7	60.2
23	Punjab	57.7	48.8
24	Rajasthan	36.0	24.2
25	Sikkim	9.2	-20.5
26	Tamil Nadu	34.8	25.2
27	Telangana	24.7	13.8
28	Tripura	32.2	25.8
29	Uttar Pradesh	32.3	23.1
30	Uttarakhand	52.4	43.4
31	West Bengal	33.9	27.0
	<b>All India Average Shortfall</b>	<b>37.9</b>	<b>27.2</b>



**Figure2: Revenue Gap comparison- April 2021 to March 2022 YoY**



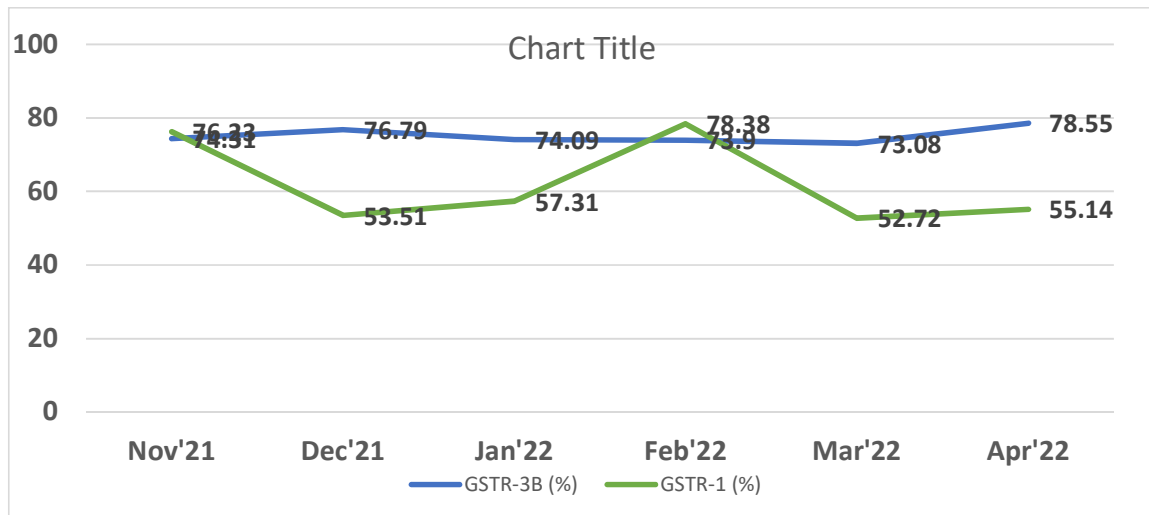
### Trends in Return filing

5. The table 5 shows the trend in return filing in FORM GSTR-3B and GSTR-1 till due date for return period Nov'21 to Apr'22. Tables 6 and 7 show the State wise filing for these months.

**Table 5: Return filing (GSTR-3B/GSTR-1) till due date**

Return Period	GSTR-3B (%)	GSTR-1 (%)
Nov'21	74.31	76.23
Dec'21	76.79	53.51
Jan'22	74.09	57.31
Feb'22	73.90	78.38
Mar'22	73.08	52.72
Apr'22	78.55	55.14

**Figure 3: GSTR-3B/GSTR-1 Filing till due date**



**Table 6: State-wise Return filing (GSTR-3B) till due date (Nov'21-Apr'22)**

STATE CD	STATE	Nov-21	Dec-21	Jan-22	Feb-22	Mar-22	Apr-22
01	Jammu and Kashmir	78.87%	81.60%	79.71%	80.06%	75.42%	81.86%
02	Himachal Pradesh	75.78%	80.42%	75.96%	76.61%	75.34%	80.57%
03	Punjab	78.13%	81.09%	77.35%	77.80%	77.30%	82.37%
04	Chandigarh	81.62%	82.52%	81.97%	81.51%	79.63%	85.04%
05	Uttarakhand	71.27%	75.87%	71.71%	70.05%	71.71%	76.35%
06	Haryana	73.43%	77.78%	74.65%	74.27%	74.95%	79.51%
07	Delhi	76.44%	80.29%	76.39%	76.12%	77.69%	80.97%
08	Rajasthan	75.50%	78.26%	75.19%	75.46%	72.96%	79.91%
09	Uttar Pradesh	78.13%	78.93%	77.07%	73.29%	74.33%	80.97%
10	Bihar	69.00%	72.90%	68.42%	65.73%	65.75%	69.04%
11	Sikkim	60.50%	67.78%	59.12%	59.34%	64.38%	63.37%
12	Arunachal Pradesh	49.36%	53.20%	50.29%	50.06%	46.26%	49.71%
13	Nagaland	63.39%	64.72%	63.23%	64.47%	59.37%	65.77%
14	Manipur	46.95%	55.16%	48.79%	49.02%	50.06%	54.83%
15	Mizoram	61.49%	63.48%	61.61%	60.77%	62.65%	63.12%
16	Tripura	72.80%	76.02%	74.11%	73.92%	69.35%	75.15%
17	Meghalaya	58.99%	65.96%	57.07%	57.27%	63.46%	59.81%
18	Assam	64.26%	67.50%	64.69%	62.64%	58.79%	67.68%
19	West Bengal	73.20%	79.65%	76.20%	75.52%	76.47%	80.87%
20	Jharkhand	74.60%	77.60%	74.83%	70.88%	71.15%	77.68%
21	Odisha	70.91%	74.34%	70.29%	69.45%	68.82%	74.68%
22	Chhattisgarh	63.25%	69.40%	64.58%	62.58%	59.25%	68.27%
23	Madhya Pradesh	74.33%	77.87%	74.50%	73.05%	68.10%	78.24%
24	Gujarat	81.80%	82.52%	82.51%	82.84%	81.55%	86.85%
25	Daman and Diu	-	-	-	-	-	-
26	Dadra and Nagar Haveli	72.12%	74.14%	73.49%	74.27%	73.21%	78.93%
27	Maharashtra	70.63%	74.71%	70.31%	71.28%	71.01%	75.49%
29	Karnataka	75.89%	76.54%	75.00%	75.46%	73.63%	78.36%
30	Goa	58.19%	64.34%	57.82%	57.65%	61.06%	61.74%
31	Lakshadweep	65.88%	71.56%	63.79%	73.84%	64.91%	68.54%
32	Kerala	73.98%	75.54%	74.55%	74.47%	70.69%	76.85%
33	Tamil Nadu	77.41%	76.30%	75.76%	78.15%	76.37%	82.67%
34	Puducherry	73.37%	72.32%	73.82%	74.74%	72.43%	78.70%
35	Andaman and Nicobar Islands	58.34%	60.08%	62.50%	61.87%	58.23%	64.93%
36	Telangana	64.36%	66.33%	64.02%	64.82%	64.35%	69.72%
37	Andhra Pradesh	71.91%	70.70%	70.67%	72.80%	67.91%	75.86%
38	Ladakh	62.49%	70.07%	65.27%	65.68%	70.57%	68.09%
97	Other Territory	75.31%	70.93%	72.84%	72.84%	69.66%	75.61%
<b>Total</b>		<b>74.31%</b>	<b>76.79%</b>	<b>74.09%</b>	<b>73.90%</b>	<b>73.08%</b>	<b>78.55%</b>

**Table 7: State-wise Return filing (GSTR-1) till due date (Nov'21-Apr'22)**

STATE CD	STATE	Nov-21	Dec-21	Jan-22	Feb-22	Mar-22	Apr-22
01	Jammu and Kashmir	70.00%	39.52%	44.65%	74.09%	36.18%	37.31%
02	Himachal Pradesh	79.92%	48.97%	57.91%	82.51%	46.64%	55.57%
03	Punjab	83.38%	65.31%	73.14%	84.62%	67.93%	72.45%
04	Chandigarh	87.29%	69.91%	76.84%	88.85%	70.62%	74.55%
05	Uttarakhand	72.66%	47.60%	53.35%	75.02%	46.25%	51.21%
06	Haryana	79.94%	62.90%	68.59%	82.87%	64.25%	67.56%
07	Delhi	82.92%	68.55%	70.01%	84.43%	69.26%	69.19%
08	Rajasthan	80.14%	56.70%	65.39%	83.12%	55.96%	62.21%
09	Uttar Pradesh	77.25%	47.31%	51.71%	77.00%	45.75%	48.35%
10	Bihar	61.56%	29.05%	30.82%	61.60%	26.37%	26.62%
11	Sikkim	60.47%	34.05%	38.29%	62.21%	32.05%	32.37%
12	Arunachal Pradesh	46.21%	23.27%	26.19%	48.34%	19.33%	21.05%
13	Nagaland	62.76%	30.16%	31.45%	65.50%	26.24%	28.73%
14	Manipur	42.69%	20.59%	22.19%	47.36%	20.56%	20.82%
15	Mizoram	60.10%	19.38%	20.44%	54.06%	17.97%	19.75%
16	Tripura	70.97%	47.16%	49.05%	74.82%	40.05%	41.85%
17	Meghalaya	48.75%	25.56%	26.20%	50.05%	25.73%	24.83%
18	Assam	60.27%	34.11%	36.77%	62.57%	30.74%	32.82%
19	West Bengal	72.69%	48.01%	52.13%	77.52%	48.40%	51.38%
20	Jharkhand	73.00%	43.47%	46.35%	73.97%	40.16%	43.34%
21	Odisha	66.42%	36.38%	39.24%	68.77%	33.89%	36.82%
22	Chhattisgarh	63.79%	40.46%	47.44%	67.87%	38.11%	44.26%
23	Madhya Pradesh	71.29%	41.95%	52.38%	75.85%	39.23%	48.35%
24	Gujarat	88.43%	75.91%	80.47%	91.17%	76.14%	79.40%
25	Daman and Diu	-	-	-	-	-	-
26	Dadra and Nagar Haveli	82.14%	68.55%	72.51%	85.33%	69.63%	71.96%
27	Maharashtra	74.74%	57.26%	62.10%	78.39%	57.83%	60.47%
29	Karnataka	76.81%	50.10%	55.12%	78.68%	49.95%	52.44%
30	Goa	61.59%	45.72%	46.00%	62.61%	45.40%	44.16%
31	Lakshadweep	67.65%	46.79%	51.15%	72.09%	46.05%	42.13%
32	Kerala	79.48%	57.01%	60.46%	80.26%	53.80%	55.96%
33	Tamil Nadu	80.12%	56.08%	59.13%	82.20%	54.91%	58.01%
34	Puducherry	76.25%	49.61%	52.27%	78.19%	49.32%	51.48%
35	Andaman and Nicobar Islands	63.31%	36.34%	39.62%	67.07%	36.03%	37.60%
36	Telangana	65.18%	41.88%	43.55%	67.45%	39.88%	42.52%
37	Andhra Pradesh	74.70%	47.04%	50.70%	76.81%	44.42%	48.06%
38	Ladakh	49.30%	34.74%	29.83%	54.57%	36.11%	26.98%
97	Other Territory	79.01%	70.93%	79.01%	79.01%	70.79%	74.39%
<b>Total</b>		<b>76.23%</b>	<b>53.51%</b>	<b>57.31%</b>	<b>78.38%</b>	<b>52.72%</b>	<b>55.14%</b>

**Agenda item 9: Report of Group of Ministers on feasibility of implementation of e-way bill requirement for movement of gold and precious stones:**

1. In pursuance of 37<sup>th</sup> GST Council meeting held on 20<sup>th</sup> September, 2019, a GoM was constituted by the GST Council Secretariat vide O.M. dated 22.11.2019 with a mandate to examine the feasibility of implementation of e-way bill requirement for movement of gold and precious stones or otherwise and to suggest alternative ways and mechanisms for controlling tax evasion.
2. In the 2<sup>nd</sup> meeting of GoM held on 14.08.2020, it was decided to constitute a Committee of Officers (CoO) to examine the feasibility of system proposed by Kerala and all other possible solutions to plug the gap in the system.

**3. Recommendations of the Committee of Officers (CoO):**

The Committee of Officers submitted their recommendations to the GoM on 30.07.2021 (attached at Annexure-D to the GoM report).

**4. Recommendations of the GoM:**

After detailed discussions and deliberations, the Group of Ministers made the following recommendations to the GST Council:-

**(A) E-way bill for intra-state movement of gold and precious stone:**

- (i) The states should be allowed to decide about imposition of the requirement of e-way bill for intra-state movement of gold and precious stones within their states.
- (ii) There will be a minimum threshold of Rs.2 Lakh, and the states can decide any amount including or above this amount as minimum threshold for generations of e-way bill for intra-state movement of gold/precious stones in their state.
- (iii) Only part 'A' on the e-way bill will be required to be filled in such cases, without any need for filling Part 'B' of the e-way bill.
- (iv) Further, modalities of generation of e-way bill for intra-state movement of gold/precious stones will be as suggested by NIC/GSTN.
- (v) For deciding about implementation of such a system of e-way bill for intra-state movement of gold and precious stones within the state, as well as regarding the threshold value to be adopted for generation of such e-way bill within the state, the procedure of consultations with the jurisdictional Principal Chief Commissioner/Chief Commissioner of Central Tax, or any Commissioner authorized by him, should be followed by the States.
- (vi) Once e-way bill requirement for movement of gold and precious stones is decided, the corresponding suitable amendment in CGST Rules, 2017 would have to be carried out. While finalizing amendment in Rules, it is to be ensured that in case of supply of gold by registered persons to unregistered buyers, the requirement of e-way bill generation is mandated on registered supplier only.

**(B) E-invoicing for gold and precious stones:**

- (i) E-invoicing should be made mandatory for B2B transactions by all taxpayers supplying gold/precious stones (goods of HSN 71) and having annual aggregate turnover above Rs.20 Crore.
- (ii) GSTN, in consultation with NIC, to work out the modalities and timelines for implementation of the proposed requirement of e-invoicing of the proposed requirement of e-invoicing for gold/precious stones.

**(C) Levy of GST on RCM basis on old Gold:**

The issue of levy on GST on reverse charge mechanism (RCM) basis on purchase of old gold by registered dealers/jewellers from unregistered persons may be referred to Fitment Committee for detailed examinations.

5. The complete report of the GoM along with Annexure A, B, C and D is placed herewith.

**Report of the Group of Ministers**

**F. No. CBEC- 20/13/02/2020-GST  
Government of India  
Ministry of Finance  
Department of Revenue  
Central Board Indirect Taxes & Customs,  
GST Policy Wing  
\*\*\*\*\***

Room No. 159-A, North Block,  
New Delhi, January, 2022

**OFFICE MEMORANDUM**

**Subject: Final Report of the Group of Ministers to examine the feasibility of implementation of E-way bill requirement for movement of gold and precious stones- reg.**

In pursuance of the decision taken in 37<sup>th</sup> GST Council Meeting held on 20<sup>th</sup> September, 2019, a Group of Ministers (GoM) was constituted by the GST Council Secretariat vide O.M issued vide F.No. 591/GoM/Mvmt of Gold & Pre. Stones /GSTC/ 2019/9221-9225 dated 22.11.2019 with a mandate to examine the feasibility of implementation of e-way bill requirement for movement of Gold and other precious stones.

2. The Group of Ministers held three meetings. Based on discussions in these meetings, the report of the GoM has been finalized. The final report of the GoM, duly approved by the Convenor Shri K N Balagopal, Hon'ble Finance Minister of Kerala, is enclosed herewith for necessary action at your end.

*Sanjay Mangal*  
27/1/2022

Sanjay Mangal  
Pr. Commissioner (GST)  
Email: [sanjay.mangal@nic.in](mailto:sanjay.mangal@nic.in)

To,  
The Joint Secretary,  
GST Council Secretariat.  
Tower-II, 5<sup>th</sup> Floor,  
Jeevan Bharti Building  
Connaught Place,  
New Delhi-110001

Encl: As above

**Report of the Group of Ministers (GoM) to examine the feasibility of implementation of e-way bill requirement for movement of Gold and other precious stones**

In pursuance to the decision taken in 37 GST Council Meeting held on 20th September, 2019, a Group of Ministers (GoM) was constituted by the GST Council Secretariat vide O.M. issued vide F.No.591/GoM/Mvmt of Gold & Pre.Stones/GSTC/2019/9221-9225 dated 22.11.2019 with a mandate to examine the feasibility of implementation of e-way bill requirement for movement of Gold and other precious stones.

2. The GoM held three meetings on 18.01.2020, 14.08.2020 and 16.11.2021 respectively. The minutes of these three meetings are enclosed as Annexure A, Annexure B and Annexure C respectively.

3. The GoM examined the data on revenue collection, import, export, consumption, price trends and estimate of smuggling of gold from various sources. The issue of decline in the revenue collection from gold, with simultaneous sharp surge in smuggling of gold, was highlighted by Kerala. GoM deliberated on various measures for prevention of any revenue loss on account of evasion of tax on gold and precious stones, including requirement of generation of e-way bill for intra-state movement of gold and precious stones, as suggested by Kerala, concerns of various State Governments regarding security of gold/precious stones as well as of the persons carrying such consignments in case of implementation of e-way bill system were also discussed. In order to maintain the safety of gold/carriers during movement, various measures like encrypted e-way bill, restriction on availability of e-way bill data with only senior officers of level not less than the rank of Commissioner and not capturing details of transport vehicles, etc. were also discussed. GoM also deliberated on other possible measures to plug in revenue leakage including e-invoicing and levy of GST under reverse charge mechanism on purchase of old gold by registered persons from unregistered suppliers.

3.1 In the 2<sup>nd</sup> Meeting held on 14.08.2020, GoM decided to constitute a Committee of Officers (CoO) comprising of members from the GoM, GSTN, NIC and GSTC Secretariat, to examine the feasibility of the system proposed by Kerala and all other possible solutions to plug in revenue gaps.

4. The Committee of Officers (CoO) submitted its report to GoM on 30.07.2021 along with its recommendations. The copy of the Report submitted by CoO is enclosed at Annexure D.

5. After detailed discussions and deliberations, the Group of Ministers makes the following recommendations to the GST Council:

**(A) E-way bill for intra-state movement of gold and precious stone :**

- (i) The states should be allowed to decide about imposition of the requirement of e-way bill for intra-state movement of gold and precious stones within their states.**
- (ii) There will be a minimum threshold of Rs.2 Lakh, and the states can decide any amount including or above this amount as minimum threshold for generations of e-way bill for intra-state movement of gold/precious stones in their state.**



- (iii) Only part 'A' on the e-way bill will be required to be filled in such cases, without any need for filling Part 'B' of the e-way bill.
- (iv) Further, modalities of generation of e-way bill for intra-state movement of gold/precious stones will be as suggested by NIC/GSTN.
- (v) For deciding about implementation of such a system of e-way bill for intra-state movement of gold and precious stones within the state, as well as regarding the threshold value to be adopted for generation of such e-way bill within the state, the procedure of consultations with the jurisdictional Principal Chief Commissioner/Chief Commissioner of Central Tax, or any Commissioner authorized by him, should be followed by the States.
- (vi) Once e-way bill requirement for movement of gold and precious stones is decided, the corresponding suitable amendment in CGST Rules, 2017 would have to be carried out. While finalizing amendment in Rules, it is to be ensured that in case of supply of gold by registered persons to unregistered buyers, the requirement of e-way bill generation is mandated on registered supplier only.

