Confidential



Agenda for

32nd GST Council Meeting

10 January 2019

Volume – 1

माल और सेवा कर परिषद
GOODS AND SERVICES TAX COUNCIL

File No: 01/32nd GSTCM/GSTC/2019
GST Council Secretariat

Room No.275, North Block, New Delhi
Dated: 01 January 2019

Notice for the 32nd Meeting of the GST Council scheduled on 10 January 2019

The undersigned is directed to refer to the subject cited above and to say that the 32nd meeting of the GST Council will be held on 10th January 2019 (Thursday) at Main Committee Hall, Parliament House Annexe, New Delhi*. The schedule of the meeting is as follows:

- Thursday, 10th January 2019: 10:30 AM to 01:30 PM

2. In addition, an Officer's Meeting will be held on 09th January 2019 at the same venue as per following schedule:

- Wednesday, 09th January 2019: 10:30 AM to 04:30 PM

3. The Agenda Items for the 32nd Meeting of the GST Council will be communicated in due course of time.

4. Please convey the invitation to the Hon'ble Members of the GST Council to attend the meeting.

-Sd-
(Dr. Ajay Bhushan Pandey)
Secretary to the Govt. of India and ex-officio Secretary to the GST Council
Tel: 011 23092653

Copy to:

1. PS to the Hon'ble Minister of Finance, Government of India, North Block, New Delhi with the request to brief Hon'ble Minister about the above said meeting.

2. PS to Hon'ble Minister of State (Finance), Government of India, North Block, New Delhi with the request to brief Hon'ble Minister about the above said meeting.

3. The Chief Secretaries of all the State Governments, Delhi and Puducherry with the request to intimate the Minister in charge of Finance/Taxation or any other Minister nominated by the State Government as a Member of the GST Council about the above said meeting.

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

5. Chairman, GST Network

* Note - The Venue of the Meeting was changed to Hall No 2-3, Vigyan Bhawan, New Delhi on both days, as communicated by email on 03.01.2019.

Agenda Items for the 32nd Meeting of the GST Council on 10th January 2019

1. Confirmation of the Minutes of 31st GST Council Meeting held on 22nd December, 2018
2. Deemed ratification by the GST Council of Notifications, Circulars and Orders issued by the Central Government
3. Decisions of the GST Implementation Committee (GIC) for information of the Council
4. Interim Report of GoM (Group of Minister) on MSMEs
5. Issues recommended by the Fitment Committee for the consideration of the GST Council
    i. Proposal for boosting real estate sector under GST regime by providing a composition scheme for residential construction units
    ii. Proposal regarding rationalisation of GST rates on Lottery
    iii. Request by CAPSI (Central Association of Private Security Industry) to bring the entire security services sector including body corporate under RCM (Reverse Charge Mechanism)
6. Issues recommended by the Law Committee for the consideration of the GST Council
    i. Notification of provisions of the CGST (Amendment) Act, 2018; UTGST (Amendment) Act, 2018 and the GST (Compensation to States) Amendment Act, 2018 and the IGST (Amendment) Act, 2018
    ii. Consequential amendments in notifications issued earlier in light of bringing into force the provisions of the CGST (Amendment) Act, 2018; the UTGST (Amendment) Act, 2018; the GST (Compensation to States) Amendment Act, 2018 and the IGST (Amendment) Act, 2018
    iii. Consequential amendments in Circulars and Orders issued earlier in light of bringing into force the provisions of the CGST (Amendment) Act, 2018; the UTGST (Amendment) Act, 2018; the GST (Compensation to States) (Amendment) Act, 2018 and the IGST (Amendment) Act, 2018
    iv. Proposal for amendment in CGST Rules, 2017
7. Review of Revenue position
8. Allowing ITGRC (IT Grievance Redressal Committee) to consider non-technical issues (errors apparent on the face of record)
9. Use of RFID (Radio-frequency Identification) data for strengthening enforcement of e-Way bill system under GST
10. Quarterly Report of the NAA (National Anti-profiteering Authority) for the quarter October to December 2018 for the information of the GST Council
11. Report of GoM on Revenue Mobilisation
12. Any other agenda item with the permission of the Chairperson
13. Date of the next meeting of the GST Council

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Discussion on Agenda Items

Agenda Item 1: Confirmation of the Minutes of the 31st GST Council Meeting held on 22nd December 2018

The thirty first Meeting of the GST Council (hereinafter referred to as 'the Council') was held on 22nd December 2018 at Vigyan Bhawan, New Delhi under the Chairpersonship of the Hon'ble Union Finance Minister, Shri Arun Jaitley (hereinafter referred to as the Chairperson). A list of the Hon'ble Members of the Council who attended the meeting is at **Annexure 1**. A list of officers of the Centre, the States, the GST Council Secretariat and the Goods and Services Tax Network (GSTN) who attended the meeting is at **Annexure 2**.

2. The following agenda items were listed for discussion in the 31st Meeting of the Council:

1. Confirmation of the Minutes of 30th GST Council Meeting held on 28 September, 2018
2. Deemed ratification by the GST Council of Notifications, Circulars and Orders issued by the Central Government
3. Decisions of the GST Implementation Committee (GIC) for information of the Council
4. Decisions/recommendations of the IT Grievance Redressal Committee (ITGRC) for information of the Council
5. Review of Revenue position
6. Issues recommended by the Fitment Committee for the consideration of the GST Council
7. Issues recommended by the Law Committee for the consideration of the GST Council
    i. Extension of the due date for furnishing the statement in FORM GSTR-8 by electronic commerce operator for the months of October, November and December, 2018
    ii. Extension of last date for allowing migration of taxpayers who received Provisional Identification Number (PID) till 31st December, 2017
    iii. FAQ on Banking, Insurance and Stock Brokers Sector
    iv. Amending SOP issued on TDS - Issues on furnishing of return in FORM GSTR-7 by registered persons required to deduct tax at source under section 51 of the CGST Act for period during which the deductor was not registered
    v. Update on the implementation status of the issues referred to the Law Committee by the GST Council
    vi. Request for exemption from provisions relating to Tax Deduction at Source (TDS) in case of taxable supplies between Government Authority to another Government Authority or to PSU and *vice versa*
    vii. Amendments to the CGST Rules, 2017
    viii. IGST Rules for determination of Place of Supply
    ix. Circular to clarify certain issues under GST
    x. Circular to clarify denial of composition option by tax authorities and effective date thereof
    xi. Clarification on refund related issues
    xii. Clarification on export of services under GST
    xiii. Requirement of submission of invoices for processing of refund claims of unutilised Input Tax Credit (ITC) in FORM GST RFD-01A
    xiv. Proposal for centralized Authority for Advance Ruling and centralized Appellate Authority for Advance Ruling under GST

xv. Suggestions made for allowing quarterly payment by small taxpayers
xvi. Issuance of a Circular to clarify taxability of medicines and consumables supplied to in-patients in hospitals during the course of treatment
xvii. Amendments to the CGST Rules, 2017, consequential to notifying the provisions of the CGST (Amendment) Act, 2018, SGST (Amendment) Act, 2018 and IGST (Amendment) Act, 2018
xviii. Proposal to extend the due date for availing ITC on the invoices or debit notes relating to such invoices issued during the FY 2017-18 under section 16(4) of CGST Act, 2017 till the due date for furnishing of return for the month upto March, 2019
xix. Extension of the due date for furnishing of annual returns in FORM GSTR-9, FORM GSTR-9A and reconciliation statement in FORM GSTR-9C for the Financial Year 2017 – 2018
xx. Proposal for amendment of Section 50 of CGST Act, 2017 to allow payment of interest on net cash liability
xxi. Reduction in amount of late fees leviable on account of delayed furnishing of FORM GSTR-1, FORM GSTR-3B and FORM GSTR-4 for the months/quarters from July, 2017 to September, 2018
xxii. Proposal to extend benefit of composition levy for small service providers
xxiii. Proposal to introduce the new return system on trial basis from 01.04.2019 and on mandatory basis from 01.07.2019
xxiv. Single interface for disbursal of refund amounts
xxv. Rationalisation of cash ledgers in GST

8. Approval of modifications in Articles of Association (AOA) and Memorandum of Association (MOA) of Goods and Services Tax Network (GSTN) based on decision of the GST Council to convert it into a 100% Government-owned entity
9. Status report of work of GoM on Revenue Mobilisation
10. Status report of passage of SGST (Amendment) Bill, 2018 in various States and Union Territories with Legislatures
11. Reconstitution of membership of the Law Committee, Fitment Committee and IT Committee for information of the Council
12. Any other agenda item with the permission of the Chairperson
    i. Notification to be issued to extend the due date for filing of returns in FORM GST ITC-04 for the period July 2017 to December 2018
    ii. *Ad hoc* Exemptions Order(s) issued under Section 25(2) of Customs Act, 1962 to be placed before the GST Council for information
    iii. Proposals for boosting real estate sector under GST regime by providing a composition scheme for residential construction units
    iv. Proposal to increase the threshold exemption limit for supplier of Goods (manufacturers and traders) under GST from existing turnover of Rs. 20 lakh to Rs. 75 lakh and from Rs. 10 lakh to Rs. 20 lakh for Special Category States in a year
    v. Proposal for removal of differential rate of GST on lottery run by State Government and lottery authorized by the State Government
13. Date of the next meeting of the GST Council

Preliminary discussion

3. The Hon'ble Chairperson welcomed the GST Council Members. At the outset, he placed on record the gratitude of the Council for the services rendered by Shri Amar Agarwal, Shri Jayant Malaiya, Shri Rajpal Singh Shekhawat, Shri Etela Rajendar and Shri Lalsawta, the

respective Hon'ble Ministers from the States of Chhattisgarh, Madhya Pradesh, Rajasthan, Telangana and Mizoram, who had been associated with this transformational change right from the beginning of the GST implementation. He also placed on record the deep sense of appreciation and gratitude for the services rendered by Dr. Hasmukh Adhia, the Finance Secretary as Secretary to the Council, who retired on 30th November, 2018, and for the very important role played by him in the GST roll out. He welcomed Dr. Ajay Bhushan Pandey, the new Union Revenue Secretary and *ex officio* Secretary to the Council. He further informed that Shri S. Ramesh, the Chairman, Central Board of Indirect Taxes and Customs (CBIC), was superannuating on 31st December, 2018 and welcomed the Chairman designate, CBIC, Shri P.K. Das, as a permanent invitee to the proceedings of the Council. He also welcomed Dr. Rajeev Ranjan, the new Special Secretary in the GST Council Secretariat. He welcomed the new Member attending the Meeting of the Council, namely, Prof. Ram Shinde from the State of Maharashtra. He also welcomed Shri K.K. Sharma, Advisor to the Hon'ble Governor (I/C Finance) of the State of Jammu & Kashmir. He noted that the new Members from the States of Telangana, Rajasthan, Madhya Pradesh and Chhattisgarh had not come for this Meeting and they would be formally welcomed in the next Meeting. Thereafter, he invited the Secretary to the Council (hereinafter referred to as the Secretary) to take up the Agenda items for discussion.