**(B) E-invoicing for gold and precious stones:**

- (i) E-invoicing should be made mandatory for B2B transactions by all taxpayers supplying gold/precious stones (goods of HSN 71) and having annual aggregate turnover above Rs.20 Crore.
- (ii) GSTN, in consultation with NIC, to work out the modalities and timelines for implementation of the proposed requirement of e-invoicing of the proposed requirement of e-invoicing for gold/precious stones.

**(C ) Levy of GST on RCM basis on old Gold:**

The issue of levy on GST on reverse charge mechanism (RCM) basis on purchase of old gold by registered dealers/jewellers from unregistered persons may be referred to Fitment Committee for detailed examinations.

\*\*\*\*\*

F.No. CBEC-20/13/02/2020- GST | 710  
Ministry of Finance | 3/3/2020  
Department of Revenue  
Central Board of Indirect Taxes and Customs  
GST Policy Wing  
\*\*\*\*\*

Room No. – 159-A  
Dated 03<sup>rd</sup> March, 2020

**OFFICE MEMORANDUM**

**Subject: Minutes of first meeting held on 18.01.2020 of Group of Ministers to examine the feasibility of implementation of e-way bill requirement for movement of Gold and Precious Stones – reg.**

This is in reference to the first meeting held on 18.01.2020 of Group of Ministers to examine the feasibility of implementation of e-way bill requirement for movement of Gold and Precious Stones. The minutes of the said meeting duly approved by the Convenor Dr T M Thomas Isaac, Hon'ble Finance Minister, Kerala are enclosed.

  
(Yogendra Garg)  
Principal Commissioner (GST)  
Email: y.garg@nic.in

To,

The Commissioner, Commercial Tax of the States of Bihar, Gujarat, Karnataka, Kerala, Punjab, West Bengal with request to brief the Hon'ble Ministers about the minutes of the Meeting as above.

Copy To (for necessary information),

1. OSD to Revenue Secretary, Government of India
2. OSD to Chairman, CBIC
3. Special Secretary, GST Council Secretariat

Encl: As Above

**Minutes of the meeting of the Group of Ministers to examine the feasibility of implementation of e-way bill requirement for movement of Gold and Precious Stones, held in Kalpvriksha, North Block, New Delhi on 18th, January, 2020.**

- 1.1 First meeting of the Group of Minister (GoM) to examine the feasibility of implementation of e-way bill requirement for movement of Gold and Precious Stones and to address issues and concerns arising out of it, convened by Dr. Thomas Isaac, Hon'ble Finance Minister, Kerala was held in Kalpvriksha, North Block, New Delhi on 18th January, 2020. The list of the attendees is enclosed as **Annexure — I**.
- 1.2 The meeting started with presentation by Shri Sanjay Mangal, Commissioner, GST Policy Wing, CBIC. In the presentation, he provided a brief overview of the deliberations on this issue in various meetings of the GST Council and Law Committee. The copy of presentation is enclosed as **Annexure - II**.
- 1.3 Hon'ble Finance Minister, Kerala Dr. Thomas Isaac briefed about the serious concerns of State of Kerala about the tax evasion and loss of revenue from gold. He stated that during the VAT regime in Kerala, major gold dealers had opted for compounding scheme and the tax was fixed based on their previous year's turnover. There was no input tax credit for compounded dealers and this ensured higher revenue from the Gold sector in VAT regime. Hon'ble Finance Minister, Kerala further informed that the rate of tax on gold in VAT was 5% whereas the rate of GST for Gold was reduced to 3% and in effect, the State share became 1.5% that too with input tax credit. He added that however there is a misconception that the reason of reduction in revenue from gold in GST is due to decrease in rate of duty in GST. He mentioned that the calculated effective rate on gold in VAT regime due to compounding effect was 1.25%. Hence, effectively the rate of tax has increased from 1.25% in VAT regime to 1.5% in GST regime. Hon'ble Finance Minister, Kerala stated that under GST, the gold sector is not showing declared growth in the State and that while considering the increase in price of gold and also the demand of gold in the State, there should have been a growth in the sector, the gold sector is showing a declining trend. He further stated that the channels for unaccounted inward supply of gold are rampant and it had squarely reflected in unaccounted sale and consequent tax loss from this sector. Kerala, in the VAT regime, collected revenue equal to Rs. 650 to 700 crores per annum whereas in the GST regime, this amount has declined to approximately Rs. 300 crores i.e. Rs. 150 crore each as CGST and Kerala GST. He further emphasized that during the initial deliberation on GST, the then Chief Economic Advisor had recommended tax rate on gold as 5% in order to have a revenue neutral rate and to collect revenue equal to Rs. 20,000 crore. Eventually, the rate was fixed at 3% and it was estimated that revenue equal to Rs. 10,000 crore would be collected.
- 1.4 Hon'ble Finance Minister, Kerala Dr. Thomas Isaac also stated that one reason for fall in revenue may be the fact that the major turnover is from B to B supply where input tax credit may have been utilized. There is huge ITC availment and utilization by the gold industry, resulting in less net payment of duty from gold. There is also no way to check whether input tax credit availed is correct or not, as since there is no way to track such supplies and its movement and therefore possibility of huge tax evasion cannot be ruled out. Further, there

may be possibility of manipulation of software for issuance of invoices by taxpayers in order to evade the tax. He mentioned that the only way for tracking movement of gold is through system of e-way bills. He referred to the concerns of West Bengal and Gujarat regarding security of gold in e-way bill system and stated that some mechanism may be developed to keep the secrecy of the movement of gold in the e-way bill system. He suggested that encrypted e-way bills may increase secrecy and thus enhance security. He also suggested that to reduce inconvenience to customers/ taxpayers, the minimum amount for issuance of e-way bill can be enhanced for gold. States may also exempt e-way bill for intra-state movement of gold. Hon'ble Finance Minister, Kerala finally mentioned that to take a comprehensive view in the matter, data on revenue collected on gold and other precious metals in pre-GST period (VAT and Central Excise) and post GST period need to be made available. A note sent on the matter by Kerala for discussion in the meeting is enclosed as **Annexure — III**.

- 2.1 Shri Sushil Modi, Deputy Chief Minister, Bihar and Shri Manpreet Singh Badal, Finance Minister, Punjab also emphasized the need for relevant data.
- 2.2 Shri Ritvik Pandey, joint Secretary (Revenue) mentioned that making e-way bill compulsory for gold and other precious stones may not resolve the issue. He informed that the core of e-way bill system is the tagging of the details of the vehicle with the invoice. Therefore, during physical verification, actual vehicle number along with documents carried is verified vis-a-vis the corresponding details in the e-way bill. In case of gold etc., the movement is not done by conventional transport methods, and the gold is mainly carried on person by carriers or customers who travel mostly on railway or passenger bus and hence, during generation of e-way bill, the consignor may not know about the exact vehicle number. Hence, implementation of physical verification of such e-way bill may cause inconvenience to the passengers of whole bus and if no discrepancy is found during such verification, in such cases, public may take serious offence. Further, if an unregistered person causes the movement of goods, e-way bill is not required. Hence, a person may move gold in guise of sale to unregistered person to evade the tax. He further informed that Karnataka had e-way bill for movement of gold, but majorly interception was done on the basis of information only.
- 2.3 Shri Arun Kumar Mishra, Additional Secretary, Commercial Tax, Bihar informed that in the present system, there is no systematic record of supply of gold and a system of maintenance of record for issuance of invoices/ challans may be explored.
- 2.4 Shri J P Gupta, Chief Commissioner, Commercial Tax, Gujarat emphasized that the entire chain has to be mapped in order to have any effective mechanism to track the movement and supply. Since, huge amount of gold is imported, it is imperative to have comprehensive data on the sector. He further stated that e-way bill mechanism may not be a practical mechanism as actual movement in case of inter-state supply is not monitorable. He said that any information on movement of gold or precious metal / stone may pose serious security risk, and therefore, state is not in favour of such a mechanism, and alternative mechanism may be considered. He further emphasized that the parameters such as incidence of taxation, volatility in price and consumption etc. also need to be considered.

- 2.5 Shri Amitabh Kumar, joint Secretary, GST Council Secretariat stated that emphasis may also be given on non-intrusive methods for tracking the transactions such as data from the nominated agencies/banks for import of gold.
- 2.6 Further, Shri Sushil Modi, Deputy Chief Minister, Bihar emphasized the need to understand the entire mechanism of the sector, including import of gold by nominated agencies and banks and also sale of gold by such nominated agencies/ banks.
- 2.7 Shri V K Garg, Advisor, Punjab informed that the sector gets further complicated by issue of sovereign gold bonds by Government. He further stated that E-way bill is not required in case movement is caused by an unregistered person, hence, the same may not be an appropriate method for tracking. He mentioned that instead, usage of e-invoicing may be explored for gold. He also informed that Income tax have sector wise data and information may be sought from them as well.

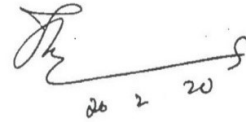
Commissioner, Commercial Tax, Kerala stated that there is no provision to maintain specific record for gold in the current system. He also informed that currently there is no reverse charge on old gold by jewellers which legalizes stocks with dubious origins. The Jewellers get the supply of gold from wholesalers (who in return get gold from bullion traders as well as smuggling), auction of mortgaged gold by banks, purchase of old gold and direct supply of smuggled gold. He then supplies it to job worker and hallmarking centre for value addition and subsequent sale. Presently there is no reference/verification point for these transactions other than those declared by buyer and sellers in their returns. This facilitates bogus transactions and credits. E-way bill may add an additional point for verification with particular reference to quantity and value. In the VAT regime, there used to be concept of presumptive tax. But there is no such system in the current tax regime.

- 2.8 In the VAT regime, there used to be concept of presumptive tax. But there is no such system in the current tax regime. Besides, there is no prescribed record for source of gold for jewellers.
- 3.1 Dr. Thomas Isaac informed that since the ministers from Karnataka, Gujarat and West Bengal are not present, decision cannot be taken. He, however, mentioned that for further deliberations, the following data/information should be made available:
  - i. pre-GST VAT and Central Excise and post-GST revenue on gold
  - ii. Actual collection of revenue from gold in GST vis-a-vis the estimates made by RNR Committee at the time of introduction of GST
  - iii. Figures of import and export of gold for past two years
  - iv. Estimates of consumption of gold to know what percentage of that consumption comes as revenue.
  - v. Price trend of gold
  - vi. Estimated income tax collected from gold/jewellery
  - vii. Estimates of smuggling of gold
- 3.2 Hon'ble Finance Minister, Kerala mentioned that after collation of data, reasonable analysis can be made for deliberations in the matter. If the data suggests that there is serious loss of revenue, then, the mechanisms made in GST may not be sufficient for gold and we may to think of

alternate options. He emphasized that revenue leakage cannot be allowed and if e-way bills are not found feasible, then some other method has to be explored.

4. In the end, it was decided that data/ information mentioned in Para 3.1 above may be made available in the next meeting. Kerala also offered to present a formal note in the matter. Further, nominated agencies importing gold like MMTC, and the officers of DIU may be called in the next meeting to have a holistic understanding of the sector. The decision in the matter will be taken after deliberations based on the data/ information made available.

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A handwritten signature in cursive script, followed by a horizontal line. Below the line, the date "26 2 20" is written.

## **Annexure – I**

### **List of Attendees**

1. Dr. T M Thomas Isaac, Minister for Finance, Kerala
2. Shri Sushil Kumar Modi, Deputy Chief Minister, Bihar
3. Shri Manpreet Singh Badal, Minister for Finance, Punjab
4. Shri V K Garg, Adviser to Chief Minister, Punjab
5. Shri Sanjay Mangal, Commissioner, GST Policy wing, CBIC
6. Shri J P Gupta, Commissioner, SGST, Gujarat (Through VC)
7. Shri Amitabh Kumar, Joint Secretary, GST Council Secretariat
8. Shri Dheeraj Rastogi, Joint Secretary, GST Council Secretariat
9. Shri Ritvik Pandey, Joint Secretary, Department of Revenue
10. Shri Anand Singh, Commissioner, SGST, Kerala
11. Shri A K Mishra, Additional Secretary, Bihar
12. Shri Rajeev Agarwal, EVP, GSTN
13. Ms. Nisha Gupta, joint Commissioner, GST Policy Wing, CBIC
14. Shri Mahesh S, Under Secretary, GST Council Secretariat
15. Shri Kumar Asim Anand, Deputy Commissioner, GST Policy Wing, CBIC
16. Shri Riddhesh Raval, Deputy Commissioner, SGST, Gujarat (Through VC)

## ANNEXURE II



### **1<sup>st</sup> Meeting of GoM to examine the exemption from e -way Bill for the movement of gold/precious metals and stones 18.01.2020**



### **E-way Bill for movement of Gold/Precious Metal**

- Movement of gold/ precious metals and stones has been exempted from e-way bill vide rule 138(14)(a) of CGST Rule, 2017.
- During 25th meeting of GST Council held on 18.01.2018, Kerala requested to examine the feasibility of e-way bill requirement for movement of gold/ precious metals and stones, etc.
- Issue was referred to the Law Committee .



## **Deliberation by Law Committee on 01.06.2019**

- Law Committee deliberated the issue in the meeting held on 01.06.2019.
- Law Committee was of the view that in view of security concerns, the e-way bill may not be insisted upon.
- Law Committee recommended for exploring the possibility of generating encrypted e-way bill.

## **Further Development:**

- Decision of Law Committee was placed before GST Council in its 35<sup>th</sup> meeting held on 21st June, 2019.
- The Council directed Law Committee to re-examine introduction of e-way bill system for movement of gold and to take views of the State of Kerala on the same.
- Law Committee held meeting on 29th July, 2019 wherein, officer from Kerala was also present. The Law Committee proposed two alternatives.

## **First alternative suggested by Law Committee:**

- E-way bill may be implemented for movement of gold and precious metals and hence, serial numbers 4, 5 and 8 of Annexure to rule 138(14) may be omitted.
- To avoid compliance complications, the value in case of such items may be raised.



## **Second alternative suggested by Law Committee:**

- These items may be exempted from the requirement of e-way bills due to following reasons:
  - ❖ These goods are transported personally through a system of trusted couriers, e.g. angadias, who are not aware of the contents and the value of the consignment.
  - ❖ Requirement of e-way bills for movement for job-works will increase the compliance burden.
  - ❖ Post-interception action required in case of a consignment not carrying e-ways bills would also entail further complications in terms of the impoundment/storage of the detained consignment.

## Further Development:

- GST Council in its 37th meeting held on 20th September, 2019 at Goa recommended constitution of a GoM.
- to suggest mechanism for controlling tax evasion without compromising on security aspect that arises from implementation of e-way bill requirement for movement of gold & precious stones.



## ANNEXURE III

### Discussion note on E-way bill for gold:

#### **Background of Industry**

India's Gold industry is one of the largest in the world with 29% contribution to the Global Jewellery consumption. Gold is an integral part of religious marriages in India and is considered as a family heirloom. In 2007, the demand of gold totalled 796.1 tonnes. It had peaked at 1022.3 tonnes in the year 2010, reduced slightly in subsequent years and reached 975 tonnes in 2013. At the same time, the gold price almost trebled from Rs.9,223/- to Rs.26,440/- in 2013.

During the VAT regime in Kerala, major gold dealers had opted for compounding scheme and the tax was fixed based on previous year's turnover. There was no input tax credit for compounded dealers and this also had contributed for higher revenue from the Gold Sector. The effective rate of tax was 5% and this rate ensured good revenue from this sector. However, when the GST was introduced, the rate of GST for Gold reduced to 3% and in effect the state's share became 1.5% that too with input tax credit. This fall from 5% to 1.5% is the major reason for fall in revenue from the Gold sector.

Under GST, the gold sector is not showing declared growth in the State. Considering the increase in price of gold and also the demand of gold in the State, there should have been a growth in the sector. But the gold sector is showing a declining trend. The channels for unaccounted inward supply of gold are rampant and it had squarely reflected in unaccounted sale and consequent tax loss from this sector.

#### **EVASION**

From 2014 onwards up to the year 2019, gold attracted an import duty of 10%. By the increase of import duty to 12.5%, the tax incidence on the gold reached up to 15.75% including GST. It had thus become more attractive for the smugglers and jewellers in their adventure. The following table shows the tax arbitrage between the legal and illegal suppliers:

Particulars	Accounted dealers	Unaccounted dealers
Gold rate per sovereign	Rs.26,824/-	Rs.26,824/-
Add: Import Duty per sovereign (12.53%)	Rs.3,361 /-	
Add: Bank Premium per sovereign (16\$)	Rs.1,128/-	-
Add: GST per sovereign @ 3%	Rs.940/-	
Add: Income Tax per sovereign (33.8% of Net Profit assuming 3% Net Profit)	Rs.314/-	-
Total Cost per Sovereign	Rs.32,567/-	Rs.26,824/-
Difference (Additional Margin to unaccounted dealers)		Rs.5,743/- per sovereign

As such the difference of 21% will give higher dominance to smugglers and dealers who get a very good profit. In lure of big profits through the tax avoidance, smugglers have come up with numerous innovative ways to transport gold clandestinely into the State.

The World Gold Council and the other industry bodies have said that up to 95 tonnes of gold was smuggled into India in 2018, although India's Association of Gold Refineries and Mints and other industry bodies put the figure at more than twice that. World Gold Council expects around 200 tonnes of gold to be smuggled into India this year.

According to reports, in 2018/19 fiscal year that ended on March 31, customs officials seized 4,058 kg (4 tonnes) of gold, up from seizures of 3,223.3 kg a year ago these are information based/chance detections.

Considerable quantity of smuggled gold goes into grey market. Grey market operators usually sell gold at discounts to prevailing market prices, thus reducing compliance and increasing evasion.

There were instances when the smugglers had used the facility of Special Economic Zones. The Directorate of Revenue Intelligence in a case at Hyderabad, had found that the gold that was to have been exported by making it into jewellery was diverted into the local market and sold for higher profits. As there is no export tax on the jewellery made at the SEZ unit, they do not pay tax on the import also, which helped them gain substantial profit out of tax evasion. The SEZ unit was found to have started only to misuse the SEZ status for the purpose of making such illegal profits.

The smugglers usually source gold from various cities of neighbouring States and it is smuggled to Thrissur which is the hub of gold business in Kerala, through the land route as the city does not have any connectivity by either air or sea. Recently the customs officials in Kerala seized roughly 123 kg of smuggled gold valued at around Rs 50 crore during raids at 23 premises in the Thrissur district. If the carriers are bringing the yellow metal in their cars, it is quite difficult to track it unless there is an informer.

In the last week, the Central GST intelligence unit in Kozhikode arrested the owner of wholesale jewellery in connection with an alleged tax evasion to the tune of Rs 25 crore. The detection of such a huge tax evasion from a single case itself is an indicator to a large scale illicit transactions in the gold sector. Smuggled inflows of gold are expected to jump from 30% to 40% this fiscal to about 140 tons and may further escalate in 2020.

Gold dealers are not keeping data server in their own premises. During inspections, it is very difficult to identify the server. Usually, the servers are kept in a remote place far away from the business place. There are instances of keeping the data in cloud servers procured on lease rent. Many such servers are placed in transnational destinations and it is quite difficult to know actually where the server is kept. The dealer / administrator only has the privileged access to these servers by unique user id and password. As and when the enforcement team surprises the business premises, the dealer terminates the connection with these servers and even after the user id and password are supplied, the data retrieval from server may not be possible.

Some of the Gold dealers erase data very frequently, may be on a daily basis. They report data to the owners or management and erase it from the business place. Enforcement agencies that enter into the business place will be able to recover data only for a short period.

In many cases dubious billing software is used by the gold dealers. It is cleverly designed to suppress a major portion of turnover. These are customized software and it is difficult to identify it.

Many dealers keep data in temporary storage devices like pen drive or external hard disc. They can hide such devices easily and also; they don't want to keep data relating to the past transactions. They transfer data on a regular basis to some other systems kept somewhere else than the business place.

The proposed e-invoice system is a good move, which helps to generate invoice from the common portal. It should be made compulsory for B2B as well as B2C transactions in jewellery sector. It will help to curb the actions of unscrupulous taxpayers as the tax authorities will have access to data in real-time.

### **A case for e-way bill**

Stock transfer between the members of the group of major players in gold is a new tactics noticed in gold Sector and these types of transactions was not so prevalent in VAT regime. This was particular because under the VAT Act, there were statutory requirement of transporting documents i.e., e-declaration and supporting statutory forms.' The burden of proving the transport was hence upon the dealer. But under the GST regime, the transporting document such as e-way bill is not made mandatory and resultantly, it has come to notice that when there is huge stock transfer of gold reported to the branches outside the State, they are also reporting inward stock transfer of the same commodity from the outside branches. This modus operandi is adopted in this sector, with an intention to report lesser sales turnover. This model of stock transfer reporting helps the dealers circulate credit among them as and when required. In order to retain overdraft facility and for getting advances from Commercial Banks it is necessary that they are not categorized under Non-Performing Asset (NPA). For this purpose, the dealers in this sector will have to maintain a fixed stock of gold. Hence the dealers had adopted the tactics of stock transfer of a portion of gold sold as stock transfer to their sister concerns. Even though such inter-state stock transfer attracts tax liability, it can be set off against ITC credit and such quantity can be circulated through books. These transactions are suspected to be only a paper transaction without any physical movement of goods.

With the present Act and Rules, there is no reverse charge on Old Gold purchased by Registered Dealers and the uploaded invoices for B2B transactions either sale or stock transfer does not show the quantity. As such the valuation remains un-verified. Year-end audit may also not reveal any irregularities. Inspections to verify the stock is also not practical. If e-way bill is introduced there is always a duty to declare before transport and the same cannot be replaced or altered. So, e-way bill is expected to increase tax from the sector by providing additional data points for verification.

In VAT, Kerala had electronic declarations for Interstate movements of goods above Rs. 5,000/- and Karnataka had declarations for movement of goods above 20,000/-. This included Gold also. So, at least for some states they are not imposing any additional compliance burden. These types of measures are to be introduced in the GST system to check the clandestine movement of gold. But the GST Council had decided not to include gold in the E way bill provisions. This is found to be a major setback in preventing the tax evasion rampant in the Gold sector.

Now the transport of precious cargo is moving towards the formalised sector. They provide security with vehicles, Vaults Insurance etc. This movement will be more complaint in terms of documentation. Secrecy of the transport is not compromised by the introduction of e-way bill. Even now for stock transfer and job work the consignee has to issue invoice/ Delivery Challan in physical

form and the same shall bear the name and the address of the consigner and the consignee and the quantity. The difference of introduction of e way bill is only that the same would need to be electronically declared with the Tax Department. Such e-way bills can be encrypted and transporter can need to only carry the number of the e way bill. If intercepted by the Officers, the verification part can be authorized to select officers in the state. So, if e-way bill is introduced the secrecy of the transport would be intact, with the transporter not knowing the contents and value of the consignment if the consignee/consigner desires so.

The GSTN has deployed state of the art security measures to secure the data captured by them and is in no way prone to any hacking threats. Hence there are no security issues or any such other issues that would prevent the dealers from raising the e-way bill. The option of keeping the data captured in the e-way bill portal to the exclusion of all others till the transaction is completed or intercepted by a proper officer may be deployed so as to address the security concerns. Proper accountability of movement of gold towards inward supply or stock transfer can be ensured only if the e-way bill system is made mandatory. At present, dealers are not accounting any such transactions as there are no documents to be raised such as e-way bill.

### **Suggestions**

Considering the issue of small Karigers/Angadias, a higher threshold can be prescribed for e-way bill for job work.

Exemption for Intra state movement can be left to the States concerned.

The threshold for e-way bill on Gold and other precious articles can be decided higher than the present 50,000/-Rupees limit.

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**Minutes of the 2<sup>nd</sup> Meeting of Group of Ministers**

**to examine the feasibility of implementation of e-way bill requirement for movement of Gold and Precious Stones held on 14<sup>th</sup> August, 2020**

The second meeting of the Group of Ministers (GoM) to discuss feasibility of implementation of e-way bill for the movement of gold and precious stones was convened on 14<sup>th</sup> August, 2020 under the chairmanship of Dr. T.M. Thomas Isaac, Hon'ble Finance Minister of Kerala. The said meeting was conducted through video conferencing and the list of the attendees is enclosed as **Annexure – I**.

2. At the outset, chairman of the GoM, Dr.T M Thomas Isaac welcomed all the participants to the meeting and reiterated the fact that the matter has been discussed in the GST Council Meeting wherein it was recommended to constitute a GoM on the matter. GoM had held a meeting on it. He informed that Kerala has a set of new proposal as well which he would subsequently discuss in the meeting. He then requested Principal Commissioner, GST Policy Wing to make the opening presentation on the same.

3.1 Principal Commissioner, GST Policy Wing made a presentation which is enclosed as **Annexure - II**. He informed members of GoM that based on the discussion held in the last meeting on 18.01.2020, it was decided to collect data on revenue collection, import, export, consumption, price trends and estimate of smuggling of gold from various sources and alternative measures was to be considered for prevention of revenue loss based on such data. He further informed that data was collected from DG Systems, DGFT, DRI, World Gold Council, GJEPC and Dept. of Economic Affairs and was circulated to the members of GoM.

3.2 He also informed further that data on GST revenue from gold was received from GSTN. The same was based on data from FORM GSTR-3B of those taxpayers who have mentioned Chapter 71 in top five HSN in their registration form.

3.3. Members were also briefed about the note sent by Kerala. The said note is enclosed as **Annexure – III**. As per the note of Kerala, data in respect of gold was not fruitful as it cannot capture data relating to smuggled gold, old gold recycling and sale of pledged ornaments by NBFCs which forms a major part of the business. Note also pointed out the various reasons for movement of gold and highlighted that in such movements at least one registered entity is always involved. It emphasised the need of e-way bill system and recommended that vehicle details in e-way bill can be replaced with “the name and address of the person transporting the goods” and therefore issues relating to stoppage of public transport etc. can be avoided. It also recommended that all types of movement should be covered under e-invoicing system. Reverse charge mechanism for old gold in GST regime on the same model as that existed in erstwhile VAT regime was also emphasised in the note.

4.1 After the presentation, the Chairman of GoM, Dr. T M Thomas Isaac made an observation that there has been decline in the revenue collection from gold with simultaneous sharp surge in smuggling of gold. He said that the tax evasion has increased due to the fact that no documents are



required for movement of gold. There is no check on such movements. The system as of now is conducive for smuggling and we must have some system for tracking the same. Thereafter, he stated that various State Governments have raised security concerns on gold in case of implementation of e-way bill system. He suggested that in order to maintain the safety of gold during movement, encrypted e-way bill may be used whose data shall be restricted with an officer not less than the rank of Commissioner. He further suggested that reports regarding transportation of gold shall be made available after completion of movement of gold and the carrier may be allowed to carry gold without any hard copy of documents.

4.2 Deputy Chief Minister of Bihar, Shri Sushil Kumar Modi informed that the revenue for the State of Bihar from gold has increased with implementation of GST. He informed that revenue from gold in FY 16-17 was Rs. 38 crores which increased to Rs. 95 crore in FY 18-19 and 123.48 crore in FY 19-20.

4.3 Deputy Chief Minister of Gujarat, Shri Nitinbhai Patel strongly opposed the idea of e-way bill system for gold movement. He informed that both diamond and gold business has strong presence in Gujarat. He informed the GoM that international airport and MCX exchange are present in Ahmedabad and nearly 23% of the gold imported in the country is being imported through Ahmedabad. [He said that business of both viz. recycled and new gold is carried out in Gujarat. Old gold is melted and new jewellerys are made out of it. He further said that other cities where the gold primarily moves from Gujarat are Jaipur, Hyderabad and Delhi. In Gujarat, three important cities in respect of business of gold are Ahmedabad, Rajkot and Surat]. He further informed that movements of gold is done very securely, discreetly and generally in small packets as it is a high value item. He insisted that ensuring security to the businessman dealing in gold is primary responsibility of State Government, therefore, any disclosure on movement of gold is potentially risky area. At present, import has declined substantially in last two years and implementation of e-way bill system will further create more issues for them, particularly honest and law abiding tax payers. Therefore, our state is not in favour of e-way bill and an alternate way must be thought of.

4.4 Shri Sushil Kumar Modi stated that if e-way bill data is restricted with Commissioner then it cannot be checked and verified on road. The purpose of e-way bill system will be lost if it cannot be checked during movement. He further stated that e-way bill system without vehicle number for gold will complicate the matter and not resolve the issue of smuggling of gold while transportation. He emphasised the fact that for the gold that moves through legal channel, information is available about who is importer, whom is he supplying etc. On that point, Shri Nitinbhai Patel made a remark that there are approximate only twenty companies which are in this sector in the State of Gujarat. Shri Sushil Kumar Modi continued by stating that in Bihar primarily job work is carried out and a complicated supply chain is involved in such type of work. He stated that e-way bill system for gold is very impractical and an alternative method may be discussed for the same in terms of Section 68 of the CGST Act that provides for inspection of goods in movement and Section 129 that provides for detention, seizure and release of goods in transit. He further suggested that e-invoice may also be discussed as an alternate for e-way bill to prevent smuggling of gold if these Sections of Act are not effective. But, e-way bill system will make matter more complicated.

5.1 Thereafter, Chairman of the GoM, Dr.T M Thomas Isaac stated that there are many commodities wherein freedom has been given to a State for intra-state movement to decide whether e-way bills are required for movement of such commodities. So, in case of movement of gold as well, States should be allowed to decide about requirement of e-way bill system for movement within the state. He further informed that a note has already been sent suggesting amendment in CGST Rules to allow e-way bill System for movement of gold within territory of a State.

5.2 Shri Sushil Kumar Modi enquired whether the said proposal of Kerala for e-way bill system is for movement of intra-State supplies or for any supply which has movement in Kerala. Commissioner, Commercial Tax, Kerala informed that the proposed system may be for any movement of Kerala irrespective of fact that the concerned supply is inter-State or intra-State.

6.1 Principal Commissioner, GST informed members of GoM that the e-way bill system is only for motorised vehicles. On making e-way bill system mandatory for gold movement, it may happen that movement of gold may start from non-motorised vehicles such as rickshaw and even non mechanized boats. Further, the purpose of mandating an e-way bill will not be served if the vehicle number is to be substituted with individual name and ID details of the carrier and details of the same are to be made available when the movement gets completed.

6.2 He further emphasised that the main concern is the gap in reporting system. The primary area of such gap is movement of gold for the purpose of 'job work' and 'sale on approval basis'. In light of the same, alternative system of reporting for the said gap could be explored so that the accountal is complete. He suggested that one such solution may be to increase the frequency of FORM GST ITC-04 for reporting of gold sent for job work. At present, such form is to be submitted every quarter whereas Gold and other precious goods do not normally remain with the job-worker for such a long duration.

7.1 Deputy Chief Ministers of Bihar and Gujarat said that the new proposal from Kerala is welcome, and that the States may have independence in deciding the requirement of e-way bill system on certain sensitive goods. Chief Commissioner, State Tax, Gujarat stated that bigger issue in respect of tax evasion is the recycled gold and informal channel through which gold is sold. These transactions need to be brought into the tax net. Another important aspect in the sector is the value addition done during the job work. There is clear demarcation of the industry. On these lines with almost half of the sector being mechanised and other half manual. He further stated that industry needs to be engaged in the same before a viable and implementable solution is found out to prevent tax evasion.

7.2. Chairman of the GoM, Dr.T M Thomas Isaac stated that reverse charge mechanism in old gold may be considered on line with the practices in erstwhile VAT regime. He also said that the provisions of e-invoicing may also be considered for this sector. He further informed that raids were conducted on 64 shops in Kerala. But, no headway is being made in investigation as no information can be obtained from the software and servers. Officers should work out on these issues and make alternate proposal in the next meeting. He requested other states present in the meeting to make proposal.

7.3 Commissioner, Commercial Tax, Karnataka also endorsed the same view of intra-State e-way and e-invoice for gold. He further stated that evaluation may also be made on legality and technical aspect of introducing e-way bill system. Commissioner, Commercial Tax, Punjab added that States should have independence with e-way bill system and encrypted form of e-way bill may be used for intra-State supply. Principal Commissioner, GST informed that the same would need to be discussed with the officers of GSTN and NIC and other alternate options, if any, shall also be discussed to curb smuggling of gold.

8. The Chairman of GoM, Dr. T M Thomas Isaac instructed that a Committee of Officers comprising the officers from member of this GoM, GSTN, NIC and GST Council Secretariat should

examine the feasibility of system proposed by Kerala and all other possible solutions to plug the gap in the system. The Chairman also requested GST Council Secretariat for revenue collection figures during the VAT regime for the period 2016-17.

9. The GoM ended with vote of thanks from the Chairman. The date and time of next meeting shall be communicated separately.

**Annexure – I**

<b>Sr. No.</b>	<b>Name(Smt./Shri)</b>	<b>Designation</b>
1	Dr.T.M.Thomas Isaac	Minister of Finance, Kerala
2	Shri Sushil Kumar Modi	Deputy Chief Minister, Bihar
3	Shri Nitinbhai Patel	Deputy Chief Minister, Gujarat
4	Shri Yogendra Garg	Principal Commissioner, GST Policy Wing
5	Shri Sanjay Mangal	Commissioner, GST Policy Wing
6	Shri Manish Sinha	EVP,GSTN
7	Smt Ashima Bansal	Joint Secretary, GSTC Secretariat
8	Shri J P Gupta	Chief Commissioner, Commercial Tax, Gujarat
9	Shri Anand Singh	Commissioner, Commercial Tax, Kerala
10	Shri Nilkanth S Avhad	Commissioner, Commercial Tax, Punjab
11	Shri Srikar MS	Commissioner, Commercial Tax, Karnataka
12	Shri Kiran Kumar	Additional Director, DRI
13	Shri Nimba Ram	Joint Commissioner, GST Policy Wing
14	Smt Nisha Gupta	Joint Commissioner, GST Policy Wing
13	Nilesh Kumar Rai	Deputy Director, DRI
14	Shri Kumar Asim Anand	Deputy Commissioner, GST Policy Wing
15	Shri Krishna Koundinya	Under Secretary, GSTC Secretariat
16	Shri J Ravi Shankar	Director, MMTC
17		MMTC

## 2<sup>nd</sup> Meeting of Group of Ministers

to examine the feasibility of implementation of e-way Bill requirement exemption for movement of gold and precious stones

14.08.2020

1

### Decisions in 1<sup>st</sup> Meeting held on 18.01.2020

591-GOM-MVMT OF GOLD &amp; PRE. STONES-GSTC-2019

NATION  
TAX  
MARKET

- Data/ information on revenue, import, export, consumption, price trend and estimate of smuggling of gold from various sources to be collected;
- Based on the data, alternative options for preventing loss of revenue in the sector needs to be considered;
- Other agencies (MMTC and DRI) may be called in the next meeting for holistic understanding of the sector;
- State of Kerala to present a note on the matter.

2

## Action taken by GST Policy Wing

- Data/ information collected from following sources: -
  - DG System, CBIC;
  - DGFT, Ministry of Commerce;
  - DRI, CBIC;
  - Dept. of Economic Affairs, Ministry of Finance;
  - World Gold Council;
  - GJEPC;
- Above data circulated to the members of GoM;
- Revenue figures on gold collected from GSTN;
- Analysis of important statistics in the following slides.

3

## Data - Revenue ( GSTN)

F.Y.	Turnover	Liability	Paid by ITC	Paid by Cash
2017-18	27,56,296	76,855	63,576	13,281
2018-19	37,10,737	1,13,176	96,967	16,209
2019-20	31,46,633	1,13,414	97,878	15,536

- Amount in Rs. crore
- Data prepared on basis of FORM GSTR-3B of those taxpayers who have been mentioned in their registration form that they deal in item under HSN Code 71 as their top five HSN . For the said taxpayers, the turnover & tax payment details have been arrived at from values reported in Tables-3.1(a), (b), (c) & (e) and Table-6 of GSTR-3B respectively.