Discussion on Agenda items

Agenda Item 1: Confirmation of the Minutes of 30th GST Council Meeting held on 28th September, 2018

4. The Secretary stated that some changes were suggested to the draft Minutes of the 30th GST Council Meeting (hereinafter referred to as the Minutes). He requested Shri Shashank Priya, Joint Secretary, GST Council to brief the Council regarding the suggested changes.

4.1. The Joint Secretary, GST Council, stated that a written communication had been received from the State of Odisha requesting to correct a typographical error in the version of the Hon'ble Minister from Odisha recorded in line 6 of paragraph 14.9 of the Minutes ('…in addition to 5% as entry tax…') as follows: '…in addition to 0.5% as entry tax…'. The Council agreed to record the revised version of the Hon'ble Minister from Odisha in line 6 of paragraph 14.9 of the Minutes.

4.2. The Joint Secretary, GST Council, informed that during the Officers meeting held on 21st December, 2018, the Commissioner of State Tax, Kerala had requested to correct a typographical error in the version of the Hon'ble Minister from Kerala recorded in line 3 of paragraph 14.15 of the Minutes ('…and 18% of consumer products were imported from other States…') with the following: '…and 80% of consumer products were imported from other States…'. The Council agreed to record the revised version of the Hon'ble Minister from Kerala in line 3 of paragraph 14.15 of the Minutes.

4.3. The Joint Secretary, GST Council, informed that another written communication had been received from the State of Jammu & Kashmir informing that Shri B.B. Vyas, the then Advisor to the Hon'ble Governor (I/C Finance) of Jammu & Kashmir had attended the 30th Council Meeting but his name was not included in the list of participants. The communication had also pointed out that the then Advisor was nominated by the State Government to represent the State of Jammu & Kashmir in the GST Council constituted under Article 279A of the Constitution and his name should be accordingly included in the list of participants. The Joint Secretary, GST Council, informed that it was proposed to include the name of Shri B.B. Vyas in

Annexure I of the Minutes (which contains the names of the Hon'ble Ministers attending the Meeting) with the following note: 'The representative from Jammu & Kashmir attended the Meeting on behalf of the Hon'ble Governor of Jammu & Kashmir. The matter regarding exact status of the Advisor to the Hon'ble Governor (I/C Finance) in the GST Council was under consideration in consultation with the Union Ministry of Law'.

4.4. The Hon'ble Chairperson observed that *prima facie* when there is Governor's Rule or the President's Rule and the function of the Government gets taken over, there could not be a situation in the Council where a State goes unrepresented. He stated that the State would still be represented by the authority who takes over the affairs of State under the Constitution. Shri K.K. Sharma, Advisor to the Governor of Jammu & Kashmir stated that Advisors were exercising the powers of the Ministers.

4.5. The Joint Secretary, GST Council, informed that the issue under clarification was whether the attendance of the Advisor to the Governor would be as a Member of the Council with all the attendant rights. In this regard, he brought to the notice of the Council, the Minutes of the 1st Meeting of the Council wherein the Hon'ble Chairperson had suggested, subject to legal vetting, that in a State where there is a Proclamation under Article 356 of the Constitution of India, for the purposes of the Council, the person nominated by the Governor of the State shall exercise the power of a Minister. The Joint Secretary, GST Council further informed that this issue had been referred to the Union Law Ministry for legal opinion. He suggested that the Council could agree to include the name of Shri B.B. Vyas, Advisor to the Governor of Jammu & Kashmir in Annexure I of the Minutes (which contains the names of the Hon'ble Ministers attending the Meeting) with the following note: 'The representative from Jammu & Kashmir attended the Meeting on behalf of the Hon'ble Governor of Jammu & Kashmir. The matter regarding exact status of the Advisor to the Governor in the GST Council was under consideration in consultation with the Union Ministry of Law'. The Council agreed to this suggestion

5. **For Agenda item 1**, the Council decided to adopt the Minutes of the 30th Meeting of the Council with the following changes:

5.1. In line 6 of paragraph 14.9 of the Minutes, to replace the existing version of the Hon'ble Minister from Odisha with the following: '…in addition to 0.5% as entry tax…';

5.2. In line 3 of paragraph 14.15 of the Minutes, to replace the existing version of the Hon'ble Minister from Kerala with the following: '…and 80% of consumer products were imported from other States…';

5.3. To include the name of Shri B.B. Vyas, Advisor to Hon'ble Governor (I/C Finance) of Jammu & Kashmir in Annexure I of the Minutes (which contains the names of the Hon'ble Ministers attending the Meeting) with the following note: 'The representative from Jammu & Kashmir attended the Meeting on behalf of the Hon'ble Governor of Jammu & Kashmir. The matter regarding exact status of the Advisor to the Governor in the GST Council was under consideration in consultation with the Union Ministry of Law'.

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

6. The Secretary informed that during the Officers meeting held on 21st December, 2018, a presentation was made on this Agenda item informing regarding the Notifications, Circulars and Orders issued by the Central Government after 28th September, 2018 (date of the 30th Council Meeting) and till 13th December, 2018 to be ratified by the Council (A copy of the presentation is at **Annexure 3** of the Minutes). He informed that the officers did not raise any point on this Agenda item and proposed that the Council may ratify the notifications, circulars and orders. The Council agreed to the same.

7. **For Agenda Item 2,** the Council approved the deemed ratification of the following notifications, circulars and orders, which are available on the website, www.cbic.gov.in:

Act/Rules	Type	Notification Nos.
CGST Act/CGST Rules	Central Tax	53 to 66 of 2018
IGST Act	Integrated Tax	3 of 2018
UTGST Act	Union territory Tax	12 to 15 of 2018
Circulars	Under the CGST Act	66 to 74 of 2018
Removal of Difficulty Orders	Under the CGST Act	1 of 2018

7.1. The Notifications, Circulars and Orders issued by the Member States, which are *pari materia* with the above notifications, circulars and orders were also deemed to have been ratified.

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

8. Introducing this Agenda item, the Secretary stated that the GST Implementation Committee (GIC) took certain decisions between 28th September, 2018 (when the 30th GST Council Meeting was held) and 13th December, 2018 (before the 31st Council Meeting). He added that due to urgency, certain decisions were also taken by obtaining approval by circulation among the GIC members. He stated that this Agenda item was discussed during the Officers meeting held on 21st December, 2018 and there were no comments from the officers on the Agenda item. A presentation covering the issues is attached as **Annexure 3**. The Secretary invited comments, if any, from the Members of the Council. There were no comments.

9. **For Agenda Item 3,** the Council took note of the decisions taken by the GIC during the period from 28th September, 2018 to 13th December, 2018.

Agenda Item 4: Decisions/recommendations of the IT Grievance Redressal Committee (ITGRC) for information of the Council

10. The Secretary informed that under this Agenda item, decisions of the IT Grievance Redressal Committee (ITGRC) taken during its 3rd meeting held on 26th October, 2018 were placed before the Council for information. The Hon'ble Chairperson desired that the Council should be briefed regarding the decisions taken by the IT-GRC. Shri Upender Gupta, Commissioner (GST Policy Wing), CBIC, made a presentation on this subject (attached as **Annexure 3**). He informed that the ITGRC was responsible for resolving problems of taxpayers, who have not been able to file their documents, such as TRAN 1, GSTR-3B, GSTR-1 or Registration/Migration, etc. due to technical glitches at the common portal (GST Portal) and it affects a large section of taxpayers. In this regard, Government had issued circular 39/13 dated

3/4/2018 prescribing the procedure for taxpayers for lodging their grievance due to technical glitch in the GST system. He stated that the GSTN had issued a Standard Operating Procedure (SOP) dated 12.04.2018, which had to be followed by the Nodal Officers of the States/Centre while referring the technical glitch cases to the GSTN. Taxpayers had to submit their grievance applications relating to technical glitches to the designated State/Central nodal officers along with evidence, who in turn examined the taxpayer's applications and the supporting evidence and if any *prima facie* evidence of technical glitch was found, these were sent to the GSTN Nodal Officer with their recommendations by email. He informed that the 3rd meeting of the ITGRC was held on 26th October, 2018 and after examination of 268 TRAN-1 cases, the ITGRC decided to allow 70 cases. He informed that wherever ITGRC approved a case, TRAN-1 filing was enabled in the system for that taxpayer and an email was sent by the GSTN to the taxpayer asking him to file TRAN-1. He added that the remaining cases were being examined by the GSTN and would be sent to ITGRC for decision.

10.1 The Secretary informed that discussion on this Agenda item was held during the Officers meeting held on 21st December, 2018 where the Commissioner (State Tax), Tamil Nadu, had raised an issue that in many cases, entries could not be made in TRAN-1 etc. due to *bonafide* errors on part of taxpayers which were not due to technical reasons but needed to be resolved and be considered by the ITGRC. However, while examining this issue, the Law Committee had suggested that if any modification was allowed in TRAN-1 on account of such considerations, this could open flood gates and the cases which had already been rejected could also be reopened. Hence, it was decided to further deliberate on this issue in the next meeting of the Law Committee, which could be attended by the Commissioner (State Tax), Tamil Nadu and any other State, which wanted to participate in the meeting. The Secretary invited any other comments from the Council Members on this Agenda item. However, no comments were offered.