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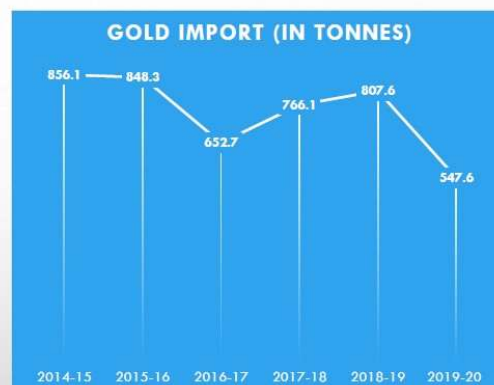
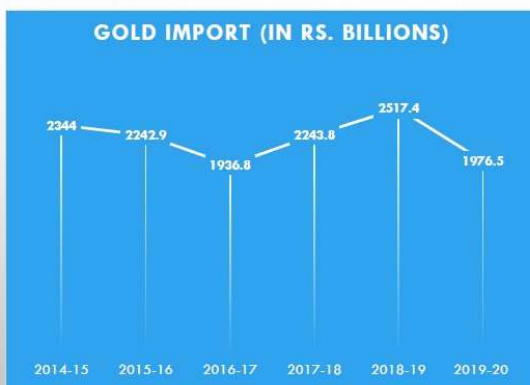
## Data – World Gold Council (Export)



- Exports only includes exports of gold jewellery and gold bullion (medallion and coins) and excludes Round Tripping volumes
- FY 2019-20 – Apr, 19 to Jan, 20
- Source: Metals Focus; World Gold Council (as on 26.04.2020)

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## Data – World Gold Council (Import)

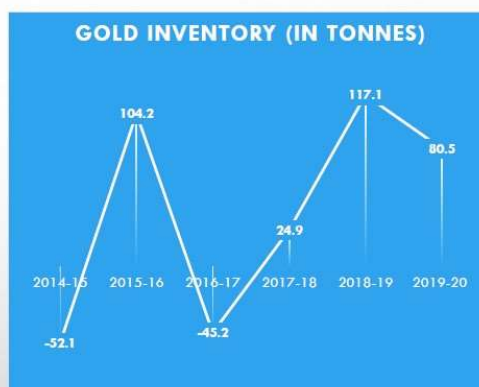


- Imports include gold dore' also in fine gold terms
- FY 2019-20 – Apr, 19 to Jan, 20
- Source: Metals Focus; World Gold Council (as on 26.04.2020)

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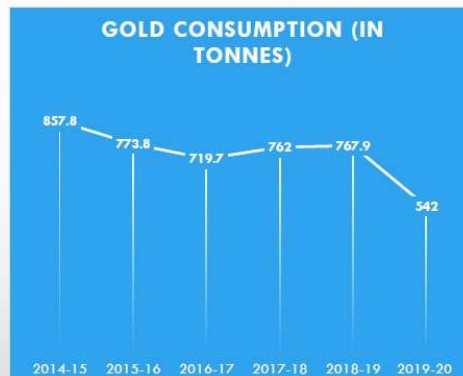
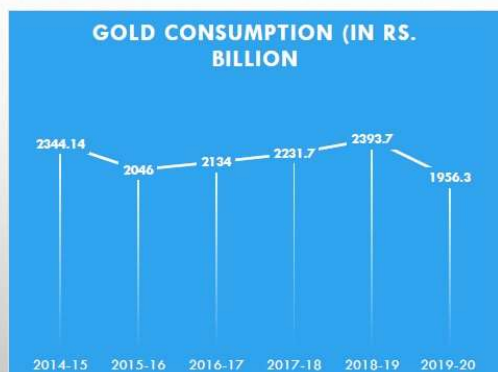


## Data – World Gold Council (Inventory)



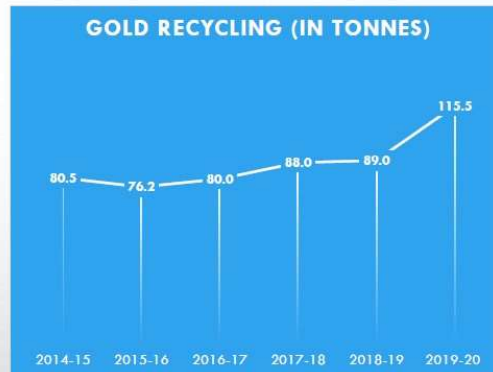
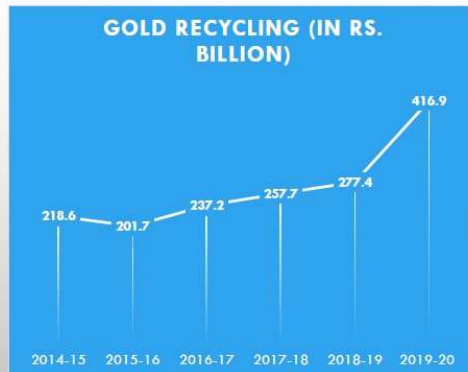
- Inventory represents bullion inventory , does not include jewellery inventory in merchandise stores
- FY 2019-20 – Apr, 19 to Jan, 20
- Source: Metals Focus; World Gold Council (as on 26.04.2020)

## Data – World Gold Council (Consumption)



- Consumption includes both gold jewellery and gold investment (bar and coin) demand
- FY 2019-20 – Apr, 19 to Jan, 20
- Source: Metals Focus; World Gold Council (as on 26.04.2020)

## Data – World Gold Council (Recycling)



- FY 2019-20 – Apr, 19 to Jan, 20
- Source: Metals Focus; World Gold Council (as on 26.04.2020)
- All the above data excludes : Central bank ( RBI) purchases, grey market volumes, gold / jewellery purchased new by recycling old gold/jewellery; secondary sales of jewellery held as collaterals on defaulted loans

## Data – Price Index of Gold



- Source:- Prices Unit, Dept. of Economic Affairs
- CPI- Consumer Price Index Combined for Gold
- WPI- Wholesale Price Index for Gold and Gold Ornaments



## Data – Gold seized by DRI



### Seizure of Gold by DRI

Year	Qty. in Kgs.	Value Rs. In Cr.
2014-15	890.499	338.24
2015-16	863.099	236.29
2016-17	600.965	230.65
2017-18	1282.390	410.14
2018-19	1440.728	457.46
2019-20 (Upto December)	1028.606	369.43

• Source:- DRI, CBIC

## Note on Gold Sector by State of Kerala (1/4)



### i. Data not fruitful: -

- Data from nominated agencies alone cannot be an indicator;
- Smuggled gold, old gold recycling and sale of pledged ornaments by NBFCs forms a major part of the business;
- Such items come to the possession of registered dealers and are sold outside accounts resulting in tax evasion.

## Note on Gold Sector by State of Kerala (2/4)

### ii. Reasons for transportation of Gold: -

- For Job Work
- By travelling salesman
- Stock Transfer (Different GSTIN)
- Branch transfer (Same GSTIN)
- Sale
- To and fro movement to hall marking Centres;
- In all such movements at least one registered dealer is involved.

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## Note on Gold Sector by State of Kerala (3/4)

### iii. E-way bill System

- If e-Way bill implemented - duty of dealer to declare before transport;
- Vehicle details in e-Way bill can be dispensed and replaced with “the name and address of the person transporting the goods” and therefore issues relating to stoppage of public transport etc. can be avoided;
- Verification of e-Way bill for gold by officers can only be information based;
- All transactions recorded in the system - improve compliance and tax performance.

14

## Note on Gold Sector by State of Kerala (4/4)

### iv. E-invoicing

- All type of movements (as mentioned at s.no (ii)) must be covered under e-invoicing for this sector (at present e-invoicing envisaged for cases of 'supply').

### v. Reverse Charge Mechanism for old gold

- VAT had reverse charge provisions with rebate and it made the jewellers to record such transactions;
- Old gold may be notified under reverse charge.

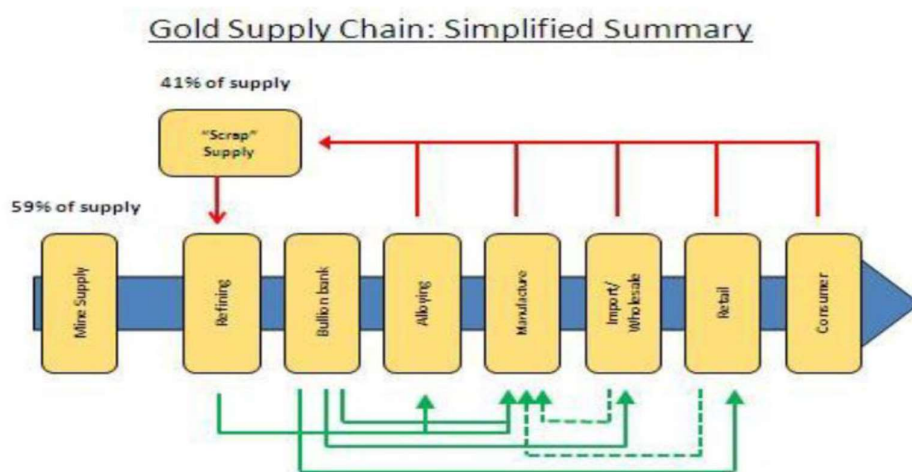
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# Thank You

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**Note from Kerala State GST department as desired in Group of Ministers to examine the feasibility of implementation of e-way bill requirement for movement of Gold and Precious Stones, held in Kalpvriksha, North Block, New Delhi on 18th January, 2020**

The data from nominated agencies alone cannot be an indicator in analyzing the tax performance of the gold sector. Smuggled gold, old gold recycling and sale of pledged ornaments by NBFCs forms a major part of the business. These items come to the possession of registered dealers and are sold outside accounts resulting in tax evasion. Unless, these transactions are brought into the books, the evasion in gold would continue. Given the peculiar nature of the commodity, where liquidity is high, stocks can be easily removed or hidden or transported and year-end audit would not throw light on evasion. Concurrent enforcement mechanism has to be in place. This is where the transporting document like e-way bill becomes effective.



The following are the probable transport scenarios in gold sector:

(a) Job work is one of the major reason for transport in gold. This could be intra-state or inter-state. In this case either of the person would be registered dealer. Present documentation needed for this transport in gold is a delivery challan serially numbered to be issued at the time of removal of goods for transportation, this is manual (Rule 55).

(b) One of the major reasons for transport peculiar to the sector is a travelling salesman who is a employed by a registered dealer (situated within or outside the state) who visits jewellerys, and the sale gets fructified only at the door step. Invoice is issued then and there. Unsold good is taken back by the salesman to the registered dealer. Present documentation needed for this transport in gold is a manual delivery challan serially numbered to be issued at the time of removal of goods for transportation. Sub-rule 4 of Rule 55 states that where tax invoice cannot issued at the time of

removal of goods, for the purpose of supply the supplier shall issue a tax invoice after delivery of goods.

(c) Thirdly, there is stock transfer by the same entities having different GSTINs. Co-relation between the quantity and value may be relevant in these transactions. This would be a supply and a tax invoice under Rule 46 will have to be issued and as per Rule 55A such invoice should accompany the transport of goods.

(d) Then there would be branch transfers between one shop to another shop / storage vault etc. of the same registered dealer. Here also, for gold, manual delivery challan under Rule 55 would apply.

(e) Then there are B to B and B to C supply transactions for which invoice under Rule 46 will have to be issued.

(f) There would also be movement of gold from registered dealer or job worker to hall marking centers and back.

With respect to gold, all these types of transactions presently require manual forms for transport and a registered dealer is involved in one point of the transaction. It is also not possible to envisage a scenario where a registered dealer is not involved. By introduction of e- Way bill, the only difference is that the details are captured electronically. Specifically, with regard to (b) stated above, there is a provision for “Line Sales” in e-Way bill.

The whole reason behind implementation of e-Way bill was that the dealers would be forced to account the transaction once e-Way bill is generated. Presently, the verification of e-Way bill is by the enforcement office or through the proposed RFID system. Enforcement verification is presently through chance verification or information-based verification. RFID verification may also not cover areas where there are no RFID readers. This verification only ensures whether the vehicle carries an e-Way bill. On suspicion the intercepting officer can inspect the goods under transport also. So, it is pertinent to note that the accounting of transactions included in the e-Way bill is not because of the threat of verification only. It is because of the legal mandate that such transport should be accompanied by e-Way bills that forces the dealer to comply.

It is true that e-Way bill is tagged to a vehicle and officers are empowered to detain the vehicle which does not have a valid e -Way bill. It is also true that gold is transported in private vehicles and public transport by persons. But, if e-Way bill is implemented in gold as with other commodities there is always a duty for the dealer to declare before transport. So, with respect to gold, the e- way bill will serve as a declaration before transport and as such the vehicle details in e-Way bill can be dispensed and replaced with “the name and address of the person transporting the goods”. With this, the issues relating to stoppage of public transport etc. can be avoided. Verification of e-Way bill for gold by

officers can only be information based. Dealers won't take a chance at this and all transactions would get recorded in the system. This would improve compliance and tax performance of the sector. This can be implemented through appropriate rule amendments.

### **SECRECY**

Even in the current system, the courier must carry physical delivery challans/invoices for movement of gold. If e-way bill is implemented they need only carry the e-way bill number which he will have to reveal to the officer if chance detection happens. The details can be verified only by authorized officers. Even the courier does not need to know the contents and value. So the secrecy in the present system will not be compromised with the introduction of e-way bill.

### **e-Invoicing for Gold**

Present e-Invoicing provisions cover only (c) and (e) above, i.e., only supply transactions. Unless other transactions / transport are electronically captured, e-invoice would not suffice for e-Way bill for gold and will not achieve the desired purpose.

### **Reverse charge on old gold**

With the present Act and Rules, there is no reverse charge on Old Gold purchased by Registered Dealers. VAT had such provisions with rebate, and it made the jewellers to record such transactions. So completely close the evasion loop along with introduction of e-way bill, gold may be notified under reverse charge.



## **Annexure-C**

**F. No. CBEC- 20/13/02/2020-GST  
Government of India  
Ministry of Finance  
Department of Revenue  
Central Board Indirect Taxes & Customs,  
GST Policy Wing  
\*\*\*\*\***

Room No. 159-A, North Block,  
New Delhi, January, 2022

### **OFFICE MEMORANDUM**

**Subject: Minutes of third meeting held on 16<sup>th</sup> November'2021 of Group of ministers to examine the feasibility of implementation of E-way Bill requirement for movement of gold and precious stones- reg.**

This is with reference to the third meeting held on 16.11.2021 of the Group of Ministers to examine the feasibility of implementation of e-way bill requirement for movement of Gold and Precious Stones. The minutes of the said meeting duly approved by the Convenor Shri K N Balagopal, Hon'ble Finance Minister of Kerala are enclosed herewith.

*Sanjay Mangal*  
27/1/2022

Sanjay Mangal  
Pr. Commissioner (GST)  
Email: [sanjay.mangal@nic.in](mailto:sanjay.mangal@nic.in)

To,

1. The Chief Commissioner/Commissioner, Commercial Tax of the States of Bihar, Gujarat, Karnataka, Kerala, Punjab, West Bengal with request to brief the Hon'ble Ministers about the minutes of the Meeting as above.

Copy To (for necessary information),

1. OSD to Revenue Secretary, Government of India
2. OSD to Chairman, CBIC
3. The Joint Secretary, GST Council Secretariat.

Encl: As above



**Minutes of the 3<sup>rd</sup> Meeting of Group of Ministers to examine the feasibility of implementation of e-way bill requirement for movement of Gold and Precious Stones held on 16<sup>th</sup> November, 2021 – reg.**

The third meeting of the Group of Ministers (GoM) to discuss feasibility of implementation of e-way bill for the movement of gold and precious stones was held on 16<sup>th</sup> November, 2021 under the Chairmanship of Shri K N Balagopal, Hon'ble Finance Minister of Kerala. The said meeting was conducted through video conferencing and the list of the attendees is enclosed as **Annexure – I**.

2. At the outset, Convenor of the GoM, Shri K N Balagopal welcomed all the participants and mentioned that two meetings of the GoM had already been held. He emphasized that as the matter is already delayed a lot and therefore GoM needs to finalize its recommendations in the present meeting itself. He also informed that the Committee of Officers, constituted by GoM in its 2<sup>nd</sup> meeting, has now submitted its report. He then requested Principal Commissioner, GST Policy Wing to brief the members of GoM regarding the deliberations and recommendations made by Group of Officers.
3. Principal Commissioner, GST PW made a brief presentation regarding the same. The copy of the presentation is enclosed as **Annexure - II**. He informed that in the 2<sup>nd</sup> meeting of GoM held on 14.08.2020, various options to track the movement of Gold and precious stones and to avoid evasion of tax in respect of gold and precious stones were deliberated, namely – e-way bill for intra-state movement of gold and precious stones; e-invoice for supply of gold and precious stones; and reverse charge mechanism for levy of GST on supply of old gold from unregistered persons to registered persons.



3.1 Principal Commissioner, GST PW stated that in the said meeting, GoM decided to constitute a Committee of Officers comprising member from the GoM, GSTN, NIC and GSTC secretariat to examine the feasibility of implementation of E- Way Bill requirement for movement of gold and precious stones and all other possible solutions to plug in revenue gaps.

3.2 He informed that the Committee of Officers held three meeting wherein the detailed deliberations were made on the following major issues mandated to it:

- To examine the feasibility of the system of intra-state e-way bills for movement of gold and precious stones.
- To examine all other possible solutions to plug in revenue gaps , including :
  - E-invoicing for supply of gold and precious stones; and
  - Reverse charge mechanism for levy of GST on purchase of old gold from unregistered persons by registered persons.

3.3 The Principal Commissioner, GST PW informed that after detailed deliberations, the Committee of Officers (CoO) made the following recommendations:-

**A. Issue of e-way bill for movement of gold and precious stones:**

(i) States should be allowed to impose requirement of e-way bill for intra-state movement of gold / precious stones within their states, if they so want.

(ii) A minimum threshold value of **Rs 2 lakh** for generation of e-way bills may be prescribed in such cases and the states can decide any amount above this value.



(iii) States to consult jurisdictional Principal Chief Commissioner/ Chief Commissioner of Central Tax, or any Commissioner authorized by him, for deciding about such requirement of e-way bill for intra-state movement of gold & precious stones within the state and the threshold value for the same.

(iv) **Only Part 'A'** on the e-way bill to be required to be filled in such cases, without any need for filling Part 'B' of the e-way bill.

**B. E-invoicing for gold and precious stones:**

Regarding E-invoicing for gold/ precious stones, the CoO recommended that E-invoicing should be made mandatory **for B2B transactions** by all taxpayers supplying gold/ precious stones (i.e. goods of HSN code of Chapter 71), having **aggregate turnover above Rs 20 crore**.

**C. Levy of GST on Reverse Charge mechanism on old gold:**

The CoO recommended that the issue of levy of GST on reverse charge mechanism (RCM) on purchase of old gold by registered persons from unregistered persons **may be referred to Fitment Committee** for detailed examination.

4. After the presentation, the Convenor of GoM, Shri K N Balagopal requested other members of GoM to share their views on the recommendations made by the Committee of Officers.
5. Hon'ble Deputy Chief Minister of Bihar, Shri Tarkishore Prasad informed that the State of Bihar is in agreement with the recommendations made by Committee of Officers on all the three issues. He also suggested that as recommended by the Committee of Officers, the issue of levy of GST on reverse charge mechanism (RCM) on purchase of old gold from unregistered persons **may be referred to**



**Fitment Committee** for detailed examination, so as to ensure that no hindrance is caused to the trade due to the implementation of RCM on purchase of old gold.

6. Hon'ble Finance Minister of Gujarat, Shri Kanubhai M Desai stated that there are security concerns involved with movement of gold once the e-way bill is required for the same and therefore, states should be allowed to work on it. He however added that he, in principle, agreed with the recommendations of Group of Officers on all the three issues.
7. The Commissioner, Commercial Tax, Punjab informed that Hon'ble Finance Minister of Punjab could not participate in the meeting due to some prior engagements. He informed on behalf of the State of Punjab that they agree with the recommendations of Committee of Officers on all the three issues.
8. The Commissioner, Commercial Tax, Karnataka informed that Hon'ble Chief Minister of Karnataka could not participate in the meeting due to some exigency. She informed that State of Karnataka is in agreement with the recommendations of the Committee of Officers.
9. The Commissioner, Commercial Tax, West Bengal informed that Hon'ble Finance Minister of West Bengal could not participate in the meeting due to some prior engagements. While agreeing with the recommendations of the group of officers, he raised a concern that as per the wording of the present rule in CGST Rules, 2017, the unregistered buyer of gold/ precious stones may have to generate e-way bill, if the movement of goods is caused by such unregistered buyer, as the rule does not mandate registered supplier only to generate e-way bill in respect of supply made to such unregistered buyers. He was of the view that the legal requirement of generation of PART -A of e-way bill by supplier



only in such cases be incorporated in rule 138 of CGST Rules and the onus for any violation of the same should only lie with the concerned supplier.

10. The Principal Commissioner, GST Policy Wing clarified that as only Part "A" of the e-way bill will be required to be filled for intra-state movement of gold/ precious stones, as per recommendations of Group of Officers, the e-way bill in case of movement of gold/ precious stones should be generated by the registered supplier only, and the unregistered buyer should not be required to generate e-way bill in such cases. Therefore, a suitable amendment in CGST Rules 2017 may be required to make it mandatory for registered supplier only to generate e-way bill in such cases. He also mentioned that once a decision is taken by GST Council on e-way bill requirement for movement of Gold and Precious Stones, the corresponding amendment in CGST Rules can be deliberated by the Law Committee to provide for the same.

11. Hon'ble Finance Minister of Kerala and Convenor of GoM observed that there was an agreement amongst all the members about the recommendations of Group of Officers on all the three issues, viz. requirement of e-way bill for intra-state movement of gold/ precious stones, e-invoicing for gold/ precious stones and levy of GST on old gold on RCM basis. He said that the acceptance of the said recommendations will help in curbing evasion of tax on supply of gold and precious stones and will help the State of Kerala as well as other states in garnering more revenue.