11. **For Agenda Item 4,** the Council took note of the decisions taken during the 3rd meeting of the ITGRC held on 26th October, 2018. The Council further agreed that the issue regarding expanding the mandate of the ITGRC to cover non-technical glitch cases shall be discussed in the next meeting of the Law Committee where the Commissioner of State Tax, Tamil Nadu and any other Commissioner of State Tax wanting to attend the meeting shall be invited.

Agenda Item 5: Review of Revenue position

12. The Secretary invited Shri Ritvik Pandey, Joint Secretary, Department of Revenue (DoR), to make a presentation on this Agenda item. The Joint Secretary, DoR gave a broad picture of the GST revenue from September, 2018 to November, 2018 and also the trend of return filing of GSTR-3B till due date and till date for the return period upto October, 2018. He also informed that a corrigendum had been issued and circulated in Volume-3 of the Detailed Agenda Notes making corrections in Table 4 of the Agenda Item showing trend of GSTR-3B filing where the figures in the last two columns had got jumbled up inadvertently. On the revenue position, he stated that the total GST revenue during September, 2018 was Rs.94, 442 crore, during October, 2018, it was Rs.1, 00,710 crore and during November, 2018, it was Rs.97, 637 crore. He further stated that the IGST settlement during September, 2018 was Rs.29, 210 crore, during October, 2018, it was Rs.62, 597 crore and during November, 2018, it was Rs.33, 966 crore. He informed that the *ad hoc* settlement was now being done once in every two months and this would continue in future too. He stated that the balance IGST available with the Central Government after settlement/provisional settlement/refund as on 1st December, 2018 was Rs.17,262 crore. The Hon'ble Chairperson observed that now no large amount of IGST was getting accumulated. The Joint Secretary, DoR, informed that the accumulation of Rs.9,108 crore was also only

because refund data was not available; otherwise, the accumulated amount would have been even lower.

12.1. Shri V. Narayanasamy, Hon'ble Chief Minister of Puducherry, stated that the Union Territories of Puducherry and Delhi had been recognised as State under the GST law but they were kept out of the devolution scheme of the Finance Commission, which was not justified. He emphasised that these two Union Territories must get their due share from the Government of India. He pointed out that since the amount went to the Consolidated Fund of India, these two Union Territories became disentitled to get a share of the revenue. He emphasised that since the money was collected by way of taxes, they should also get a share of the same. He stated that the present situation was unjustifiable and requested the Hon'ble Chairperson to find a solution to this problem.

12.2. Shri Manish Sisodia, Hon'ble Deputy Chief Minister of Delhi, stated that for the settlement to be done for accumulated amount prior to March 2018, the fund was kept in the Consolidated Fund of India. The fund was devolved to all the States in accordance with the Finance Commission's recommendation and they got no share of the funds so devolved to the States. Joint Secretary, DoR, explained that during the last financial year, the whole system of *ad hoc* settlement started late and as result, they could do only one instalment of *ad hoc* settlement. The quantum of balances lying in the credit ledger of taxpayers was more and this amount would come down only when taxpayers utilised the input tax credit to pay CGST and SGST, which would lead to regular apportionment for IGST amount. He stated that now *ad hoc* settlement of IGST was being done even if the input tax credit was lying in the taxpayers' credit ledger. The Hon'ble Deputy Chief Minister of Delhi agreed that in the system being presently followed, all the States including Delhi and Puducherry were getting the due money but Delhi did not get full amount due to it before March, 2018. The Secretary stated that there was only one *ad hoc* settlement during the last financial year and the net amount accounted in the Consolidated Fund of India had to be devolved to the States by 31st March 2018. He explained that from the current year onwards, the situation would be different as *ad hoc* settlement was being done regularly. The Hon'ble Deputy Chief Minister of Delhi stated that earlier too, he had raised this issue several times in the Council. He stated that it was earlier decided that Rs.1.60 lakh crore of IGST would not be kept in the Consolidated Fund of India but the same was suddenly taken in the pool of the Consolidated Fund of India and got devolved to all States except Delhi and Puducherry. Joint Secretary, DoR explained that as per Constitutional provisions, IGST has to be credited to the Consolidated Fund of India at the first instance itself and it is not the case that IGST amount was transferred to the Consolidated Fund at some later stage.

12.3. The Hon'ble Chairperson stated that during the first year under GST regime, there was a high backlog of IGST and there was only one *ad hoc* settlement due to which net amount of Rs.1.6 lakh crore was accounted under the IGST head. He observed that this amount was being credited to the Consolidated Fund of India not on account of any arbitrary decision but by virtue of the Constitutional provision. He stated that this situation would not arise in future years. The Hon'ble Deputy Chief Minister of Delhi stated that a way out must be found to settle the past amount as Delhi and Puducherry could not be treated differently *vis-à-vis* other States.

12.4. The Hon'ble Chief Minister of Puducherry stated that when the issue was raised in the Council earlier, assurance was given that after devolution to the States, a portion of the IGST balance amount lying in the Consolidated Fund of India would be distributed to the Union Territories. The Hon'ble Chairperson stated that if an adjustment was done at this stage, it would imply reducing the net amount accounted under the IGST head at the end of the last financial

year and all States to whom the money had been devolved would also need to surrender the amount from their State Consolidated Funds. He stated that this would lead to unscrambling the whole thing. The Joint Secretary, DoR clarified that IGST is not transferred to the Consolidated Fund of India but it is credited in the same. He added that when a taxpayer deposits liability under the SGST head, the money is directly credited in the State's Consolidated Fund; likewise, when a taxpayer deposits liability under the IGST head, the money is directly credited in the Consolidated Fund of India.

12.5. The Hon'ble Deputy Chief Minister of Delhi stated that because of the problem of devolution, the Union Territory of Delhi had lost about Rs. 3,000 crore during the last financial year. The Secretary stated that had the devolution not taken place and instead adjustment had been made, to that extent, the UT of Delhi was getting compensation and it would not suffer net loss. The Hon'ble Chairperson stated that the Hon'ble Deputy Chief Minister of Delhi raised a point that if Rs.1.6 lakh crore had not been put in the Consolidated Fund of India, Delhi would have got a higher share of revenue. He suggested that a workable solution could be found out by discussion between the Revenue Secretary and the concerned Secretaries of Delhi and Puducherry. The Hon'ble Chief Minister of Puducherry stated that this amount could have been kept in a separate account as the two Union Territories could not be deprived of their rights. The Hon'ble Chairperson stated that it was done by virtue of the Constitutional provision.

12.6. Shri D. Jayakumar, Hon'ble Minister from Tamil Nadu, stated that on this issue, they had also written to the Hon'ble Prime Minister to settle the issue of *ad hoc* settlement. He added that their estimate was that they would get additional Rs 3,000 crore for the previous year alone. Dr. T.V. Somanathan, Commissioner (State Tax), Tamil Nadu stated that the issue was not only for the Union Territories, 50% of the balance amount lying implicitly comprised SGST. If it had been settled in *ad hoc* manner, 50% would have gone to the States including Union Territories and 50% would have gone to the Centre. He added that when it is devolved, 58% goes to the Centre and 42% goes to States and nothing goes to the Union Territories. He further stated that in the case of Tamil Nadu, if the money would have been disbursed by virtue of *ad hoc* settlement, they would have not needed any compensation and instead would have got additional Rs 2000 crore last year in GST. He requested that the required correction may be made after adjusting compensation both for Union Territories and the States even if the net amounts were not large so that the principles got established. The Hon'ble Chairperson observed that the difference arising out of *ad hoc* settlement and compensation may not be high because if more of settlement was done, then compensation amount would have gone down. The Hon'ble Deputy Chief Minister of Delhi informed that Delhi had got a compensation of only Rs.250 crore in the previous year whereas the amount in question was approximately Rs 3,200 crore.

12.7. The Hon'ble Minister from Punjab stated that he was very worried about the revenue situation of Punjab which had suffered 37% revenue shortfall whereas structurally, nothing wrong had been observed about the economy of Punjab. His State was doing well on compliance levels and no alarming tax evasion had been detected. He stated that his advisors had informed that in Punjab, the rate of taxation in pre-GST regime was much higher and with the advent of GST, the rates have come down which was also one of the reasons of revenue shortfall. He added that there were some other issues such as the issue of Place of Supply in the telecom sector, due to which full revenue due to his State was not coming. He explained that the service providers like BSNL and MTNL were accounting a large portion of taxes due to his State, to their head offices in NOIDA based on the address of the suppliers. He suggested that a special group should be constituted to look at the possible State-wise distortions and suggest ways for augmentation

of revenue and particularly the revenue which had not been reaching the destination States. He further suggested that rate rationalisation should be looked at in July, 2022 and not in 2018.

12.8. Dr. T.M. Thomas Isaac, Hon'ble Minister from Kerala, concurred with the points raised by the Hon'ble Minister from Punjab and stated that the revenue position should be thoroughly reviewed. He added that the complaint of the Hon'ble Chief Minister of Puducherry should be seriously deliberated and a Group of Minister (GoM) should be constituted to look into *ad hoc* distribution of IGST. He further stated that the overall revenue position of GST was below expectations, even more so for the Central Government, which raised a serious question regarding the so-called revenue neutral rate concept that one was supposed to have. He stated that the trend of overall revenue had been on the downward side and it crossed Rs.1 trillion only two times since GST implementation. He added that in the last two months, the revenue trend had come down further. He stated that the revenue trend had been further affected due to slashing of the tax rates in the Council and the way of implementing it. He observed that as the Finance Minister of a State, he would not have found it appropriate to slash the rates as frequently as had been done in the Council. He cautioned that one had to also look at the situation beyond 2022 when there would be no compensation to the States. He added that during the 28th GST Council Meeting held on 21st July, 2018, (which he could not attend and which was not chaired by the current Hon'ble Chairperson), the rates of tax on a large number of goods were reduced competitively and without going through the process of examination by the Fitment Committee.

12.9. The Hon'ble Minister from Kerala further observed that earlier, the principle of fitment of rates used to be with reference to pre-GST rates but now, in the proposals of the Fitment Committee, there was no reference to pre-GST rates. He suggested that pre-GST rates should be indicated in all proposals of the Fitment Committee. He stated that earlier while arriving at the tax rates in the Council, there was serious discussion regarding the rate structure with differences of opinion where some Members wanted it to be capped at 18% and some other Members looked at revenue as well as pre-existing GST rates from the point of equity i.e. equitable distribution of tax burden. After a very serious debate, the GST rates were arrived at in the Council. He suggested that before undertaking any further revision in the GST rates, things should be allowed to stabilise and the exercise of rate revision should not be carried out in every meeting. He stated that despite his Party's ideological differences on GST, he had gone along with the Council and consensus decision. He emphasised that having surrendered the State's right to tax independently, he expected that the decisions in the Council should be taken in a deliberative manner. He stated that his State was a big spender on social programmes and suffered revenue deficit and 14% annual rate of growth was not enough for his State. He urged that the Council Members should think twice before undertaking further reduction in tax rates till things stabilised as this was leading to stagnation of revenue. In this regard, he also shared the concern of the Hon'ble Minister from Punjab regarding the revenue position.

12.10. The Hon'ble Chairperson invited the attention of the Members to Table 3 of the Agenda Note, which gave State-wise details of revenue shortfall for the period from August, 2017 to March, 2018 and April, 2018 to November, 2018. The Joint Secretary, DoR stated that it could be inferred from the table that the high shortfall States were Puducherry, Himachal Pradesh, Uttarakhand, Bihar, Punjab etc. The previous Union Finance Secretary had visited the top six revenue shortfall States and had analysed the reasons for the shortfall. He observed that some of the big gainers of revenue were the North-Eastern States. Some of the larger States like Maharashtra, Tamil Nadu, Telangana and Andhra Pradesh were also doing better than the national average. The Hon'ble Chairperson observed that States like Haryana, Uttar Pradesh,

Rajasthan, West Bengal and Sikkim had also improved their revenue performance during April, 2018 to November, 2018 as compared to that during August, 2017 to March, 2018. He observed that as compared to last year, the overall revenue performance was better this year but some States like Delhi had shown a poor performance this year compared to the last year.

12.11. The Hon'ble Deputy Chief Minister of Delhi stated that one of the reasons for revenue shortfall in his State was that during pre-GST era, sales from godowns were taxed at the first point of sale. However, in GST regime, even though the goods were being consumed in Delhi, the big dealers were setting up their godowns in other States due to competitive land prices and rentals. He added that there was also loss of revenue on account of lack of input tax credit matching.

12.12. Dr. Amit Mitra, Hon'ble Minister from West Bengal, stated that it was assumed that in GST, the consuming States would be better off. However, the data available in GST had not been analysed in the way it should have been through the technical processes available. There was a need to relook at the data as to why many consuming States were in a bad revenue position. He observed that in States like Bihar and Madhya Pradesh, consumption was good but revenue was not high. Punjab had given up 14% tax on food grains which was discussed at length in the Empowered Committee. No analysis in theoretical terms had been done that destination tax should have resulted in higher revenue to the consuming States. There was only some heuristic explanation for revenue shortfall like shifting of logistics hubs from Delhi. He emphasised that there should be an analysis based on the original premise of the GST that more revenue should come to the consuming States. He observed that in one meeting of the Council, which was not presided over by the present Chairperson, GST rates were lowered competitively.

12.13. The Hon'ble Chairperson observed that analysis should continue and this would help to understand the trend but at a broader level, it needed to be understood that States like Maharashtra and Karnataka which were performing well on the revenue front, were not only big manufacturing States but also high consuming States. Regarding Bihar, as brought out in the report of the former Finance Secretary, the VAT collection was high for the base year because of increase in the VAT rate on account of implementation of the Prohibition. In Punjab, loss of Purchase Tax was a major reason for revenue shortfall. Uttar Pradesh is partly a manufacturing State but substantially a consuming State where the revenue shortfall had come down to 7%. In the North-Eastern States, the revenue had increased. The States of Telangana and Andhra Pradesh had also done remarkably well on the revenue front. He suggested that a study should be done to analyse these trends.

12.14. The Hon'ble Minister from Kerala stated that the consuming States should have performed much better in revenue collection. Some manufacturing States were also consuming States. He added that the CBIC had country wide data and they should bring out an analytical report. He further stated that prior to GST, Service Tax collection was sub-optimal due to paucity of staff in CBIC. The revenue collection from Services could be improved in the GST era and for this, they needed Service Tax collection data of the pre-GST period which should be shared by CBIC with the States. He added that revenue for consuming States would be based on IGST which in turn depended upon effectiveness of e-Way bill system and curbing of large-scale under-valuation of goods like marbles, garments, building material, etc. which would help to augment GST revenue. He informed that Kerala had earlier a floor price system which had gone and this was encouraging under-valuation as there was no such system in place. He suggested to review the rules of e-Way bill system regarding valuation and also address the problem of double run on the same e-Way bill.

12.15. The Hon'ble Chairperson stated that revenue from Service Tax post-GST was a disappointment but there were certain factors responsible for it. He asked Shri Manish Sinha, Joint Secretary (TRU-II), CBIC, to explain the reasons for the declining trend of revenue from services. The Joint Secretary (TRU-II), CBIC, stated that at a broader level, three services, namely real estate, telecom and airlines were not performing well. In addition, revenue from smaller service providers had gone down, which was partly due to monthly return system, tax rate on services and hike in the annual turnover threshold for registration from Rs.10 lakh pre-GST to Rs.20 lakh in GST. Further, small scale service providers were keeping away from GST because of heavier compliance requirements under GST. He stated that the Service Tax revenue collected in the year prior to implementation of GST was around Rs.2.85 lakh crore, and in normal course, this would have touched Rs.3 lakh crore this year.

12.16. The Hon'ble Chairperson stated that in the telecom sector, prices were coming down because of competition and this had affected the revenue collection. He added that the rate of 18% GST was dissuading small scale sector, such as tailoring units, fitness centres, beauty parlours, hair cutting saloons, etc. to come into the tax net. In the real estate sector, 12% tax rate for under-construction projects was perceived to be an additional burden for the buyers while the finished flats did not attract any GST and only stamp duty. He added that even with input tax credit, the GST rate of 12% appeared to be dissuading the builders from further investment in the sector. Funding by Non-Banking Financial Companies (NBFCs) to the real estate sector had also slowed down. The Secretary stated that from services, tax collection from units with annual turnover of less than Rs.1 crore was approximately Rs.800 crore per month in cash, and the ratio of liability versus input tax credit adjusted is about 50%. He observed that small service tax payers were looking at a scheme of composition and a scheme of composition for small Service Tax payers was on the Agenda of this Council meeting.

12.17. Continuing with the presentation, the Joint Secretary, DoR, stated that as regards the trend of return filing, it was significantly lower in October, 2018 as compared to the previous month. He stated that part of the reason for this was that in October, 2018, the last date of return filing was extended by five days. He added that as seen from the trends, it could be seen that many States came in the range of 50% to 60%. He stated that Punjab, UT of Chandigarh, Uttar Pradesh Gujarat etc. had shown a high level of return filing whereas some Union Territories and the North-Eastern States had shown a low return filing rate as some of them did not have VAT before GST.

12.18. Shri Nitinbhai Patel, Hon'ble Deputy Chief Minister of Gujarat, raised a question as to why revenue collection in some States like Punjab was low even when return filing percentage was high in these States. The Hon'ble Minister from Punjab stated that they were also not able to clearly figure out the reason for this. The Hon'ble Chairperson stated that he had received feedback that in Punjab, bulk of the revenue even on the direct tax side, came from the public sector undertakings; the local trade and industry was contributing marginally to the direct tax collection. The Hon'ble Chairperson asked Shri V.K. Garg, Advisor (Financial Resources) to the Chief Minister, Punjab, to explain the reasons for Punjab's low revenue collection.

12.19. The Advisor (Financial Resources) stated that the National Institute of Public Finance and Policy (NIPFP) had conducted two studies in the run up to GST – one in 2011 and the other in 2013 – where they had indicated that there could be no uniform revenue neutral rate for GST for the entire country. At that time, States like Gujarat, Chhattisgarh, Himachal Pradesh and Goa had expressed apprehension that GST would cause a big loss of revenue as they believed themselves to be the origin States. NIPFP report had indicated that applying a uniform revenue

neutral rate for the entire country would lead to loss of revenue to some States and had suggested a high revenue neutral rate for some States like 27% for Chhattisgarh. He added that it was explained to them that the whole concept of origin and destination tax was a farce in the long run since if a State was a producing State, sooner or later it would also become a consuming State. He stated that it could be seen that the State of Gujarat had not lost as much revenue even though the CST component was high in its pre-GST revenue collection. On Service Tax, he stated that earlier, large part of Service Tax was levied on B2B payment i.e. between manufacture and retail like renting of immovable properties, C&F agent, business auxiliary service, business support service, advertisement etc. and the revenue from them was going to be channelised in GST. He stated that as per his estimate, the net revenue from service tax was supposed to be around Rs. 70, 000 crore depending upon the threshold. He added that due to increase in the annual turnover threshold for registration for Service Tax under GST, many taxpayers had gone out of the tax net. He added that major revenue providers in B2C segments were telecom (where revenue was down) and retail (where tax evasion was traditionally high).