12. Accordingly, the members of GoM unanimously agreed to make the following recommendations to the GST Council:-

**A. E-way bill for intra-state movement of gold and precious stones:**



**A. E-way bill for intra-state movement of gold and precious stones:**

- (i) The states should be allowed to decide about imposition of the requirement of e-way bill for intra-state movement of gold and precious stones within their states.**
- (ii) There will be a minimum threshold of Rs 2 Lakh, and the states can decide any amount including or above this amount as minimum threshold for generation of E-way bill for intra-state movement of gold/precious stones in their state.**
- (iii) Only Part 'A' on the e-way bill will be required to be filled in such cases, without any need for filling Part 'B' of the e-way bill.**
- (iv) Further modalities of generation of e-way bill for intra-state movement of gold/ precious stones will be as suggested by NIC/ GSTN.**
- (v) For deciding about implementation of such a system of e-way bill for intra-state movement of gold and precious stones within the state, as well as regarding the threshold value to be adopted for generation of such e-way bill within the state, the procedure of consultation with the jurisdictional Principal Chief Commissioner/ Chief Commissioner of Central Tax, or any Commissioner authorized by him, should be followed by the States.**
- (vi) Once e-way bill requirement for movement of Gold and Precious Stones is decided, the corresponding suitable amendment in CGST Rules, 2017 would have to be carried out. While finalizing amendment in Rules, it is to be ensured that in case of supply of gold by registered persons to unregistered buyers, the requirement of e-way bill generation is mandated on registered supplier only.**



**B. E-invoicing for Gold and precious stones:**

**(i) E-invoicing should be made mandatory for B2B transactions by all taxpayers supplying gold/ precious stones (goods of HSN 71) and having annual aggregate turnover above Rs 20 crore .**

**(ii) GSTN, in consultation with NIC, to work out the modalities and timelines for implementation of the proposed requirement of e-invoicing for gold/ precious stones.**

**C. Levy of GST on RCM basis on Old Gold:**

**The issue of levy on GST on reverse charge mechanism (RCM) basis on purchase of old gold by registered dealers/ jewellers from unregistered persons may be referred to Fitment Committee for detailed examination.**

13. Hon'ble Finance Minister of Kerala and the Convenor of GoM thanked all the Members of GoM for arriving at the consensus and making the above unanimous recommendations to curb evasion of tax on gold and precious stones. He concluded the meeting after thanking all the officers of States, GST Policy Wing, GST Council Secretariat and GSTN for extending their full support and cooperation to the GoM.

\*\*\*\*\*

**Annexure – I**

<b>Sr. No.</b>	<b>Name (Smt./Shri)</b>	<b>Designation</b>
1	Shri K N Balagopal	Minister of Finance, Kerala (Convenor)
2	Shri Tarkishore Prasad	Deputy Chief Minister, Bihar
3	Shri Kanubhai M Desai	Deputy Chief Minister, Gujarat
4	Shri Sanjay Mangal	Principal Commissioner, GST Policy Wing
5	Shri Rattan Kelkar	Commissioner, Commercial Tax, Kerala
6	Shri Milind S. Torawane	Chief Commissioner of State Tax, Gujarat
7	Shri Nilkanth S Avhad	Commissioner, Commercial Tax, Punjab
8	Ms C Shikha	Commissioner, Commercial Tax, Karnataka
9	Shri Khalid A. Anwar	Commissioner, Commercial Tax, West Bengal
10	Shri Arun Mishra	Special Secretary, Commercial Tax, Bihar
11	Smt Ashima Bansal	Joint Secretary, GSTC Secretariat
12	Shri Dheeraj Rastogi	Officiating EVP, GSTN
13	Shri Kshitendra Verma	Director, GSTC Secretariat
14.	Shri Nimba Ram	Additional Commissioner , GST Policy Wing
15.	Ms Kanika Dua	Deputy Commissioner, GST Policy Wing
16.	Shri Nitesh Gupta	Assistant Commissioner, GST Policy Wing





**3<sup>rd</sup> Meeting  
of  
Group of Ministers  
on  
E-way Bill for Movement of  
Gold and Precious stones**

**16<sup>th</sup> November 2021**





## **Background**

### **Constitution of Group of Ministers:**

- GST Council in its 37<sup>th</sup> Meeting held in September 2019 decided to constitute a Group of Ministers (GoM) on E-way bill for gold and precious stones
- GoM constituted by GST Council Secretariat vide OM dated 22.11.2019

### **Mandate of GoM:**

- To examine the feasibility of implementation of e-way bill requirement for movement of gold and other precious stones.

## Deliberations by GoM

### Meetings of GoM:

- First Meeting of GoM held on 18.01.2020.
- Second meeting of GoM held on 14.08.2020 through video conferencing.
  - The following options for tracking of the movement of Gold and precious stones and to avoid evasion of tax in respect of gold and precious stones were deliberated in 2<sup>nd</sup> meeting:
    - E-way bill for intra-state movement of gold and precious stones as per discretion of the State, as proposed by Kerala
    - E-invoice for supply of gold and precious stones
    - Reverse charge mechanism for levy of GST on supply of old gold from unregistered persons to registered persons
- In the 2<sup>nd</sup> Meeting, GoM decided to constitute a **Committee of Officers (CoO)** comprising of members from the GoM, GSTN, NIC and GSTC Secretariat
  - to examine the feasibility of the system proposed by Kerala and all other possible solutions to plug in revenue gaps.

**DELIBERATIONS  
AND  
RECOMMENDATIONS  
OF  
COMMITTEE OF OFFICERS**

## **Deliberations by Committee of Officers**

- ❖ Committee of Officers held **three meetings**
  - First meeting held on 10.11.2020
  - Second meeting held through video conferencing on 18.02.2021
  - Third and final meeting held on 06.07.2021 through video conferencing
- ❖ Committee of Officers submitted its **Report** on 30.07.2021
- ❖ **The Committee held detailed deliberations on the following major issues mandated to it:**
  - **to examine the feasibility of the system of intra-state e-way bills for movement of gold and precious states proposed by State of Kerala**
  - **To examine all other possible solutions to plug in revenue gaps, including:**
    - **E-invoicing for supply of gold and precious stones; and**
    - **Reverse charge mechanism for levy of GST on purchase of old gold from unregistered persons by registered persons.**

## **Issue of E-way Bills for Intra-State Movement of Gold and Precious Stones, as per Proposal of Kerala (1/3)**

### **Deliberations of CoO on the issue:**

- Kerala proposed that States should be allowed to mandate generation of e-way bill for intra-state movement of gold and precious stones within their states, if they so desire.
- Kerala initially proposed that in **Part 'B'** of such E-way bills, instead of vehicle details, the name, address and ID details of the person transporting the goods can be captured.
- It was deliberated by CoO that the same will not help in interception of consignments during transportation, but may lead to security risk for the consignment as well as the person carrying the consignments
- Kerala then suggested that information in **Part 'A'** of the e-way bill declaration may be sufficient for intra-state movement of gold/ precious stones, without any need for **Part 'B'** declaration.
- NIC/ GSTN informed that such a system of generation of e-Way bill for intra-state movement of gold/ precious stones, with only details in Part 'A', can be implemented for goods falling under HSN code 71.



## **Issue of E-way Bills for Intra-State Movement of Gold and Precious Stones, as per Proposal of Kerala (2/3)**

- CoO also suggested to have a **minimum threshold of value** for generation of e-way bill for such intra-state movement of gold/ precious stones, and the states can decide any threshold value above this minimum threshold, within their states.
- CoO also proposed that States may consult the jurisdictional Principal Chief Commissioner/ Chief Commissioner of Central Tax, or any Commissioner authorized by him, for deciding about implementation of such a system of intra-state e-way bill and the threshold value to be adopted.
- The Committee also suggested that while deciding about implementation of such system of e-way bill in the state for gold/ precious stones, the concerns about possible harassment that may be caused to genuine taxpayers/ traders and common citizens due to implementation of the said scheme, if any, may be kept in consideration.

## **Issue of E-way Bills for Intra-State Movement of Gold and Precious Stones, as per Proposal of Kerala (3/3)**

### **Recommendation of CoO on the Issue:**

- The states should be allowed to impose requirement of e-way bill for intra-state movement of gold/ precious stones within their states, if they so want.
- There should be a minimum threshold of Rs 2 Lakh, above which the states can decide any amount as threshold value for generation of E-way bill for intra-state movement of gold/ precious stones in their state.
- Only Part 'A' on the e-way bill will be required to be filled in such cases, without any need for filling Part 'B' of the e-way bill.
- Further modalities of generation of e-way bill for intra-state movement of gold/ precious stones will be as suggested by NIC/ GSTN.
- States to consult the jurisdictional Principal Chief Commissioner/ Chief Commissioner of Central Tax, or any Commissioner authorized by him, for deciding about implementation of such a system of intra-state e-way bill and the threshold value.

## **Deliberations of CoO on Alternate Means to Plug the Gap and to Curtail Evasion of Tax**

- **CoO deliberated on the following measures as alternate means to plug the gap in the system and to curtail evasion of tax in such commodities:**
  - ❖ Implementation of **e-invoicing** for intra-state as well as inter-state supply of gold and precious stones
  - ❖ Reverse Charge Mechanism (RCM) levy on purchase of old gold from the unregistered persons

## Deliberations of CoO on Issue of E-invoicing for Supply of Gold and Precious Stones (1/2)

- CoO deliberated on the proposal for implementing e-invoicing for supply of gold and precious stones, based on
  - ❖ either a threshold of aggregate turnover of the taxpayer, or
  - ❖ on the basis of transaction value for a particular transaction i.e. per invoice
- Presently, e-invoice scheme has been implemented for taxpayers having annual aggregate turnover **above Rs. 50 crores** for **B2B** transactions only and **not** on B2C transactions.
- The Committee felt that implementing e-invoicing on the basis of value of a transaction/ invoice, irrespective of turnover of the taxpayer, may adversely affect smaller taxpayers.
- The Committee felt that instead, the threshold turnover limit for generation of e-invoice may be reduced for taxpayers dealing in gold/ precious metals.
- It was discussed that e-invoicing can be implemented uniformly throughout the country, in addition to the proposed intra-state e-way bill system.



## **Deliberations of CoO on Issue of E-invoicing for Supply of Gold and Precious Stones** (2/2) |

### **Recommendations of the CoO on the Issue:**

- E-invoicing should be made mandatory for **B2B transaction** by all taxpayers supplying gold/ precious stones (i.e. goods of HSN code of Chapter 71) **above aggregate turnover of Rs 20 crore**.
- E-invoicing may be implemented throughout the country, in addition to the proposed e-way bill system for intra-state movement of gold/ precious stones .
- GSTN and NIC to examine the feasibility of implementation of said e-invoicing proposal and to suggest timelines for implementation of the same.

201905/2022/001 COUNCIL

## **Deliberations of CoO on Issue of RCM levy on Purchase of Old Gold from Unregistered Person** |

- CoO observed that purchase of old gold by gold dealers/ jewelers from unregistered persons is prone to evasion of duty
  - The said transactions may not get properly recorded
- CoO felt the need for a mechanism for recording of such supplies
  - One such measure can be levy of GST on reverse charge mechanism (RCM) on recipients, i.e. dealers/ jewelers
- CoO felt that detailed examination is required by the Fitment Committee regarding the implications of RCM levy on purchase of old gold on the common households/ persons.

### **Recommendations of the CoO on the Issue:**

- The issue of levy of GST on reverse charge mechanism (RCM) on purchase of old gold from unregistered persons may be referred to Fitment Committee for detailed examination.

## Summary of Recommendations of CoO

### E-way bill for intra-state movement of gold/ precious stones:

- The states should be allowed to impose requirement of e-way bill for intra-state movement of gold/ precious stones within their states, if they so want.
- There should be a **minimum threshold value of Rs 2 Lakh** for generation of e-way bills in such cases and states can decide any amount above this value, if they want
- **Only Part 'A'** on the -way bill will be required to be filled in such cases, without any need for filling Part 'B' of the e-way bill.

### E-invoicing for gold/ precious stones:

- E-invoicing should be made mandatory **for B2B transaction** by all taxpayers supplying gold/ precious stones (i.e. goods of HSN code of Chapter 71) **above aggregate turnover of Rs 20 crore**.

### RCM levy on purchase of old gold:

- The issue of levy of GST on reverse charge mechanism (RCM) on purchase of old gold from unregistered persons **may be referred to Fitment Committee** for detailed examination.

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# Thank You

## **Annexure D**

File No. CBEC-20/13/02/2020-GS I  
Government of India  
Ministry of Finance  
Department of Revenue  
Central Board of Indirect Taxes & Customs  
GST Policy Wing  
\*\*\*\*\*

Room No. 159-A, North Block  
New Delhi, July, 2021

### **OFFICE MEMORANDUM**

**Subject: Final Report of the Committee of Officers to examine the feasibility of implementation of E-Way Bill requirement for movement of gold and precious stones- reg.**

In pursuance of the decision taken in 37<sup>th</sup> GST Council Meeting held on 20<sup>th</sup> September, 2019; a Group of Ministers (GoM) was constituted by the GST Council Secretariat vide O.M. issued vide F. No. 591/GoM/Mvmt of Gold & Pre. Stones /GSTC /2019/9221-9225 dated 22.11.2019 with a mandate to examine the feasibility of implementation of e-way bill requirement for movement of Gold and other precious stones.

2. As an outcome of the 2<sup>nd</sup> Meeting of GoM, held on 14.08.2020 through Video Conferencing it was decided that a Committee of Officers (CoO) comprising of members from the GoM, GSTN, NIC and GSTC Secretariat, should examine the feasibility of the system proposed by Kerala and all other possible solutions to plug in revenue gaps.
3. The Committee of Officers held three meetings. Based on discussions in those meetings, the report of the Committee has been finalized, containing the recommendations of the committee. The report of the Committee of Officers is enclosed herewith to place the same before the Group of Ministers.

*Sanjay Mangal*  
30/7/2021

(Sanjay Mangal)

Pr. Commissioner (GST)

Email: [sanjay.mangal@nic.in](mailto:sanjay.mangal@nic.in)

Encl: As above.

To,  
The Joint Secretary,  
GST Council Secretariat,  
5<sup>th</sup> Floor, Tower 2, Jeevan Bharati Building,  
Janpath Road, Connaught Place,  
New Delhi- 110001.

**Final Report of the Committee of Officers (CoO) formed by the Group of Ministers (GoM) to examine the feasibility of implementation of e-way bill requirement for movement of Gold and other precious stones**

In pursuance to the decision taken in 37<sup>th</sup> GST Council Meeting held on 20<sup>th</sup> September, 2019, a Group of Ministers (GoM) was constituted by the GST Council Secretariat vide O.M. issued vide F. No. 591/GoM/Mvmt of Gold & Pre. Stones/GSTC /2019/9221-9225 dated 22.11.2019 with a mandate to examine the feasibility of implementation of e-way bill requirement for movement of Gold and other precious stones.

2. The second meeting of the GoM was held on 14.08.2020 through Video Conferencing. In the said Meeting, GoM decided to constitute a **Committee of Officers (CoO) comprising the officers from members of the GoM, GSTN, NIC and GSTC Secretariat, which should examine the feasibility of system of e-way bill for intra-state movement of gold and precious stones, as proposed by Kerala, and all other possible solutions to plug the gap in the system.** The minutes of the said meeting of GoM are enclosed as **Annexure A**.

2.1 In view of the above, the mandate of the Committee of Officers (CoO) was two-fold:

- a) To examine the feasibility of implementation of e-way bills system in respect of intra-state movement of gold and precious stones, as proposed by Kerala;
- b) To examine all other possible solutions to plug the gap in the system.

3. The Committee of Officers (CoO) held three meetings. The 1<sup>st</sup> meeting of the Committee of Officers was held on 10.11.2020, wherein preliminary discussions were held on the mandate given to the Committee, wherein inputs were sought from various members and GSTN/ NIC to further deliberate on the matter. The 2<sup>nd</sup> and 3<sup>rd</sup> meeting of Committee of Officers (CoO) were held on 18.02.2021 and 06.07.2021 respectively, wherein detailed deliberations were carried out on all the issues pertaining to mandate given to the Committee. The minutes of the 2<sup>nd</sup> and 3<sup>rd</sup> meeting are enclosed as **Annexure B** and **Annexure C** respectively. The following discussions were made by the Committee on the issues involved:

**4. To examine the feasibility of implementation of e-way bills system in respect of intra-state movement of gold and precious stones, as proposed by Kerala.**

4.1 Kerala proposed that states should be empowered to mandate generation of e-way bill for intra-state movement of gold and precious stones, to be made applicable within the states, if the state so desires. It was also proposed that the value limit/quantity limit for implementation of e-way bill for intra-state movement of gold, can also be left to the individual state. It was deliberated that the gold/ precious stones are generally carried by carriers/ angadias, etc. and may be carried more in public transports, like train, buses, etc. Besides, e-way bill requirement is only for movement of goods by motorised vehicles, whereas in case of gold/ precious stones, a lot of movement may be through non-motorised vehicles such as rickshaws, non-mechanised boats, etc. Considering this, Kerala initially proposed that in **Part B** of the e-way bill for gold/ precious stones, instead of vehicle details, the name, address and ID details of the person transporting the goods can be captured. During further discussions, it was deliberated that capture of personal details and ID of the person carrying gold will not serve any purpose and will not help in interception of such consignment during transportation, but may lead to security risk for the consignment as well as the person carrying the said consignment.

4.2 Taking into account the security concerns, Kerala suggested that information in **Part A** of the e-way bill declaration may be sufficient for intra-state movement of gold/ precious stones and that **Part B** of e-way bill declaration may be done away with in case of gold/ precious stones. The Officers from GSTN and NIC were requested to give their feedback/ inputs about feasibility of developing a system of implementing E-way bill for intra-state movement of gold/ precious stones, along with provision for different threshold of value/ quantity for generation of e-way bills in different states, as per discretion of the states.

4.3 The inputs/ feedback provided by NIC, in consultation with GSTN, on the feasibility of developing a system of implementing E-way bill for intra-state movement of gold/ precious stones are enclosed in **Annexure D**. NIC/ GSTN informed that such a system of generation of e-Way bill for intra-state movement of gold/ precious stones can be implemented on the portal and HSN code of Chapter 71 will be considered relevant for generation of such e-way bills. In such cases, e-way bill can be generated both by a registered person and by an unregistered person. These users will enter the **Part-A** details of the e-waybill as usual. **Part-A** details alone will be displayed to the users and can be filled up by them. **Part-B** details will not be required to be filled in by the users for generation of E-way Bill for the commodity “Gold/ Gold jewellery or Precious Stones”. The distance will be auto calculated based on the PIN codes of source and destination. If distance is not available for entered PIN code to PIN code, then validity of E-way bill can be made on the basis of the distance entered by the users. Users can cancel, reject or extend these E way bills, once generated. At present, no minimum threshold exists on the system for generation of E-way bill and user can generate e-way bill as per the rules in that particular State/ UT. The same can be made applicable to this functionality for e-way bills for gold/ precious stones also. The development of this module will take around 3-4 weeks’ time from the date of approval of the proposal.

4.4 Observing that as there are no technical or system related issues in implementation of such system of generation of e-way bill for intra-state movement of gold/ precious stones as per the inputs/ feedback provided by GSTN/NIC, The Committee of Officers decided to recommend to GoM about implementation of the proposal of Kerala for allowing states to prescribe requirement of e-way bill for intra-state movement of gold/ precious stones, if they so desire. The Committee also decided that a minimum threshold of value need to be prescribed for generation of e-way bill for such intra-state movement of gold/ precious stones, and the states can decide any threshold value above this minimum threshold, as per their wish. The Committee recommended a minimum threshold of Rs 2 Lakhs.