12.20. The Advisor (Financial Resources), Punjab, further stated that during the pre-GST period (2008-15), the rate of State VAT was originally 12.4% and CST 4% but the rates varied subsequently among the States as some States started levying 10% surcharge, some raised tax rates etc. So, GST was rolled out. Most States had a tax rate of 13.5%-14% on a cascaded value which included excise duty in addition to CST of 2% plus the tax of 4% on stock transfers. Thus, his estimate was that most of the States had a prevalent tax rate of 18% which had now become 9% (as SGST) and VAT rate of 6% had become 2.5% SGST. This had an impact on the revenue front. He stated that Punjab had two-fold problem, namely Purchase Tax and mismatch between ratio of Punjab's share of GDP in the Country's GDP and GST revenue *vis-à-vis* country's total GST revenue. He added that share of Punjab in the country's GDP was 2.8% but its share of GST revenue was only 2.4%. Since his State was getting lesser revenue than anticipated as per its share of GDP, this indicated some structural problems. One such problem could be in the Place of Supply (POS) Rules due to which some revenue of Punjab was going to other States. He gave an example of POS Rules for international travellers for which the place of supply was where the passenger embarks on the aircraft, which was mostly a metropolitan city. Similarly, in telecom sector, for prepaid electronic recharges done through Paytm, if address of the subscriber was not given, it was deposited in the headquarters of Paytm at NOIDA whereas revenue should have accrued to the consuming State. He added that as highlighted by the Hon'ble Finance Minister from Punjab, such distortions should be looked into by a Committee and the revenue should flow as per the destination principle.

12.21. The Hon'ble Chief Minister of Puducherry stated that his State was a big loser of revenue under GST. He stated that earlier, his State attracted consumers from other States and several warehouses were located in his State. The previous Finance Secretary had met officers during GST roll out and he had indicated that GST would benefit the consuming States but now the experience was that all revenue of small industries was going to other States for sale. His State was also not getting Service Tax revenue, as per expectation. The tax rate on restaurants had been reduced, and during the last year, about 1,700 restaurants had been opened in his State but they were not getting much revenue from this sector. He stated that a proper analysis needed to be done for such loss of revenue and his State was not in a position to carry out such analysis.

12.22. The Hon'ble Chairperson enquired regarding the reasons as to why there was a positive trend of revenue in the State of Maharashtra. Shri Rajiv Jalota, Commissioner, State Tax, explained that his State was a high service consuming State and during the first year of GST, the revenue collection was good. He stated that now there was a downward trend in revenue from

service sectors like telecom and airlines. He added that under VAT, there was a composition scheme in his State for manufacturers and now there was a declining trend in revenue from this segment because there was just 1% of composition tax. He added that traditionally Maharashtra has been a better compliant State. However, it had also been noticed that large amount of tax credit was being used through circular transactions and they were trying to improve tax compliance through better data analytics.

12.23. The Hon'ble Chairperson stated that the revenue target of the States was high as it was pegged at a compounded rate of 14% of the revenue of the base year which would amount to almost 50% increase in the revenue target of the State in the next three years. So, increase in revenue collection would need to be in the range of 40% to 45% of the previous collection which was very high. The Hon'ble Minister from West Bengal stated that it was true that his State had performed better in revenue collection. This was partly due to large scale use of e-taxation prior to GST roll out which was also acknowledged by the Government of India. He stated that this had led to easier migration of middle and larger level VAT registrants and the number of new taxpayers had also climbed up rapidly. He added that a lot of work had also been done by officers for augmenting revenue. However, due to non-matching of invoices, lot of false claims of input tax credit were being made and a holistic approach was needed to address this problem. He suggested that instead of ocularly looking at data and comparing them, there should be an analysis through statistical tools like chi square to analyse any statistical difference of collection figures between the two periods indicated in Table 3.

12.24. The Hon'ble Minister from West Bengal further observed that the Hon'ble Ministers from Punjab and Kerala had rightly observed that the GST rates were being varied without much logic. He stated that West Bengal has a metropolitan city and therefore it is a consuming hub but they also had manufacturing and digitisation. He wondered whether they could say that they were doing better. He observed that there were some heuristic reasons for revenue shortfall like re-location of warehouses from Delhi due to lesser land prices in neighbouring States but we lacked analysis of such reasons. He added that during last year, the States were compensated to the tune of Rs.48,000 crore which could be even higher during the current year and it needed consideration whether GST rate reduction was also a cause for this shortfall. He recalled that during the GST design phase, States of Gujarat and Maharashtra had very strongly opposed GST but now they were performing well. He added that these were some contradictions which were not yet understood. The Hon'ble Minister from Kerala added that at their insistence, initially there was also a proposal to allow retention of 2% additional tax to the producing States.

12.25. The Hon'ble Chairperson enquired whether CBIC could do a data analysis of revenue shortfall. Shri Mahender Singh, Member (GST), CBIC stated that they had done some study and, after refinement, this could be brought before the Council. The Hon'ble Minister from Kerala suggested that there should be a Committee of officers of the Centre and the States to do such an analysis and help should also be taken from some research institutions like National Institute of Public Finance and Policy (NIPFP). He suggested that a GoM should be constituted for revenue analysis and this should be supported by officers. The Hon'ble Minister from West Bengal stated that the experts should do the analysis and then it should be brought before a GoM.

12.26. The Hon'ble Minister from Karnataka stated that revenue from service tax was not supplementing their revenue. His State was a big producer of services (mainly IT) and not much in manufacturing like Maharashtra. With regard to data analytics, he informed that in the GoM on IT Challenges in GST Implementation, he had repeatedly been requesting for analysis about trends and correlations but the analysis presented did not answer questions being raised. He observed that since GSTN was not able to carry substantial assessment, it needed to be considered

as to what kind of group should conduct this analysis. Shri Jagdish Chander Sharma, Principal Secretary (E&T), Himachal Pradesh stated that revenue gains for the consuming State like theirs was not as expected. He added that due to strong enforcement, they had collected about 21% more revenue from IGST and SGST during September-October 2018. His State had a better national average of e-way bill generation as compared to the registered taxpayers in the State. He expressed that in the next three months, with better enforcement, their revenue performance should improve. He also supported the formation of GoM for revenue analysis.

12.27. The Hon'ble Minister from West Bengal stated that the analysis should consist of three things namely data mining like chi square test, causal modelling through regression analysis and examination of the structure under which it is happening i.e. the IT structure. He suggested that either a white paper should be published on GSTN or a GoM should be constituted to examine these issues. He added that about 300 crore invoices were supposed to be uploaded per month on GSTN portal and these were supposed to be matched but we had not been able to go to the stage of GSTR-2 and therefore frauds were being committed. He also observed that no single test or pilot project was done before launching GST.

12.28. The Hon'ble Chairperson requested the Joint Secretary, DoR to also show the monthly revenue trends of GST collection. The Joint Secretary, DoR stated that from August 2017 to 31st March 2018, revenue collection was fluctuating. During August 2017, the collection was Rs.95,633 crore but it had gone down to Rs.94,064 crore during September 2017. He added that November 2017 showed the lowest revenue collection of Rs.83,780 crore and thereafter, there was an increasing trend in revenue. The Hon'ble Minister from Kerala stated that GDP to tax ratio should also be analysed and in his assessment, this was coming down. He stated that the turning point for downward revenue trend was 23rd GST Council Meeting held in Guwahati (10th November 2017) where the GST rates were reduced.

12.29. Continuing the presentation, the Joint Secretary, DoR stated that in April 2018, the revenue collection was approx. Rs.1.03 lakh crore. In May 2018, it went down to Rs.94, 016 crore and in June 2018, it was Rs.95, 610 crore. The revenue collection in July 2018 was Rs.96, 483 crore, in August it was Rs.93,960 crore, in September it was 94,442, and in October it was Rs. 1 lakh crore. In November 2018, the revenue collection was Rs.97, 637 crore.

12.30. Summing up the discussion, the Hon'ble Chairperson stated that taking into account the rate reductions done, the revenue collection figures indicated that the average monthly revenue collection was about Rs.90,000 crore till March 2018 and it was about Rs.96,000 crore monthly during the next year. From April 2018 to November 2018, the tax collection ranged between Rs.94,000 crore to Rs.97,000 crore. The Hon'ble Minister from Karnataka stated that year-on-year, a nominal revenue growth rate of at least 7% to 8% should be considered, and in this light, the revenue collection per month should have gone up from Rs.90, 000 crore to about Rs.96, 000 crore to Rs. 97,000 crore and the shortfall needed to be measured against this and not Rs.90,000 crore. The Hon'ble Chairperson observed that to break even, the targeted revenue collection every month was about Rs.1.10 lakh crore. The Hon'ble Minister from West Bengal stated that post-refund revenue collection figures should be taken into account.

12.31. The Hon'ble Chairperson suggested that a GoM consisting of about seven members along with experts from the Central and State Governments and research organisations like NIPFP could be constituted to analyse the revenue collection and structural issues relating to revenue shortfall keeping in view the suggestions made by the Members. The Council agreed to this suggestion.

13. **For Agenda Item 5**, the Council took note of the presentation on the revenue collection for the months of September to November 2018. It also agreed to constitute a 7-Member Group of Ministers along with experts from Central and State Governments and research organisations like National Institute of Public Finance and Policy (NIPFP) to analyse revenue related issues and the structural reasons for shortfall keeping in view the suggestions made by the Members.

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

14. Some preliminary remarks were made before substantive discussion on this Agenda item took place. The Hon'ble Minister from West Bengal stated that he had written a formal letter to the Hon'ble Chairperson, GST Council on 21st December 2018 regarding the statement made by the Hon'ble Prime Minister on 18th November 2018, as reported in the newspapers. The Hon'ble Prime Minister of India's suggestion on 28% rate slab was like pre-empting the discussion on fitment issues in the GST Council. He pointed out that under Article 279A of the Constitution, the Council was authorised to discuss rate structure of GST and stated that this should not happen in future as this undermines the GST Council.

14.1. The Hon'ble Minister from Assam objected to these observations and stated that the comments of the Hon'ble Prime Minister should not be discussed in the Council because one would not be fully aware of the context and background of it. The Hon'ble Chairperson stated that the Members of the Council should concentrate on the work being done in the Council. He recounted the past experience where, on a number of items, there was unanimous agreement, but subsequently some Members talked against the consensus decisions of those very items. He observed that the Hon'ble Prime Minister had only given a road map and some of the Members and even few Chief Ministers had spoken of such road maps as these are public issues and everybody could give their own view but the ultimate decision lay with the Council. He observed that the environment of the Council should be kept free from the happenings taking place outside the Council. He suggested to concentrate on the decisions to be taken in the Council and to keep politics out of it. He added that the Council Members were also political persons and some political stance could be taken in a democratic setup but in the Council, there should be free and frank discussion and to evolve a consensus.