4.5 The Committee noted that under Rule 138 (14) (d) of the CGST Rules, 2017, in respect of intra-state e-way bill, the State Tax Commissioners have been empowered to decide upon exemptions within the State, in consultation with the jurisdictional Principal Chief Commissioner/ Chief Commissioner of Central Tax. The Committee, therefore, recommended that in case of e-way bill for intra-state movement of gold/ precious stones in the state also, such a procedure of consultation with the jurisdictional Principal Chief Commissioner/ Chief Commissioner of Central Tax, or any Commissioner authorized by him, should be followed by the States for deciding about implementation of such a system as well as threshold value to be adopted. The Committee also suggested that while deciding about implementation of such system of e-way bill in the state for gold/ precious stones, the States should also keep in consideration the concerns about possible harassment that may be caused to genuine taxpayers/ traders and common citizens due to implementation of the said scheme.

## **5. To examine all other possible solutions to plug the gap in the system**

5.1 The Committee deliberated on the following alternate means to plug the gap in the system and to curtail evasion of tax in respect of gold and precious stones:

I. Implementation of e-invoicing for both intra-state and inter-state supply of gold and precious stones

II. RCM levy on purchase of old gold from unregistered persons

### **5.2 Implementation of e-invoicing for both intra-state and inter-state supply of gold and precious stones**

5.2.1 On the issue of need for implementation of e-invoicing for both intra-state and inter-state supply of gold and precious stones, it was suggested by Gujarat that mandating e-invoicing for supply of gold and precious stones can be considered as one of the measures to plug the gap in the system. It was proposed that e-invoice for gold can either be implemented based on a threshold of aggregate turnover of the taxpayer or on the basis of transaction value for a particular transaction i.e. per invoice. The Committee deliberated on this proposal. It was discussed that e-invoicing can be implemented uniformly throughout the country, in addition to the proposed intra-state e-way bill system.

5.2.2 The Committee noted that presently, e-invoice scheme has been implemented for taxpayers having annual aggregate turnover above 50 crores for B2B transactions only and **not** on B2C transactions. The Committee felt that implementing e-invoicing on the basis of value of a transaction/ invoice, irrespective of turnover of the taxpayer, may adversely affect smaller taxpayers, as there may be few transactions involving higher value for such smaller taxpayers, which will necessitate them to have technical capability for generation of e-invoice. Such a system will be difficult to implement practically and may have operational challenges also. The Committee felt that instead, the threshold turnover limit for generation of e-invoice may be reduced for taxpayers dealing in gold/ precious metals.

5.2.3 Sh. PV Bhatt, Deputy Director General, NIC informed the Committee that they need to examine the issue of feasibility of implementation of e-invoice system for a particular commodity (gold and precious stones) below threshold turnover provided for other commodities, after having a look at the data for number of taxpayers involved in gold/ precious stones transactions, their registration details and number of transactions, etc. Only after detailed examination, they can give their feedback about the feasibility of such an e-invoice system for a particular commodity.

5.2.4 After detailed discussions, the Committee decided that e-invoice generation for gold/ precious stones should be on the basis of threshold limit of aggregate turnover and that a threshold limit of Rs 20 crore for generation of e-invoice for gold/ precious stones may be considered for recommending to GoM at this stage. Besides, GSTN & NIC may be requested to examine the feasibility of it, and once the modalities of this system and the timeline for implementation is worked out by GSTN & NIC, and then the same can be implemented.

### **5.3 RCM levy on purchase of old gold from unregistered persons**

5.3.1 The Committee observed that the purchase of old gold by gold dealers/ jewellers from unregistered persons, either on cash basis or on barter basis, is prone to evasion of duty, since the said



transactions may not get properly recorded by the dealers/ jewellers. It was felt that there may be a need for a mechanism for recording of such supplies by unregistered persons, and one of the measures for the same can be levy of GST on reverse charge mechanism (RCM) on recipients of old gold, i.e. dealers/ jewellers. It was however felt that there may be a need for detailed examination of the implications of such a RCM levy on purchase of old gold on the common households and citizens, who are selling / bartering old gold and the Fitment Committee may be the proper forum for such detailed examination. The Committee agreed that the issue of levy of RCM on purchase of old gold needs to be examined in detail by the Fitment Committee and hence, the same may be recommended to the GoM accordingly.

**6. After detailed discussions and deliberations held in the three meetings, the Committee of Officer makes the following recommendations to the GoM:**

**A. The states should be allowed to decide about imposition of the requirement of e-way bill for intra-state movement of gold/ precious stones within their states. There will be a minimum threshold of Rs 2 Lakh, above which the states can decide any amount as threshold for generation of E-way bill for intra-state movement of gold/ precious stones in their state. Only Part 'A' on the -way bill will be required to be filled in such cases, without any need for filling Part 'B' of the e-way bill. Further modalities of generation of e-way bill for intra-state movement of gold/ precious stones will be as suggested by NIC/ GSTN. Further, for deciding about implementation of such a system as well as threshold value to be adopted the procedure of consultation with the jurisdictional Principal Chief Commissioner/ Chief Commissioner of Central Tax, or any Commissioner authorized by him, should be followed by the States.**

**B. E-invoicing should be made mandatory for B2B transactions by all taxpayers supplying gold/ precious stones (goods of HSN 71) above annual aggregate turnover of Rs 20 crore. GSTN in consultation with NIC to examine the feasibility of implementation of the proposed requirement of e-invoicing for gold/ precious stones by taxpayers above aggregate turnover above Rs 20 crore and to give a detailed proposal on the modalities of the same and timelines for the implementation of the same.**

**C. The issue of levy on GST on reverse charge mechanism (RCM) basis on purchase of old gold by registered dealers/ jewellers from unregistered persons may be referred to Fitment Committee for detailed examination.**



**Minutes of the 2<sup>nd</sup> Meeting of Group of Ministers**

**to examine the feasibility of implementation of e-way bill requirement for movement of Gold and Precious Stones held on 14th August, 2020 – reg.**

The second meeting of the Group of Ministers (GoM) to discuss feasibility of implementation of e-way bill for the movement of gold and precious stones was convened on 14th August, 2020 under the chairmanship of Dr. T.M. Thomas Isaac, Hon'ble Finance Minister of Kerala. The said meeting was conducted through video conferencing and the list of the attendees is enclosed as **Annexure – I**.

2. At the outset, chairman of the GoM, Dr.T M Thomas Isaac welcomed all the participants to the meeting and reiterated the fact that the matter has been discussed in the GST Council Meeting wherein it was recommended to constitute a GoM on the matter. GoM had held a meeting on it. He informed that Kerala has a set of new proposal as well which he would subsequently discuss in the meeting. He then requested Principal Commissioner, GST Policy Wing to make the opening presentation on the same.

3.1 Principal Commissioner, GST made a presentation which is enclosed as **Annexure - II**. He informed members of GoM that based on the discussion held in the last meeting on 18.01.2020, it was decided to collect data on revenue collection, import, export, consumption, price trends and estimate of smuggling of gold from various sources and alternative measures was to be considered for prevention of revenue loss based on such data. He further informed that data was collected from DG Systems, DGFT, DRI, World Gold Council, GJEPC and Dept. of Economic Affairs and was circulated to the members of GoM.

3.2 He also informed further that data on GST revenue from gold was received from GSTN. The same was based on data from FORM GSTR-3B of those taxpayers who have mentioned Chapter 71 in top five HSN in their registration form.

3.3. Members were also briefed about the note sent by Kerala. The said note is enclosed as **Annexure – III**. As per the note of Kerala, data in respect of gold was not fruitful as it cannot capture data relating to smuggled gold, old gold recycling and sale of pledged ornaments by NBFCs which forms a major part of the business. Note also pointed out the various reasons for movement of gold and highlighted that in such movements at least one registered entity is always involved. It emphasised the need of e-way bill system and recommended that vehicle details in e-way bill can be replaced with “the name and address of the person transporting the goods” and therefore issues relating to stoppage of public transport etc. can be avoided. It also recommended that all types of movement should be covered under e-invoicing system. Reverse charge mechanism for old gold in GST regime on the same model as that existed in erstwhile VAT regime was also emphasised in the note.

4.1 After the presentation, the Chairman of GoM, Dr. T M Thomas Isaac made an observation that there has been decline in the revenue collection from gold with simultaneous sharp surge in smuggling of gold. He said that the tax evasion has increased due to the fact that no documents are required for movement of gold. There is no check on such movements. The system as of now is conducive for smuggling and we must have some system for tracking the same. Thereafter, he stated that various State Governments have raised security concerns on gold in case of implementation of e-

way bill system. He suggested that in order to maintain the safety of gold during movement, encrypted e-way bill maybe used whose data shall be restricted with an officer not less than the rank of Commissioner. He further suggested that reports regarding transportation of gold shall be made available after completion of movement of gold and the carrier may be allowed to carry gold without any hard copy of documents.

4.2 Deputy Chief Minister of Bihar, Shri Sushil Kumar Modi informed that the revenue for the State of Bihar from gold has increased with implementation of GST. He informed that revenue from gold in FY 16-17 was Rs. 38 crores which increased to Rs. 95 crore in FY 18-19 and 123.48 crore in FY 19-20.

4.3 Deputy Chief Minister of Gujarat, Shri Nitinbhai Patel strongly opposed the idea of e-waybill system for gold movement. He informed that both diamond and gold business has strong presence in Gujarat. He informed the GoM that international airport and MCX exchange are present in Ahmedabad and nearly 23% of the gold imported in the country is being imported through Ahmedabad. [He said that business of both viz. recycled and new gold is carried out in Gujarat. Old gold is melted and new jewellerys are made out of it. He further said that other cities where the gold primarily moves from Gujarat are Jaipur, Hyderabad and Delhi. In Gujarat, three important cities in respect of business of gold are Ahmedabad, Rajkot and Surat]. He further informed that movements of gold is done very securely, discreetly and generally in small packets as it is a high value item. He insisted that ensuring security to the businessman dealing in gold is primary responsibility of State Government, therefore, any disclosure on movement of gold is potentially risky area. At present, import has declined substantially in last two years and implementation of e-way bill system will further create more issues for them, particularly honest and law abiding tax payers. Therefore, our state is not in favour of e-way bill and an alternate way must be thought of.

4.4 Shri Sushil Kumar Modi stated that if e-way bill data is restricted with Commissioner then it cannot be checked and verified on road. The purpose of e-waybill system will be lost if it cannot be checked during movement. He further stated that e-waybill system without vehicle number for gold will complicate the matter and not resolve the issue of smuggling of gold while transportation. He emphasised the fact that for the gold that moves through legal channel, information is available about who is importer, whom is he supplying etc. On that point, Shri Nitinbhai Patel made a remark that that there are approximate only twenty companies which are in this sector in the State of Gujarat. Shri Sushil Kumar Modi continued by stating that in Bihar primarily job work is carried out and a complicated supply chain is involved in such type of work. He stated that e-way bill system for gold is very impractical and an alternative method may be discussed for the same in terms of Section 68 of the CGST Act that provides for inspection of goods in movement and Section 129 that provides for detention, seizure and release of goods in transit. He further suggested that e-invoice may also be discussed as an alternate for e-way bill to prevent smuggling of gold if these Sections of Act are not effective. But, e-way bill system will make matter more complicated.

5.1 Thereafter, Chairman of the GoM, Dr.T M Thomas Isaac stated that there are many commodities wherein freedom has been given to a State for intrastate movement to decide whether e-way bills are required for movement of such commodities. So, in case of movement of gold as well, States should be allowed to decide about requirement of e-way bill system for movement within the state. He further informed that a note has already been sent suggesting amendment in CGST Rules to allow e-way bill System for movement of gold within territory of a State.

5.2 Shri Sushil Kumar Modi enquired whether the said proposal of Kerala for e-way bill system is for movement of intra-State supplies or for any supply which has movement in Kerala. Commissioner, Commercial Tax, Kerala informed that the proposed system may be for any movement of Kerala irrespective of fact that the concerned supply is inter-State or intra-State.

6.1 Principal Commissioner, GST informed members of GoM that the e-way bill system is only for motorised vehicles. On making e-way bill system mandatory for gold movement, it may happen that movement of gold may start from non-motorised vehicles such as rickshaw and even non mechanized boats. Further, the purpose of mandating an e-way bill will not be served if the vehicle number is to be substituted with individual name and ID details of the carrier and details of the same are to be made available when the movement gets completed.

6.2 He further emphasised that the main concern is the gap in reporting system. The primary area of such gap is movement of gold for the purpose of 'job work' and 'sale on approval basis'. In light of the same, alternative system of reporting for the said gap could be explored so that the accountal is complete. He suggested that one such solution may be to increase the frequency of FORM GST ITC-04 for reporting of gold sent for job work. At present, such form is to be submitted every quarter whereas Gold and other precious goods do not normally remain with the job-worker for such a long duration.

7.1 Deputy Chief Ministers of Bihar and Gujarat said that the new proposal from Kerala is welcome, and that the States may have independence in deciding the requirement of e-way bill system on certain sensitive goods. Chief Commissioner, State Tax, Gujarat stated that bigger issue in respect of tax evasion is the recycled gold and informal channel through which gold is sold. These transactions need to be brought into the tax net. Another important aspect in the sector is the value addition done during the job work. There is clear demarcation of the industry. On these lines with almost half of the sector being mechanised and other half manual. He further stated that industry needs to be engaged in the same before a viable and implementable solution is found out to prevent tax evasion.

7.2. Chairman of the GoM, Dr.T M Thomas Isaac stated that reverse charge mechanism in old gold maybe considered on line with the practices in erstwhile VAT regime. He also said that the provisions of e-invoicing may also be considered for this sector. He further informed that raids were conducted on 64 shops in Kerala. But, no headway is being made in investigation as no information can be obtained from the software and servers. Officers should work out on these issues and make alternate proposal in the next meeting. He requested other states present in the meeting to make proposal.

7.3 Commissioner, Commercial Tax, Karnataka also endorsed the same view of intra-State e-way bill and e-invoice for gold. He further stated that evaluation may also be made on legality and technical aspect of introducing e-way bill system. Commissioner, Commercial Tax, Punjab added that States should have independence with e-way bill system and encrypted form of e-way bill may be used for intra-State supply. Principal Commissioner, GST informed that the same would need to be discussed with the officers of GSTN and NIC and other alternate options, if any, shall also be discussed to curb smuggling of gold.

8. The Chairman of GoM, Dr.T M Thomas Isaac instructed that a Committee of Officers comprising the officers from member of this GoM, GSTN, NIC and GST Council Secretariat should examine the feasibility of system proposed by Kerala and all other possible solutions to plug the gap in the system. The Chairman also requested GST Council Secretariat for revenue collection figures during the VAT regime for the period 2016-17.

9. The GoM ended with vote of thanks from the Chairman. The date and time of next meeting shall be communicated separately.

Annexure – I

<b>Sr. No.</b>	<b>Name (Smt./Shri)</b>	<b>Designation</b>
1	Dr.T.M.Thomas Isaac	Minister of Finance, Kerala
2	Shri Sushil Kumar Modi	Deputy Chief Minister, Bihar
3	Shri Nitinbhai Patel	Deputy Chief Minister, Gujarat
4	Shri Yogendra Garg	Principal Commissioner, GST Policy Wing
5	Shri Sanjay Mangal	Commissioner, GST Policy Wing
6	Shri Manish Sinha	EVP, GSTN
7	Smt Ashima Bansal	Joint Secretary, GSTC Secretariat
8	Shri J P Gupta	Chief Commissioner, Commercial Tax, Gujarat
9	Shri Anand Singh	Commissioner, Commercial Tax, Kerala
10	Shri Nilkanth S Avhad	Commissioner, Commercial Tax, Punjab
11	Shri Srikar MS	Commissioner, Commercial Tax, Karnataka
12	Shri Kiran Kumar	Additional Director, DRI
13	Shri Nimba Ram	Joint Commissioner, GST Policy Wing
14	Smt Nisha Gupta	Joint Commissioner, GST Policy Wing
13	Nilesh Kumar Rai	Deputy Director, DRI
14	Shri Kumar Asim Anand	Deputy Commissioner, GST Policy Wing
15	Shri Krishna Koundinya	Under Secretary, GSTC Secretariat
16	Shri J Ravi Shankar	Director, MMTC
17		MMTC

## 2<sup>nd</sup> Meeting of Group of Ministers

to examine the feasibility of implementation of e-way Bill requirement exemption for movement of gold and precious stones

14.08.2020

1

### Decisions in 1<sup>st</sup> Meeting held on 18.01.2020

591-GOM-MVMT OF GOLD &amp; PRE. STONES-GSTC-2019

NATION  
TAX  
MARKET

- Data/ information on revenue, import, export, consumption, price trend and estimate of smuggling of gold from various sources to be collected;
- Based on the data, alternative options for preventing loss of revenue in the sector needs to be considered;
- Other agencies (MMTC and DRI) may be called in the next meeting for holistic understanding of the sector;
- State of Kerala to present a note on the matter.

2

## Action taken by GST Policy Wing



- Data/ information collected from following sources: -
  - DG System, CBIC;
  - DGFT, Ministry of Commerce;
  - DRI, CBIC;
  - Dept. of Economic Affairs, Ministry of Finance;
  - World Gold Council;
  - GJEPC;
- Above data circulated to the members of GoM;
- Revenue figures on gold collected from GSTN;
- Analysis of important statistics in the following slides.

3

## Data - Revenue ( GSTN)

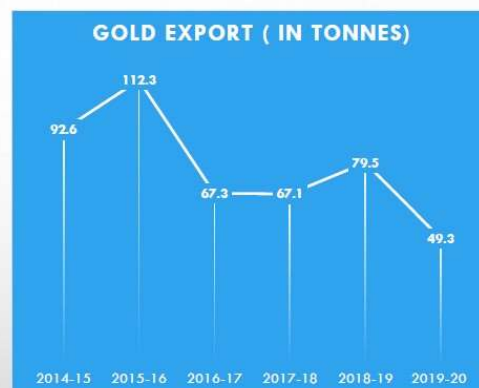


F.Y.	Turnover	Liability	Paid by ITC	Paid by Cash
2017-18	27,56,296	76,855	63,576	13,281
2018-19	37,10,737	1,13,176	96,967	16,209
2019-20	31,46,633	1,13,414	97,878	15,536

- Amount in Rs. crore
- Data prepared on basis of FORM GSTR-3B of those taxpayers who have been mentioned in their registration form that they deal in item under HSN Code 71 as their top five HSN . For the said taxpayers, the turnover & tax payment details have been arrived at from values reported in Tables-3.1(a), (b), (c) & (e) and Table-6 of GSTR-3B respectively.

4

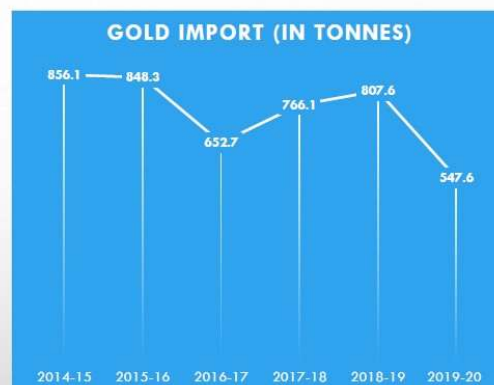
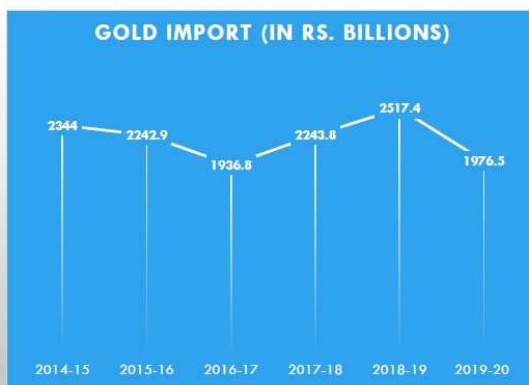
## Data – World Gold Council (Export)



- Exports only includes exports of gold jewellery and gold bullion (medallion and coins) and excludes Round Tripping volumes
- FY 2019-20 – Apr, 19 to Jan, 20
- Source: Metals Focus; World Gold Council (as on 26.04.2020)

5

## Data – World Gold Council (Import)

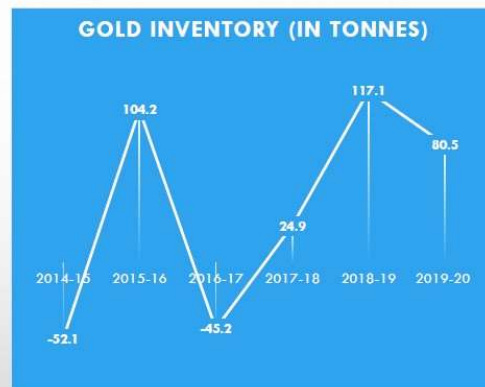
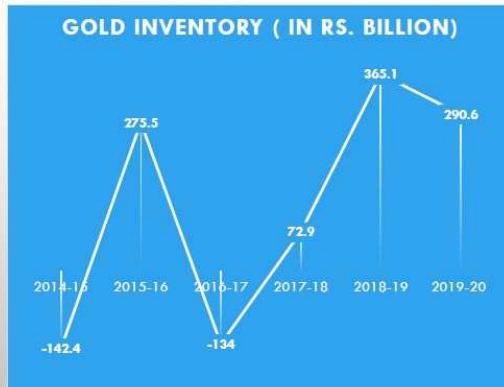


- Imports include gold dore' also in fine gold terms
- FY 2019-20 – Apr, 19 to Jan, 20
- Source: Metals Focus; World Gold Council (as on 26.04.2020)

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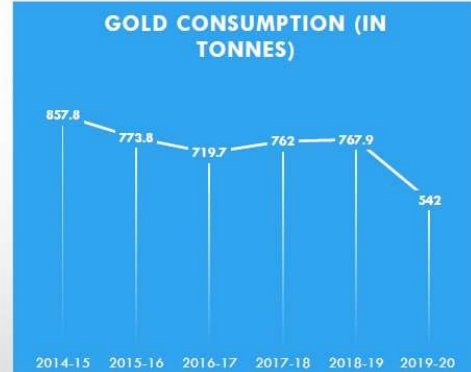
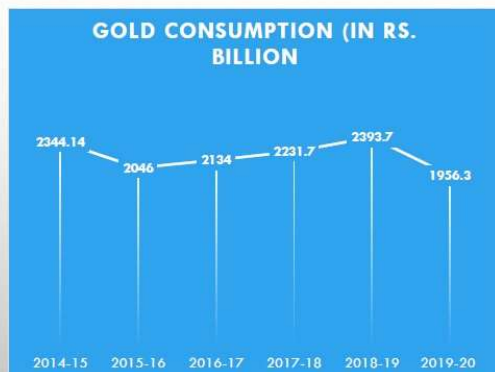


## Data – World Gold Council (Inventory)



- Inventory represents bullion inventory , does not include jewellery inventory in merchandise stores
- FY 2019-20 – Apr, 19 to Jan, 20
- Source: Metals Focus; World Gold Council (as on 26.04.2020)

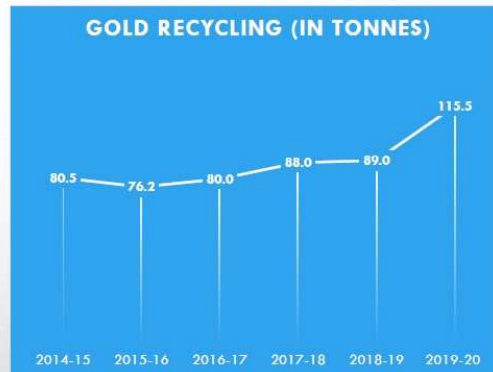
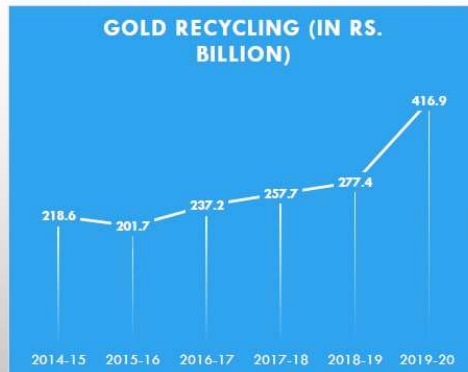
## Data – World Gold Council (Consumption)



- Consumption includes both gold jewellery and gold investment (bar and coin) demand
- FY 2019-20 – Apr, 19 to Jan, 20
- Source: Metals Focus; World Gold Council (as on 26.04.2020)



## Data – World Gold Council (Recycling)



- FY 2019-20 – Apr, 19 to Jan, 20
- Source: Metals Focus; World Gold Council (as on 26.04.2020)
- All the above data excludes : Central bank ( RBI) purchases, grey market volumes, gold / jewellery purchased new by recycling old gold/jewellery; secondary sales of jewellery held as collaterals on defaulted loans

## Data – Price Index of Gold



- Source:- Prices Unit, Dept. of Economic Affairs
- CPI- Consumer Price Index Combined for Gold
- WPI- Wholesale Price Index for Gold and Gold Ornaments

## Data – Gold seized by DRI



### Seizure of Gold by DRI

Year	Qty. in Kgs.	Value Rs. In Cr.
2014-15	890.499	338.24
2015-16	863.099	236.29
2016-17	600.965	230.65
2017-18	1282.390	410.14
2018-19	1440.728	457.46
2019-20 (Upto December)	1028.606	369.43

• Source:- DRI, CBIC

## Note on Gold Sector by State of Kerala (1/4)



### i. Data not fruitful: -

- Data from nominated agencies alone cannot be an indicator;
- Smuggled gold, old gold recycling and sale of pledged ornaments by NBFCs forms a major part of the business;
- Such items come to the possession of registered dealers and are sold outside accounts resulting in tax evasion.

## Note on Gold Sector by State of Kerala (2/4)

### ii. Reasons for transportation of Gold: -

- For Job Work
- By travelling salesman
- Stock Transfer (Different GSTIN)
- Branch transfer (Same GSTIN)
- Sale
- To and fro movement to hall marking Centres;
- In all such movements at least one registered dealer is involved.

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## Note on Gold Sector by State of Kerala (3/4)

### iii. E-way bill System

- If e-Way bill implemented - duty of dealer to declare before transport;
- Vehicle details in e-Way bill can be dispensed and replaced with “the name and address of the person transporting the goods” and therefore issues relating to stoppage of public transport etc. can be avoided;
- Verification of e-Way bill for gold by officers can only be information based;
- All transactions recorded in the system - improve compliance and tax performance.

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## Note on Gold Sector by State of Kerala (4/4)

### iv. E-invoicing

- All type of movements (as mentioned at s.no (ii)) must be covered under e-invoicing for this sector (at present e-invoicing envisaged for cases of 'supply').

### v. Reverse Charge Mechanism for old gold

- VAT had reverse charge provisions with rebate and it made the jewellers to record such transactions;
- Old gold may be notified under reverse charge.

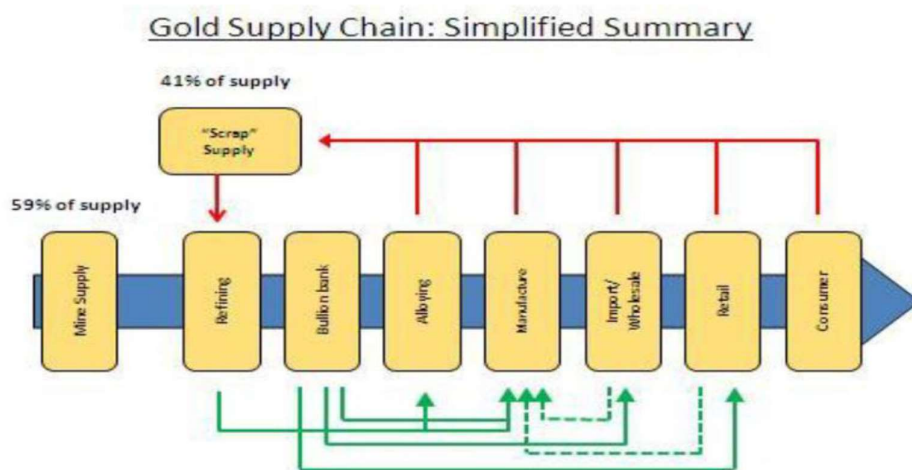
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# Thank You

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**Note from Kerala State GST department as desired in Group of Ministers to examine the feasibility of implementation of e-way bill requirement for movement of Gold and Precious Stones, held in Kalpvriksha, North Block, New Delhi on 18th January, 2020**

The data from nominated agencies alone cannot be an indicator in analyzing the tax performance of the gold sector. Smuggled gold, old gold recycling and sale of pledged ornaments by NBFCs forms a major part of the business. These items come to the possession of registered dealers and are sold outside accounts resulting in tax evasion. Unless, these transactions are brought into the books, the evasion in gold would continue. Given the peculiar nature of the commodity, where liquidity is high, stocks can be easily removed or hidden or transported and year-end audit would not throw light on evasion. Concurrent enforcement mechanism has to be in place. This is where the transporting document like e-way bill becomes effective.



The following are the probable transport scenarios in gold sector:

(a) Job work is one of the major reason for transport in gold. This could be intra-state or inter-state. In this case either of the person would be registered dealer. Present documentation needed for this transport in gold is a delivery challan serially numbered to be issued at the time of removal of goods for transportation, this is manual (Rule 55).

(b) One of the major reasons for transport peculiar to the sector is a travelling salesman who is a employed by a registered dealer (situated within or outside the state) who visits jewellerys, and the sale gets fructified only at the door step. Invoice is issued then and there. Unsold good is taken back by the salesman to the registered dealer. Present documentation needed for this transport in gold is a manual delivery challan serially numbered to be issued at the time of removal of goods for transportation. Sub-rule 4 of Rule 55 states that where tax invoice cannot issued at the time of

removal of goods, for the purpose of supply the supplier shall issue a tax invoice after delivery of goods.

(c) Thirdly, there is stock transfer by the same entities having different GSTINs. Co-relation between the quantity and value may be relevant in these transactions. This would be a supply and a tax invoice under Rule 46 will have to be issued and as per Rule 55A such invoice should accompany the transport of goods.

(d) Then there would be branch transfers between one shop to another shop / storage vault etc. of the same registered dealer. Here also, for gold, manual delivery challan under Rule 55 would apply.

(e) Then there are B to B and B to C supply transactions for which invoice under Rule 46 will have to be issued.

(f) There would also be movement of gold from registered dealer or job worker to hall marking centers and back.

With respect to gold, all these types of transactions presently require manual forms for transport and a registered dealer is involved in one point of the transaction. It is also not possible to envisage a scenario where a registered dealer is not involved. By introduction of e- Way bill, the only difference is that the details are captured electronically. Specifically, with regard to (b) stated above, there is a provision for “Line Sales” in e-Way bill.

The whole reason behind implementation of e-Way bill was that the dealers would be forced to account the transaction once e-Way bill is generated. Presently, the verification of e-Way bill is by the enforcement office or through the proposed RFID system. Enforcement verification is presently through chance verification or information based verification. RFID verification may also not cover areas where there are no RFID readers. This verification only ensures whether the vehicle carries an e-Way bill. On suspicion the intercepting officer can inspect the goods under transport also. So, it is pertinent to note that the accounting of transactions included in the e-Way bill is not because of the threat of verification only. It is because of the legal mandate that such transport should be accompanied by e-Way bills that forces the dealer to comply.

It is true that e-Way bill is tagged to a vehicle and officers are empowered to detain the vehicle which does not have a valid e - Way bill. It is also true that gold is transported in private vehicles and public transport by persons. But, if e-Way bill is implemented in gold as with other commodities there is always a duty for the dealer to declare before transport. So, with respect to gold, the e- way bill will serve as a declaration before transport and as such the vehicle details in e-Way bill can be dispensed and replaced with “the name and address of the person transporting the goods”. With this, the issues relating to stoppage of public transport etc. can be avoided. Verification of e-Way bill for gold by officers can only be information based. Dealers won’t take a chance at this and all transactions would get recorded in the system. This would improve compliance and tax performance of the sector. This can be implemented through appropriate rule amendments.

### **SECURITY**

Even in the current system, the courier must carry physical delivery challans/invoices for movement of gold. If e-way bill is implemented they need only carry the e-way bill number which he will have to reveal to the officer if chance detection happens. The details can be verified only by authorized

officers. Even the courier does not need to know the contents and value. So the secrecy in the present system will not be compromised with the introduction of e-way bill.

#### **e-Invoicing for Gold**

Present e-Invoicing provisions cover only (c) and (e) above, i.e., only supply transactions. Unless other transactions / transport are electronically captured, e-invoice would not suffice for e-Way bill for gold and will not achieve the desired purpose.

#### **Reverse charge on old gold**

With the present Act and Rules, there is no reverse charge on Old Gold purchased by Registered Dealers. VAT had such provisions with rebate, and it made the jewellers to record such transactions. So completely close the evasion loop along with introduction of e-way bill, gold may be notified under reverse charge.



File No. CBEC-20/13/02/2020-GST / 713-21  
Government of India  
Ministry of Finance  
Department of Revenue  
Central Board of Indirect Taxes & Customs  
GST Policy Wing  
\*\*\*\*\*

Room No. 159-A, North Block  
New Delhi, April, 2021

**OFFICE MEMORANDUM**

**Subject: Record of Discussion of the 2<sup>nd</sup> Meeting of the Committee of Officers on to examine the feasibility of implementation of E-Way Bill requirement for movement of gold and precious stones- reg.**

This is in reference to the second meeting held on 18.02.2021 of the Committee of Officers to examine the feasibility of implementation of e-way bill requirement for movement of Gold and Precious Stones. The minutes of the said meeting are enclosed herewith.

*Sanjay Mangal*  
8/4/2021

(Sanjay Mangal)  
Commissioner (GST)  
Email: [sanjay.mangal@nic.in](mailto:sanjay.mangal@nic.in)

To,

1. The Commissioner, Commercial Tax of the States of Bihar, Gujarat, Karnataka, Kerala, Punjab, West Bengal
2. The Joint Secretary, GST Council Secretariat.
3. The CEO, GSTN.
4. The SVP (Services), GSTN.

Encl: As above.



RoD-2nd meeting of the CoO E-way Bill requirement  
for movement of Gold - Dated 18.02.2021

**Record of Discussion of the 2nd Meeting of the Committee of Officers on to examine the feasibility of implementation of E- Way Bill requirement for movement of gold and precious stones.**

The second meeting of the Committee of Officers, to examine the feasibility of implementation of E-Way Bill requirement for movement of gold and precious stones and all other possible solutions to plug in revenue gaps was held on 18.02.2021 through video conferencing and the list of the attendees is enclosed as Annexure -I.

2. At the outset, Sh. Sanjay Mangal, Commissioner, GST Policy Wing welcomed all the participants to the meeting and made the opening presentation on the issues involved and 2. the gist of information / comments sent by GSTN, Kerala, Karnataka, Gujarat and GST Policy Wing.

2.1 The officers from the State of Kerala suggested that there is no check on movement of Gold leading to rampant smuggling of gold and tax evasion. They emphasised the requirement of a system to track tax evasion in Gold through reporting and surveillance. They suggested that e-way bill declaration for intra-state movements of gold should be made applicable within such states, if the state so desires and also the value limit/quantity limit for implementation of e-way bill for intra-state movement of gold, can also be left to the states. Taking into account the security concerns, they stated that information in Part A of the e-way bill declaration would be sufficient for intra-state movement of gold and that the Part B of e-way bill declaration in such cases may be done away with. The officers from the State of Punjab and Karnataka supported the above proposal given by Kerala.

2.2 The officers from the State of Gujarat expressed their concerns related to declaration of movement of gold in E-way bill. They stated that this information, if leaked, can be used by the thieves, robbers to plunder the valuable cargo, putting a great risk to both goods and the carrier of gold. The officers of Gujarat SGST proposed implementation of e-invoicing for both intra-state and inter-state supply of gold as the same will not require any amendment in Rule 138 of CGST Act, 2017 and can be implemented uniformly throughout the country. In support of their proposal, they also stated that there is not much difference in the data captured/ reflected by part-A of e-way bill and e-invoice facility. Hence, they reiterated their view and said that e-invoice facility in case of supply of gold must be introduced rather than e-way bill facility. They also suggested that e-invoice for gold can either be introduced based on a threshold of invoice or on the basis of transaction value for a particular transaction.

2.3 The officers from the State of West Bengal had similar reservations related to security concerns in case of recording of information in e-way bill for movement of Gold. They also added that the proposal of Kerala with regard to furnishing information only in Part A of E-way bill declaration needs in-depth examination.

2.4. The officers from the State of Gujarat further suggested that reverse charge mechanism (RCM) must be introduced on purchase of old gold from unregistered person. At present, there is no provision of reverse charge (RCM) on purchase of old gold from unregistered person in the GST Act. However, such a provision was there in erstwhile VAT Act of several States. It was suggested that the

same provision should be also included in GST as the same will compel taxpayers to record transactions of purchase of old gold from unregistered persons.

2.5 The officers from State of Kerala welcomed the proposal of State of Gujarat of introducing e-invoicing in case of both intra state and inter-state supply as a measure in addition to e-way bill, for recording transactions in case of supply of gold.

2.6 The Commissioner, GST Policy Wing, mentioned that the implications of RCM levy on purchase of old gold in common households, who are selling/ bartering old gold, need to be examined. Officers of West Bengal supported this view. It was decided that issue of levy of reverse charge on any goods including gold needs to be examined in detail by the Fitment Committee.

2.7 Shri Amaresh Kumar, Additional Commissioner, GST Policy Wing, CBIC expressed his apprehension regarding ascertainment of the type of supply when the goods (gold) are in transit (i.e., whether the said supply is inter-state or intra-State) and whether the said supply has requirement of e-way bill or not. He also added that whenever any consignment of gold will be intercepted in transit by officers, there will be a dispute whether it is an intra-state or inter-state supply and whether e-way bill was required for such supply, which would lead to disputes in almost all such cases. The Commissioner, GST Policy Wing requested State of Kerala to give their comments on the said issue.

2.8 Thereafter, the Commissioner, GST Policy Wing, CBIC requested representatives of GSTN to examine in consultation with NIC, the feasibility of developing a system of implementing E-Way Bill to track such intra-state movement of gold and bring up a detailed proposal in next meeting of Committee of officers. The Officers from GSTN were requested to give their feedback regarding:

- Can e-way bill be generated only with Part-A for supplies made in case of gold for intra-state movements, within such states, if the state so desires, without need of Part-B.
- Can NIC develop of e way bill for different states, in case of supply of gold for intra-state movements, within such states, based on the threshold decided by the concerned State.