14.2. Shri Mauvin Godinho, the Hon'ble Minister from Goa stated that the Hon'ble Prime Minister was right to comment on the broad economic policy framework of the country. The Hon'ble Deputy Chief Minister of Delhi cautioned on such kind of debates and also stated that discussion on GST rate was the privilege of the GST Council. The Hon'ble Minister from Karnataka stated that there would be more value addition if the members discussed the agenda. He added that the statement of the Hon'ble Prime Minister could be dissected from various angles and it needed to be remembered that the Council was a Constitutional body. However, in deference to the suggestion of the Hon'ble Chairperson, the discussion could move on.

14.3. The Hon'ble Chief Minister of Puducherry stated that the Members should be allowed to make observations. The Hon'ble Minister from Assam stated that indirectly the Members were making avoidable observations on the views expressed outside the Council. He added that many things had been stated against GST and it would be advisable not to bring outside issues into the Council. The Hon'ble Minister from Goa added that all Members should think and work in a constructive spirit with a view of one Nation, one Tax.

14.4. After this preliminary discussion, the Secretary introduced the Agenda Item 6. The Hon'ble Minister from Punjab stated that the Agenda Item listed at S.No.4 of Annexure II

regarding GST on licence fee charged for liquor licences stood withdrawn but he recalled that the issue regarding tax on liquor was discussed and decided during the Meeting of the Council held in Jammu & Kashmir but the implementing circular or notification was yet to be issued to clarify the matter. Joint Secretary, TRU-II stated that it was decided in the Officers' meeting on 21st December 2018 that on merit, no decision was needed and only implementation instrumentality needed to be worked out which would be done at the officers' level that whether it should be done by way of a Circular or by way of an exemption notification. He stated that if liquor licence fee collected by the States was certified as the tax revenue of State excise by all the States, then it would be easy to issue the required circular. He added that issuing such a circular for the period relating to erstwhile service tax would tantamount to annulling judgements of some High Courts on this issue without any new evidence and, therefore, such a certification was needed from the States.

14.5. Advisor (Financial Resources), Punjab stated that the Hon'ble Supreme Court, in the case of M/s Har Shankar vs otrs, had decided the issue whether licence fee was a tax or excise revenue and it had held that it was excise revenue. The then Finance Secretary was convinced that this was not liable to GST. If instead of clarification, an exemption notification was to be issued at this stage, the levy would come into question whether it was a fee or a tax. He stated that since it was a one-time exception, a Circular could be issued. The Hon'ble Chief Minister of Puducherry stated that fee on liquor licence was not under GST and it need not come for discussion to the Council at all. He added that notices were still being issued on this issue for Service tax period and this should also be withdrawn. Joint Secretary, TRU-II stated that wording of the Law was different in different States. Further, it was not mentioned in the 26th GST Council decision as to how the decision should be implemented. The Secretary stated that at this time, this Agenda item was being withdrawn.

14.6. The Hon'ble Minister from Tamil Nadu requested to take on record his written speech circulated during the meeting and stressed to favourably reconsider the request of Tamil Nadu to reduce the rate of GST on certain goods such as branded rice, wet grinder, matches, recycled plastics and also fishing line and lead weights which the Fitment Committee had not agreed to consider during its last meeting. The Hon'ble Minister from Kerala requested to take up the agenda item wise in a systematic manner.

14.7. The Secretary explained the contents of Agenda Item 6. He stated that Annexure I contained recommendations for making changes in GST rates or for issuance of clarification in relation to goods; Annexure II contained recommendations for making changes in GST rates or for issuance of clarification in relations to Services; Annexure III contained issues where no change had been proposed by the Fitment Committee in relation to goods; Annexure IV contained Issues where no change has been proposed by the Fitment Committee in relation to services and Annexure V contained issues relating to services referred to GST Council for decision. He added that issues covered in Annexure V were again discussed by the Fitment Committee on 21st December, 2018 as there was near consensus in its last meeting on 15th December, 2018 and after further discussion, the Fitment Committee had reached an agreement on these issues.

14.8. The Hon'ble Chief Minister of Puducherry enquired regarding the number of items that were presently in the tax slabs of 18% and 28%. Shri G.D. Lohani, Joint Secretary (TRU-I), CBIC, informed that at four-digit HSN level, there are altogether 1,216 entries for goods and 48 entries for services. He stated that as regards the contribution of revenue from different rate slabs,

60% of the revenue came from items in 18% rate slab, 13% of revenue came from items in 12% slab, 22% of revenue from items under 28% and rest of the revenue came from 5%, 3% and 1% slabs. He added that 340 tariff lines were taxed at the rate of 5%, 174 tariff lines at the rate of 12%, 517 tariff lines at the rate of 18% and 34 tariff lines in goods are at the rate of 28% and rest are at lower rates. He further added that sometimes one tariff line may spread into different slabs for example parts of auto, etc. The Hon'ble Chairperson stated that in 28% tax slab, there were broadly three categories of 34 items left, as for example, auto parts which may figure in 13 headings or so and tobacco in 4-5 headings. He added that out of these 34 items, several items were falling in the categories of luxury and sin products. He stated that two items involving big revenue collection in 28% slab were cement and auto parts. If the rate of tax on cement was reduced from 28% to 18%, it would lead to annual revenue loss of Rs.13,000 crore and if the tax rate on auto parts was reduced from 28% to 18%, it would lead to an annual revenue loss of Rs.22, 000 crore. He stated that some of the other items of lesser revenue significance were yacht, luxury cars, etc. Therefore, items under the 28% rate category could be categorised separately into (i) luxury and sin products; (ii) items of big revenue impact; (iii) some items of minimal revenue impact.

14.9. The Hon'ble Minister from Karnataka stated that he would briefly like to delve on the larger issue of revenue and rate. He stated that taking a cue from the concerns raised by the Hon'ble Minister from Punjab, Kerala, etc., in his opinion, rate rationalisation should happen but the question was regarding the timing. He stated that the Council had collectively decided to keep the 28% rate slab as one did not have a fully progressive tax system from which presently 22% of revenue accrued, and they were concerned about the revenue position of the States. He stated that Karnataka has been a fiscally prudent State and it achieved its revenue deficit target under the Fiscal Responsibility and Budget Management (FRBM) Act in 2004, though the target year was 2005-06. Karnataka has also consistently been a revenue surplus State and its fiscal deficit had been 2.1% to 2.8% whereas many States had crossed the 3% mark. In terms of share of his State's GSDP, it was 17% in 2013-14 and today it stood at 18.7%. He stated that in 2014-15, the revenue growth was 13.91% and in 2015-16, it was 9.8%. He added that the State had now been suffering a consistent revenue shortfall of 21%-22% below the protected revenue rate. He added that the revenue protection was below the previous VAT growth rate. In the pre-GST period, the VAT growth rate for various years was as follows: 19.43% (2006-07), 15.75% (2007-08), 5.25% (2008-09), 11.98% (2009-10), 27% (2010-11), 23.90% (2011-12), 13.70% (2012-13) and 14.98% (2013-14).

14.10. The Hon'ble Minister from Karnataka further stated that when the State was solely responsible for its tax policy, its revenue growth was high and it was expected that in GST, there would be greater tax buoyancy whereas now the revenue growth stood at 7%-8% in nominal terms. The State had surrendered its sovereignty by implementation of GST on the understanding of higher revenue gains. He stated that as per the present rate of revenue shortfall, in 2022, the State would suffer a sudden drop of revenue of about Rs.10,000 crore. He stated that there was not enough convincing answer that the structural issues would be addressed. He added that the solution was to reach revenue neutrality and for this, monthly revenue collection should be between 1.08 lakh crore to Rs. 1.10 lakh crore for the country. Karnataka, on its part, was committed to work towards achieving this goal. He stated that the tax rate rationalisation could be looked at after the targeted revenue was assured. He stated that the Hon'ble Chief Minister of Karnataka was worried as to how to mobilise revenue after 2022. He was very seriously concerned about the evolving medium-term financial condition of Karnataka. He suggested that firstly a road map should be shown as to how the revenue would be assured and then one could

go ahead with rate rationalisation. If there was no road map and revenue rationalisation was still proposed to be carried out, then revenue protection to the States should be assured beyond 2022.

14.11. The Hon'ble Minister from Kerala stated that the growth of VAT revenue in his State during the year 2006-07 to 2013-14 was in the range of 18% and then it dropped, partly because initially the Entry Tax had been struck down by the Hon'ble High Court and there was own account purchase from the neighbouring States on large scale. It was expected that GST would enable his State to reach a growth rate of 18% and help in fiscal consolidation. However, the trend in 2013-14 showed worsening of fiscal equilibrium. He stated that revenue must be protected. He added that decline in revenue started after the GST rates were slashed and the tax to GDP ratio had come down sharply. He stated that the Members of the Council had different understanding on the issue of GST rates but they had reached a common ground. He stated that in the Council, the revenue potential should not be undermined. Some tweaking in the rate could be done but there should be no major rate changes. He added that some increase in the GST rates could also be discussed after the General Elections in 2019.

14.12. The Hon'ble Deputy Chief Minister of Delhi stated that it was not necessary that in every Council meeting, the rates should be reduced. He observed that in the earlier meetings of the Council, rates of many items had been reduced. He suggested that the Council should postpone proposals for changes in tax rates. He further added that without due analysis, the change in the rates would either be based on some convention or populist decisions. In this regard, he drew attention to the proposal regarding reduction in the rate of tax on marbles, and stated that the differential between marble pieces and marble slabs would cause a problem.

14.13. The Hon'ble Deputy Chief Minister of Gujarat stated that at the beginning of the implementation of GST, it was decided to keep a rate slab of 28% and to review the same as per need and experience. The changes in tax rates could be considered based on representations received from customers, manufacturers, or other stakeholders. He added that now more than one year had passed since the implementation of GST and the impact of the rates on the revenue trend and on the people at large could be seen. He advised that the process of rate rationalisation should not be stopped and suggested that the proposals of the Fitment Committee should be discussed one by one and decision taken on each of them. He stated that tax rate of 28% was not desirable for all items and recalled that initially, there was a demand in the Council not to keep the tax slab of 28%. Now, when the Hon'ble Chairperson and the Fitment Committee had suggested to reduce the rate of 28% on some items, it should be considered where ever the agreement could be reached. He added that such reduction would help to boost business turnover resulting in more revenue, more compliance and lesser evasion.

14.14. The Hon'ble Chief Minister of Puducherry wondered how revenue shortfall of the States could be met if tax rates were reduced even if their original demand was to lower the rates. He added that States had revenue protection for five years out of which one year was already over. There would be no compensation to States after five years. He supported the view of the Hon'ble Ministers from Karnataka and Kerala that the States should be given an assurance by the Council that the revenue protection shall be extended by another five years. He observed that in case of reduction in rates, revenue would come down, and therefore, protection to the States should be extended by another five years.

14.15. The Hon'ble Minister from Goa stated that decisions in the Council had been taken by consensus and to the satisfaction of the majority of the Members. When rates were proposed to be reduced, some Members opposed the proposal but consensus had emerged. He recalled that

from the beginning and in the subsequent meetings a broad consensus had emerged to rationalise the rates and have one common rate and a higher rate for demerit goods. He observed that now that GST had started to stabilise and was working well, there was a general admiration for it in the world. He stated that the average monthly revenue collection of Rs.97,000 crore was reaching close to Rs.1.00 lakh crore and the target of Rs.1.10 lakh crore was not unachievable. If rates of taxes were reduced, there would be less leakage, more compliance and more revenue collection. In this regard, he complimented all the Members for adopting a positive approach in the Council. He also expressed agreement with the concern of the Hon'ble Minister from Punjab and stated that the reasons regarding revenue shortfall should be analysed from all angles. In spite of high compliance in a State like Punjab, it needed to be investigated why revenue was down and whether this revenue was going somewhere else. He stated that with the level of consumption and manufacturing capacity that India has, GST legislation was working well, which was also attested by the healthy revenue figures. Forms and returns were being rationalised. In the long run, one should try to have one rate except for sin goods, as is prevalent in other countries.

14.16. Shri Rajesh Kumar Agarwal, Hon'ble Minister from Uttar Pradesh, stated that GST Council is a Constitutional body. The Fitment Committee had made its recommendations after due consideration and these should be accepted, particularly for items like fly ash. Shri Sushil Kumar Modi, Hon'ble Deputy Chief Minister of Bihar, stated that he worked as Finance Minister during introduction of VAT in 2005 and at the time of implementation of VAT, compensation was only for three years, that too in a graded manner. However, the experience was that after two years, no State needed compensation. He observed that in GST too, the revenue shortfall had declined from 20% to 10%. The smaller States had done well in revenue collection. The manufacturing States, who were most fearful about revenue prospects in GST, had also done well. The Hon'ble Minister from Karnataka pointed out that the figure of 10% was not a weighted average figure and so it did not reflect the total revenue, and that the weighted average for the same period was 16% and 13% respectively. The Hon'ble Chairperson observed that there was improvement over the last year even though the figures were not *pro rata* for the States. The Hon'ble Deputy Chief Minister of Bihar continued and stated that going by his experience of VAT, he expected that revenue shortfall in GST would gradually come to zero. He added that the Fitment Committee had recommended reduction in tax rate on items like fly ash blocks, walking sticks, agglomerated cork, etc. There was a consistent demand for rationalisation of rate in the case of footwear and in the recommendation, it was stated that it would also address the issue of evasion. Tax rate on cement and auto parts could not be reduced because of significant revenue implications. He added that reduction of GST rates on those items which have no major revenue implication could be supported. He stated that it would be useful to prune the list of items under 28% tax slab and on this issue, he supported the proposal of the Fitment Committee.

14.17. The Secretary informed that in respect of Serial No.5 at page 9 of Volume-2 of the Agenda notes, a corrigendum had been issued and circulated to all the Members (part of Volume-3 of Agenda notes). In the corrigendum, it was stated that against Serial No.4, in place of HSN code "6601", the HSN code "6602" should be substituted (in Columns 3 and 6) and against Serial No.5 in the comments column in paragraph 7, in place of "the rate of 5%/12%", the "rate of 5%/18%" should be substituted. The Joint Secretary (TRU-I), CBIC, further clarified that on footwear, the rates of 5% and 18% were based on the retail sale price but taxation on garments and hotels were based on transaction value. So, in the case of footwear also, there was a demand to levy tax on transaction value and not on retail sale price so that when footwear was sold at a discount on the printed price, the tax would be charged on the transaction value. He clarified that there was no proposal to change the rate of tax on footwear. The Hon'ble Chairperson observed

that during 8 months of the last year, the compensation paid was about Rs. 48,178 crore on an average of Rs 6,000 crore per month, which amounted to about Rs.72, 000 crore annually and if the same figure was extrapolated for this year, then it would amount to approximately Rs. 83,000 crore in the current year. He stated that the compensation paid this year so far in the first 6 months was Rs.30,000 crore and for the whole year, it was expected to be Rs.60,000 crore. This indicated that the revenue position was improving.

14.18. Shri C.P. Singh, Hon'ble Minister from Jharkhand, stated that he had been attending the Council Meetings since very beginning and many Members who, in the past, had suggested rate reduction were today expressing reservation to reduce the rates. He stated that this was understandable politically. On merits, there could be reservation for reducing the rate of tax on items such as billiards but there could be no objection to reduce the rate of tax on items like walking sticks, fly ash blocks, etc. He expressed his support for the proposals for tax reduction. He also suggested that the small print media should be exempted from tax while they should continue to pay tax on advertisements, ink boxes, etc. He further stated that the chambers of commerce had indicated that interest for short payment of tax was being charged for the full amount of tax whereas, it should be charged only on the amount outstanding for payment. The Hon'ble Minister from West Bengal clarified that he did not oppose reduction in the rate of tax on walking sticks.

14.19. Captain Abhimanyu, the Hon'ble Minister from Haryana, stated that he had attended all 31 GST Council meetings and was privileged to learn from the diversity of views expressed by the Members of the Council and there was always an occasion to learn from the senior Members. Consensus had been established as a convention in the Council. His State was also a fiscally prudent State. When GST was introduced, it was a plunge into the unknown. Originally, the GST rate proposed across the political spectrum was 18%. Slowly, over a period of time, the Council had moved towards the present rate structure and the Fitment Committee had made recommendation for rationalisation of tax rates on some of items. This was a continuous exercise which involved removing distortions, lowering tax rates etc. which would in turn improve compliance, widen tax base and formalise the economy and ultimately lead to gains in terms of revenue. Therefore, his State supported the proposals of the Fitment Committee. He added that regarding revenue protection, each State individually and collectively needed to take certain steps to improve compliance, remove distortions and plug the revenue gap.

14.20. The Hon'ble Minister from West Bengal stated that the earlier decision to do a study through data mining to understand causes of revenue decline should be conducted within a timeframe. At this stage, the Council did not have the perspective to start considering rate reductions. He also enquired regarding the possible loss of revenue due to the rate reductions proposed in the Agenda. The Secretary informed that the estimated loss of revenue due to the proposed rate changes for goods and services would be approximately Rs.5, 500 crore annually. The Hon'ble Minister from West Bengal stated that the general sense was that some States were in serious problem and it needed to be considered whether any change in the rates should be done at this stage when States were in problem. However, if rates had to be changed only for those items which was recommended by the Fitment Committee, then he was in support of it. He expressed his reservation on the practice of placing some Table Agenda directly in the Council. He did not support such Table Agendas and stated that it should always come through the Fitment Committee or the Law Committee. He further stated that the other option was that once the study was completed, action could be taken on the recommendations of the Fitment Committee. He stated that his first preference was to understand the issues after the study was conducted and

then the Fitment Committee to make its recommendation. He suggested that in any situation, at least the decision regarding the Table Agendas should not be taken up by the Council.

14.21. The Hon'ble Minister from West Bengal further stated that input tax credit had been allowed on textiles but it was still not allowed for railway wagons. The tax on inputs for wagon making was at the rate of 18% whereas wagons were taxed at the rate of 5%, which led to accumulation of input tax credit. For textiles, refund of input tax credit had been correctly allowed and the same should also be considered for wagons. He stated that in its absence, big producers as well as SMEs would collapse. The Fitment Committee should take up this item and any other item of this nature where no tax refund was permitted due to inverted duty structure.

14.22. The Hon'ble Minister from Kerala stated that those Agenda items for change in rate, which had not gone through the due process of examination by the Fitment Committee should not be taken up at all. If the Hon'ble Chairperson decided that the Council should look at the recommendations of the Fitment Committee, he was willing to go along with that. He added that in the real estate sector, works contract contributed almost 20% of the revenue to their State and one had to understand its implications before any decision was to be made.

14.23. Shri Shashi Bhusan Behera, Hon'ble Minister from Odisha, stated that his State was a consuming State, and after five quarters of introduction of GST, there was a discussion on pros and cons of rate reduction. He added that after the five-year period of compensation with 14% annual growth rate was over, it was important to consider what will be the revenue position of the State. He added that his State was a mineral bearing State for which they used to charge VAT at the rate of 5% but now they got SGST at the rate of 2.5%. As a result, tax on this item had gone down from Rs.1,400 crore in a year to about Rs.700 crore. They were also losing revenue on cereal items like rice to the tune of Rs.500 crore-Rs.600 crore. He stated that one needed to consider what would happen after the assured compensation period was over. He added that his Chief Minister had written a letter to the Hon'ble Chairperson regarding taxation of *tendu* leaf. The erstwhile VAT rate was 5% but now it was taxed at the rate of 18% since it as connected to sin good i.e. *Bidi*. He stated that 8 lakh tribal people were losing livelihood. They needed support because their market was going down due to such high rate of tax. He suggested that the Fitment Committee should look at this item positively so as to take care of the problem of *tendu* leaf collectors. He added that the recommendations of the Fitment Committee were narrowing the problems but, in some cases, proper analysis should be done before discussion in the Council.