3. System such that different threshold limits can be set for generation The following action points emerged after the deliberations held in the second meeting of Committee of Officers, viz-a-viz, - 3.

A. GSTN to examine the feasibility of developing a system of implementing E-way bill to track movement of Gold in consultation with NIC and bring up a detailed proposal in this regard, in the next meeting of Committee of officers.

B. The issue of levy on reverse charge basis (RCM) on purchase of old gold from unregistered person to be referred to Fitment Committee for examination.

C. State of Kerala to furnish comments on the issue of ascertainment of type of supply (whether intra-State or inter-State) when the goods (gold consignment) are in transit and whether e-way bill was required for such supply.

4. The Committee of officers ended with vote of thanks from the Commissioner, GST Policy Wing and Special Commissioner, Kerala.

The date and time of next meeting shall be communicated separately.

**Annexure - I**

Sr. No.	Name (Smt./Shri)	Designation
1	Sh. Sanjay Mangal	Commissioner, GSTPW
2	Dr S. Karthikeyan	Special Commissioner, SGST, Kerala
3	Sh. Ridhesh Rawal	Deputy Commissioner, SGST, Gujarat
4	Sh. Rajib Sengupta	Joint. Commissioner, SGST, West Bengal
5	Sh. Ravneet Khurana	Special Commissioner, SGST, Punjab
6	Sh. M.S. Srikar	Commissioner, SGST, Karnataka
	Sh. Ravi	Joint Commissioner, SGST, Karnataka
7	Smt. Ashima Bansal	Joint Secretary, GSTC Secretariat
	Sh. Kshitendra Verma	Deputy Secretary, GSTC Secretariat
8	Sh. Dheeraj Rastogi	SVP (Services), GSTN
	Sh. Sarthak Saxena	OSD, GSTN

**Annexure C**

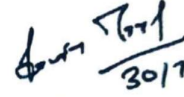
File No. CBEC-20/13/02/2020-GST  
Government of India  
Ministry of Finance  
Department of Revenue  
Central Board of Indirect Taxes & Customs  
GST Policy Wing  
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Room No. 159-A, North Block  
New Delhi, July, 2021

**OFFICE MEMORANDUM**

**Subject: Record of Discussion of the 3<sup>rd</sup> Meeting of the Committee of Officers to examine the feasibility of implementation of E-Way Bill requirement for movement of gold and precious stones- reg.**

This is in reference to the third meeting held on 06.07.2021 of the Committee of Officers to examine the feasibility of implementation of e-way bill requirement for movement of Gold and Precious Stones. The minutes of the said meeting are enclosed herewith.

  
30/7/2021

(Sanjay Mangal)  
Pr. Commissioner (GST)  
Email: [sanjay.mangal@nic.in](mailto:sanjay.mangal@nic.in)

To,

1. The Commissioner, Commercial Tax of the States of Bihar, Gujarat, Karnataka, Kerala, Punjab, West Bengal
2. The Joint Secretary, GST Council Secretariat.
3. The CEO, GSTN.
4. The SVP (Services), GSTN.
5. Deputy Director General, NIC

Encl: As above.

**Minutes of the 3<sup>rd</sup> Meeting of the Committee of Officers to examine the feasibility of implementation of E- Way Bill requirement for movement of gold and precious stones held on 06.07.2021**

The third meeting of the Committee of Officers, to examine the feasibility of implementation of E-Way Bill requirement for movement of gold and precious stones and all other possible solutions to plug in revenue gaps was held on 06.07.2021 through video conferencing. The list of the attendees is enclosed as Annexure – I.

2. At the outset, the Principal Commissioner, GST Policy Wing welcomed all the participants to the meeting and made the opening presentation on the issues involved and the gist of information / comments sent by GSTN (in co-ordination with NIC) and Kerala. He requested the Committee to deliberate the issues involved for finalizing recommendations of the Committee. He requested SVP, NIC to elaborate on the comments given by them on the technical feasibility of implementation of proposed system of generation of e-way bill for gold/ precious stones for intra-state movement.

2.1 The SVP, NIC informed that e-way bill portal will be in a position to permit E-way bill generation for intra-state movement of gold and precious stones (items with HSN of Chapter 71) by requiring only Part A to be filled, without requiring Part B of the e-way bill. He also informed that presently also, there is no bar on e-way bill portal for generation of e-way bill irrespective of the value/ quantity, and therefore, there will be no restriction on the portal for generation of e-way bills, if different threshold for value/ quantity are fixed by different states for intra-state movement of gold/ precious stones. He mentioned that such thresholds can be fixed by states through rules/ notifications and there is no requirement of any amendment on portal for the same.

2.2 The CCT, Kerala mentioned that the mandate given by GoM to the Committee of Officers was to find feasibility and modalities of implementation of e-way bill for intra-state movement of gold by individual states, as per proposal given by Kerala and also to examine all other possible solutions to plug the gap in the system. He added that enough discussions have been done by the Committee of Officers on the same and there is a need for early finalization of the recommendations of the Committee. He mentioned that their suggestion was that e-way bill generation for intra-state movement of gold/ precious stones should be made applicable within the state, if the state so desires and also the value limit/quantity limit for implementation of e-way bill for intra-state movement of gold/ precious stones can be determined by the state. He suggested that information in Part A of the e-way bill would be sufficient for intra-state movement of gold and there will be no requirement of filling details in Part B of e-way bill in such cases. He mentioned that as NIC has now confirmed that there are no technical issues in implementation of such system of generation of e-way bill for intra-state movement of gold precious metals, Committee of Officers should recommend the implementation of such a system to GoM, without any further delay.

2.3 The Chief Commissioner, State Tax, Gujarat supported Kerala's proposal. He, however, added that a minimum threshold value should be proposed by the Committee for e-way bill generation for intra-state movement of gold, and it should be left to States to decide any threshold value above the said proposed minimum threshold. He also suggested that in addition, there is also a need for implementation of e-invoicing for both intra-state and inter-state supply of gold, which can be implemented uniformly throughout the country, in addition to the proposed intra-state e-way bill system. He added that e-invoice for gold can either be implemented based on a threshold of aggregate turnover of the taxpayer or on the basis of transaction value for a particular transaction i.e. per invoice. He added that there is also need to consider the proposal for levy of GST on RCM basis on

old gold supplied by unregistered persons to gold dealers, so that such transaction of old gold can be duly recorded.

2.4 The Joint Commissioner, State Tax, West Bengal mentioned that there would be a requirement of amendment in e-way bill rules, if e-way bill for intra-state movement of gold is implemented. The Principal Commissioner, GST Policy Wing clarified that once a final decision in the matter of e-way bill for intra-state movement of gold is taken by GoM/ GST Council, the Law Committee can frame the necessary rules to implement the said decision.

2.5 The Principal Commissioner, GST Policy Wing mentioned that the issue of e-way bill for intra-state movement of gold has been deliberated quite a lot by the Committee, and now based on feedback given by NIC and GSTN, and as suggested by other members, the Committee may consider recommending to GoM the proposal of implementation of such system of generation of e-way bill for intra-state movement of gold/ precious metals by individual states, if they so desire, and only Part A of the e-way bill will be required to be filled in such cases. He agreed with the suggestion of Gujarat to have a minimum threshold value for such intra-state e-way bill for gold, above which the states can decide any value as per their requirements. He requested the Committee to deliberate on the same, so that it can also be recommended to GoM.

2.6 The Principal Commissioner, GST Policy also added that Kerala in their note has clarified that there will be no dispute in determination of any movement of gold/ precious metals as inter-state / intra-state, as the goods will be accompanied by manual challans/ invoices. He mentioned that however, before implementing such a system of intra-state e-way bill for gold/ precious states, states will have to keep in consideration need to address issues/ possibility of disputes involved in determination of such movements as intra-state/ inter-state. He mentioned that manual delivery challans/ invoices may not fully prevent misuse and evasion, as unscrupulous elements may carry fake challans/ invoices for inter-state movement and may not generate e-way bill, wherein actual movement may be intra-state only. Similarly, there may be cases where the goods for inter-state movement without e-way bill of genuine taxpayers are accompanied by genuine challans/ invoices for such movement, but tax officers may doubt authenticity of the same, suspecting such supply to be intra-state supply, requiring e-way bills, which may lead to disputes and harassment. He also added that inclusion of jewellery for generation of e-way bill may cause harassment to common citizens, who may be carrying such jewellery for personal purposes, like functions, marriages, etc.

2.7 The CCT Kerala, while appreciating the concern showed by Principal Commissioner, GST Policy, mentioned that implementation of e-way bill for movement of gold may not prevent all evasion, but will help in reducing the tax evasion to significant extent, as there will at least be some online declaration regarding the movement of gold, whereas presently there is no such online declaration. He added that inclusion/ exclusion of jewellery from the e-way bill requirement for intra-state movement should be left to the discretion of the states. He also welcomed the proposal of State of Gujarat of introducing e-invoicing in case of both intra state and inter-state supply based on a threshold of aggregate turnover, but added that the same should be a measure in addition to e-way bill, and not a replacement of e-way bill.

2.8 The Special Commissioner, State Tax, Bihar agreed with the proposal of e-way bill requirement for intra-state movement of gold/ precious stones, above a certain minimum threshold. He added that it should be left to the discretion to the states whether to implement e-way bill for intra-state movement of gold or not. He also added that while implementing the same, the states will keep in consideration any harassment caused to genuine taxpayers and common citizens. The Additional

Commissioner, State Tax, Karnataka mentioned that a provision for e-way bill for gold was there in the erstwhile VAT Act in Karnataka and traders, jewellery houses, exporters etc. never resisted e-way bill requirement because this made their transactions transparent and legal.

2.9 The Special Commissioner, State Tax, Punjab supported the proposal of Kerala for implementation of e-way bill for intra-state movement of gold. He added that states will be responsive and vigilant against any harassment of the genuine taxpayers. He mentioned while the discretion to decide the threshold should be given to the states, agreeing with the suggestion of Gujarat, he suggested that a minimum threshold value should be decided by the committee for implementation of e-way bill for intra-state movement of gold, above which any amount can be decided by the states based on local requirements. He requested CCT Kerala to shed some light on such minimum threshold.

2.10 The CCT Kerala mentioned that presently, the minimum threshold for generation of e-way bill for intra state movement of gold being deliberated is between Rs 3 lakhs to 5 lakhs. Principal Commissioner, GST Policy Wing suggested that based on Kerala's estimation of Rs 3 lakhs to 5 lakhs, the minimum threshold for generation of e-way bill for intra-state movement of gold can be considered as Rs. 2 lakhs. This was agreed to by all the members of the Committee of Officers. It was also decided that since under Rule 138 (14) (d) of the CGST Rules, 2017, in respect of intra-state e-way bill, the State Tax Commissioners have been empowered to decide upon exemptions within the State, in consultation with the jurisdictional Principal Chief Commissioner/ Chief Commissioner of Central Tax, in the case of e-way bill for gold/ precious stones also, such a procedure will be followed for taking a decision in the state about implementation of such a system as well as threshold value to be adopted.

3. The Principal Commissioner, GST Policy then took up the proposal of Gujarat regarding the feasibility of e-invoice for gold and precious stones. He stated presently, the threshold turnover for generation of e-invoices for B2B transactions is Rs 50 crore. He also mentioned that making e-invoices mandatory based on value of a particular transaction, irrespective of turnover of the taxpayer, may adversely affect smaller taxpayers, as there may be a few transactions involving higher value for such smaller taxpayers, which will necessitate them to have technical capability for generation of e-invoice. It will be difficult to implement practically and may have operational challenges. Instead, the possibility of reduction of threshold turnover limit for generation of e-invoice for taxpayers dealing in gold/ precious stones needs to be explored. He also added that views of GSTN/ NIC also need to be taken about technical feasibility of implementation of such a system on portal, before going for such reduction of threshold turnover for e-invoicing for gold/ precious stones.

3.1 The Special Commissioner, State Tax, Punjab enquired whether the issue of e-invoicing was recommended by the GoM to Committee of Officers. Principal Commissioner, GST informed that in para 8 of the minutes of 2nd meeting of GoM held on 14th August, 2020, GoM recommended to examine the feasibility of system proposed by Kerala and all other possible solutions to plug the gap in the system. Therefore, the Committee may like to deliberate on the proposal of Gujarat regarding e-invoice for gold, as one of the modus operandi to plug the gaps in the system.

3.2 Sh. PV Bhatt, SVP, NIC informed the committee that presently e-invoice has been implemented for taxpayers having aggregate turnover above 50 crores and on B-2-B transactions only and not on B-2-C transactions. He further stated that before commenting anything on the feasibility of e-invoice system for a particular commodity, they need to examine the matter based on data of number of taxpayers involved in gold transactions, their registration details and number of

transactions, etc. Only after detailed examination, they can give their feedback about the feasibility of e-invoice system for a particular commodity.

3.3 After detailed discussions, it was decided by the Committee that e-invoice generation for gold/ precious stones should be on the basis of threshold limit of aggregate turnover and that a threshold limit of Rs 20 crore for generation of e-invoice for gold/ precious stones may be considered for recommending to GoM at this stage. Besides, GSTN & NIC may be requested to examine the feasibility of it, and once the modalities of this system and the timeline for implementation is worked out by GSTN & NIC, then the same can be implemented.

4. On the proposal of Gujarat for RCM levy on purchase of gold from unregistered persons, Principal Commissioner, GST Policy Wing, mentioned that it has already been decided by the Committee in 2nd meeting that the implications of RCM levy on purchase of old gold on the common households, who are selling / bartering old gold, need to be examined in detail by the Fitment Committee and hence, it may be recommended to the GoM to refer the same to the Fitment Committee. All the officers agreed to the same.

5. Finally, The Committee of Officers agreed unanimously to make the following recommendations to the GoM:

A. The states should be allowed to impose requirement of e-way bill for intra-state movement of gold/ precious stones within their states, if they so want. There will be a minimum threshold of Rs 2 Lakh, above which the states can decide any amount as threshold for generation of E-way bill for intra-state movement of gold/ precious stones in their state. Only Part 'A' on the -way bill will be required to be filled in such cases, without any need for filling Part 'B' of the e-way bill. Further modalities of generation of e-way bill for intra-state movement of gold/ precious stones will be as suggested by NIC/ GSTN.

B. E-invoicing should be made mandatory for B2B transaction by all taxpayers supplying gold/ precious stones (goods of HSN 71) above aggregate turnover of Rs 20 crore. GSTN in consultation with NIC to examine the feasibility of implementation of the proposed requirement of e-invoicing for gold/ precious stones by taxpayers above aggregate turnover above Rs 20 crore and to give a detailed proposal on the modalities of the same and timelines for the implementation of the same.

C. The issue of levy on reverse charge basis (RCM) on purchase of old gold from unregistered persons may be referred to Fitment Committee for detailed examination.

6. The 3<sup>rd</sup> meeting of Committee of Officers ended with vote of thanks from the Principal Commissioner.



**Annexure-I**

**MoM-3<sup>rd</sup> meeting of the CoO-E-way Bill requirement for  
movement of Gold-Dated 06.07.2021**

<b>Sr.No.</b>	<b>Name(Smt./Shri)</b>	<b>Designation</b>
<b>1.</b>	Sh.Sanjay Mangal	Principal Commissioner, GSTPW
<b>2.</b>	Sh.J.P. Gupta	Chief Commissioner, State Tax, Gujarat
<b>3.</b>	Sh. Anand Singh Dr S. Karthikeyan	Commissioner, State Tax, Kerala Special Commissioner,State Tax, Kerala
<b>4.</b>	Sh.Arun Mishra	Special Secretary, Commercial Taxes, Bihar
<b>5.</b>	Sh. Ravneet Khurana	Special Commissioner, State Tax, Punjab
<b>6.</b>	Sh. Rajib Sengupta	Joint Commissioner, State Tax, West Bengal
<b>7.</b>	Dr.Ravi Prasad	Joint Commissioner, State Tax, Karnataka
<b>8.</b>	Smt. Ashima Bansal	Joint Secretary, GSTC Secretariat
<b>9.</b>	Sh.P.V. Bhat	Deputy Director General, NIC

**Proposal note on Implementation of E-Way Bill generation for Gold/Gold Jewellery or Precious Stones**

1. During discussion of the 2nd Meeting held on 18.02.2021, the Committee of Officers decided to examine the feasibility of implementation of E- Way Bill requirement for movement of gold and precious stones.
2. In the above said meeting minutes issued vide File No. CBEC-20/13/02/2020-GST/713-21 dt 08.04.2021, the Commissioner, GST Policy Wing, CBIC asked representatives of GSTN to examine in consultation with NIC, the feasibility of developing a system of implementing E-Way Bill to track such intra-state movement of gold and bring up a detailed proposal in next meeting of Committee of officers.
3. The Officers from GSTN were also requested to give their feedback regarding:
  - Can e-way bill be generated only with Part-A for supplies made in case of gold for intra state movements, within such states, if the state so desires, without need of Part-B.
  - Can NIC develop a system such that different threshold limits can be set for generation of e-way bill for different states, in case of supply of gold for intra-state movements, within such states, based on the threshold decided by the concerned State.
4. Based on the inputs given by NIC, for implementation of functionality in E-way Bill System, suggestion on the matter is as below:
  - a. For the said users, e-Waybill can be generated both by a registered person and by an unregistered person.
  - b. These users will enter the Part-A details of the e-waybill as usual. In such case, HSN codes of Chapter 71 need to be considered for generation of such e-way bills. Thus, Part-A details alone will be displayed to the users and can be filled up by them.
  - c. Thus, Part-B details are not needed to be filled in by the user for generation of E-way Bill for the commodity "Gold/Gold jewellery or Precious Stones"
  - d. In the Part-A screen, "Save" and "Generate E Way Bill buttons will be provided. On submission of Part-A details by clicking "Generate E Way Bill the e-way bill number will be generated. The Saved Part-A data will remain available for 15 days to the users to generate E Way Bill.

Note: However, for unregistered person 'Citizen e-Way bill can be used and only 'Generate EWB' will be provided to them (and no Save' option will be given to them as they don't have login facility).

- e. Presently the distance is auto calculated based on the PIN codes of source and destination. The same can be applied for these e-way bills also, as Part-A will have both source and destination. if distance is not available for entered PIN-code to PIN code, then validity of E-way bill can be made on the basis of the distance entered by the users.
- f. Users can cancel or reject these E way bills, once generated, as applicable in the present system. Extension of E-way bill can also be provided as applicable in the present system. B

- g. At present, no minimum threshold exists for generation of E-way bill and user can generate way bill as per the rules in that particular State/ UT. The same can be made applicable to this functionality also.
- h. The E Way Bills generated in Part-A, of such users need to be kept in the E-way bill System for reference and generation of reports, as per the procedure followed in the present system.

Following points are not considered in this note as inputs on the same is awaited:

- i. Inter-state transactions are not considered as of now as comments from Kerala are awaited. If inter-state e-way bills are not required and if someone is generating the e way bill for inter-state movement, the E-way Bill generation will be blocked, as of now.
- ii. The issue of levy on reverse charge basis (RCM) on purchase of old gold from unregistered person as the same has been referred to Fitment Committee for examination.

5. It is requested that above suggestions may be considered and for final comments along with time lines of its implementation in the EWB system may be sent to GSTN.