14.24. The Hon'ble Minister from Assam stated that the annual growth of revenue in GST had been pegged at 14% whereas initially discussions also took place to analyse and consider the average of the last three years of pre-GST revenue for safeguarding the revenue of the States. He stated that the assured 14% annual growth rate was a generous gesture by the Centre and it was very challenging to reach 14% growth rate year-on-year basis in the present conditions. He observed that the recommendations of the Fitment Committee were not very heavy and these were limited to small items like walking sticks, music books, etc. The principle being suggested to first do a study and then consider rate reduction need not be adopted as the Council was competent to take decisions. He stated that today a grim picture was being painted and it was being linked to 2022 and several Members who had earlier supported the rate reductions were opposing it today. He suggested that the recommendations of the Fitment Committee should be discussed one by one and the Council should reject those proposals for rate reduction where the revenue loss was high. Rejecting all the proposals would lead to loss of dynamism of the Council. As regards the Table Agenda, he stated that the proposal to raise the exemption threshold for GST was not a Fitment Committee issue and could come like any other agenda. He observed that

in the garb of some principle, the rate reduction should not be stopped. He added that, as observed by the Hon'ble Minister from Jharkhand, it was understood politically why this was being done. He also added that some persons had suggested that all items should be taxed at the rate of 18%.

14.25. The Hon'ble Chairperson observed that the practice in the Council was to remain detached from the debate that went outside the Council and to decide the issues on merit and after a frank discussion. The Hon'ble Minister from Punjab stated that the bottom line was that India should become a super power in their own life time. He added that mother India had several sons, with different names, like Punjab, Jharkhand, Assam, etc. Nobody had come in the Council to insult others and that was left for the Assembly and the Parliament. He reminded that power and strength would not always be with one political party. He added that decisions should be taken with a view to boost the economy, simplify the structure, increase the GST revenue and rationalise the tax rates. Revenue loss was a nebulous concept and reduction in tax rates on B2B supplies made no difference. Reduction in tax rates where supplies were pre-dominantly B2C needed to be looked at carefully. He stated that he would not be really worried if rates were reduced on steel, parts of commercial vehicles but one should be careful while reducing tax rates on cars, tobacco, white goods and to some extent the FMCG. He stated that rationalisation of tax rates would also mean that the rates could go up for certain commodities and suggested that tax rate could be increased on some items like junk food. He added that all the decisions should be taken by consensus and within broad principles followed so far in the interest of the nation.

14.26. The Hon'ble Chairperson observed that the Hon'ble Minister from Punjab had summed up the debate well. The issue was not revenue versus rate rationalisation. One needed to work for increasing revenue and rationalising the rate but it had to be done slowly so that one did not take a very big hit on the revenue which one could not afford. Had the 28% rate been abolished initially, all States would have suffered huge revenue shortfall and so it had been done slowly. He stated that amongst three categories of goods in the 28% rate segment, there was total consensus to maintain status quo of rate in regard to two important items which were important for revenue i.e. cement and auto parts and also on sin and luxury goods. As regards other items, one needed to see what could be done and what need not be done. He added that the revenue impact for the proposed rate reductions would be less than Rs.500 crore per month. As regards the Table agenda, he stated that the Council should discuss to understand their implications even if it was not decided during this meeting.

14.27. After these discussions, the Secretary invited the Joint Secretary, TRU-I to take up discussion on the items covered under different Annexures of the Agenda Note. The discussions that took place on specific issues is recorded herein below.

Annexure I (Part 'A')

Pulleys, Transmission shafts and cranks, gear boxes etc. (S.No.1):

14.28. The proposal was to reduce the rate of tax on these goods from 28% to 18%. The Hon'ble Minister from Kerala inquired whether all auto parts would now be taxed at the rate of 18%. The Secretary informed that only the listed items (under HSN 8483) would attract the rate of 18% whereas others would continue to be taxed at the rate of 28%. He added that if all auto parts were brought into the rate slab of 28%, the revenue impact would be around Rs.20,000 crore in a year. The Chairperson added that since these items were being used in agriculture sector, it was being removed from the 28% slab. The Council agreed to the proposed reduction in rate of tax on these goods from 28% to 18%.

Footwear (S.No.5):

14.29. The Joint Secretary, TRU-I stated that the proposal of the Fitment Committee was that the rate of 5% and 18% on footwear should be applied on the basis of transaction value as was the case for garments and hotels, the other two cases were differential tax rate was applied based on the value of supply. The Hon'ble Minister from Kerala inquired as to what would be the revenue loss by this change. The Joint Secretary, TRU-I stated that revenue loss would be marginal as the rate of tax was not proposed to be changed and only the basis of taxation was proposed to be changed. The Hon'ble Chairperson added that it was now proposed to charge tax on the transaction value. The Council agreed to the proposal of the Fitment Committee.

GST on auction proceed of gifts received by President, PM, Governor and CM – proceed is used for public or charitable cause (S.No.11):

14.30. The Hon'ble Chairperson suggested that for this Agenda item, exemption of GST on auction proceeds should also apply to gifts received by public servants which would cover Members of Parliament, MLAs as well as government officials. The Council agreed to this proposal.

Monitors/Televisions (S.No.15):

14.31. The Joint Secretary, TRU-I stated that it was proposed to reduce the rate of tax from 28% to 18% on monitors and televisions of size up to 32 inches. The Hon'ble Minister from Punjab stated that this was a white good and rate on this item should not be reduced at this stage. The Hon'ble Chairperson stated that presently, TVs up to 68 cm size, which was about 2 feet 3 inches and was very small, were not being manufactured in India. A small man's television was 32 inches screen size and reduction of tax rate was proposed only for television up to this screen size, and suggested that the proposal may be accepted. The Hon'ble Minister from Karnataka inquired regarding the revenue implication due to rate reduction on television monitors. The Joint Secretary, TRU-I stated that the revenue implication estimated was about Rs.1500 crore annually. He added that reduction in rate on this product was proposed as televisions of up to 68 cm size hardly existed. The Council agreed to reduce the rate of tax on monitors and televisions of size up to 32 inches from 28% to 18%.

Power Banks of lithium ion battery (S.No.16):

14.32. The Joint Secretary, TRU-I stated that it was proposed to reduce the rate of tax on this item from 28% to 18% to reduce litigation and to bring the rate at par with lithium ion battery. He stated that this item was also used in electric vehicles. The Hon'ble Minister from Karnataka inquired whether this rate would also be applied to electric vehicle batteries. The Joint Secretary, TRU-I clarified that electric vehicle batteries of lithium ion were already taxed at the rate of 18%.The Council agreed to the proposal to reduce the rate of tax on Power Banks of lithium ion battery from 28% to 18%.

Digital cameras and video camera recorders (S.No.17):

14.33. The Hon'ble Minister from Kerala inquired regarding the rationale for reducing the rate of tax on these goods. The Joint Secretary, TRU-I stated that in today's time, everyone was using mobile phone for taking pictures and the sale of video camera had come down drastically and

revenue from these goods was very low. The Hon'ble Chairperson stated that the revenue collection on video cameras was only to the tune of around Rs. 5 crore and on digital cameras was about Rs. 3 crore and in this view, the proposed rate reduction may be accepted. The Hon'ble Minister from Kerala stated that he did not share the enthusiasm to clean up the 28% tax slab but for the sake of consensus, he was agreeable to the proposal.

Objects used in Billiards and Snookers (S.No.20):

14.34. The Joint Secretary, TRU-I stated that most items falling under this heading were taxed at the rate of 12% while some were taxed at the rate of 18%. He added that billiards and snookers were normally a means of running business and were hardly purchased for personal use. He added that the revenue involved was small to the tune of Rs. 40 crore annually for the entire entry. He added that with this rationalisation, eight lines of chapter 95 shall be brought to 18% tax slab. The Council agreed to the proposal. The Hon'ble Minister from Goa stated that casino games should also be covered for rate reduction under this heading and that he would give a separate write-up on this issue.

Temporary importation of Private Road Vehicles under the convention of carnet de passage (S.No.22):

14.35. The Joint Secretary, TRU-I explained that this proposal was intended to implement the commitment under an international agreement to which India was a party. It was proposed to exempt temporary importation of Private Road Vehicles. The Council agreed to the proposal.

Review of 28% list (S.No.23):

14.36. The Joint Secretary, TRU-I stated that rate rationalisation of other goods under 28% rate slab would be done once the revenue stabilised. The Hon'ble Chairperson observed that other than luxury and sin goods, cement and auto parts, some of the items left in the 28% rate slab were air conditioners, dish-washers and molasses. He stated that the impact on revenue of rate reduction on air conditioners from 28% to 18% would be Rs.2,000 crore annually and on dish-washers, it would be Rs.161 crore annually. The Hon'ble Minister from Kerala stated that in future, the Fitment Committee must indicate revenue loss for any proposal of rate reduction as also the pre-GST rate. The Hon'ble Chairperson suggested that the recommendation of the Fitment Committee should have a column regarding the amount of revenue involved in the proposed rate reduction as well as pre-GST rates. The Council agreed to this suggestion.

14.37. The Hon'ble Minister from Kerala stated that rubber wrappers to collect latex should be taxed at the rate of 5% as it was just a cup. The Hon'ble Chairperson suggested that this could be taken up in the Fitment Committee. He also added that any other suggestion for rate reduction should be given in writing. He also suggested that Council could agree to the proposals on rate reduction where there was consensus amongst officers of the Fitment Committee. The Council agreed to this proposal.

14.38. The Council agreed to rate reduction of all the items listed at S.No.1 to 22 of Part 'A' of Annexure I with the addition in Sl. No. 11 that exemption of GST on auction proceeds should also apply to gifts received by public servants which would cover Members of Parliament, MLAs as well as government officials. It also agreed that the proposals of the Fitment Committee involving rate reduction shall have a column regarding the amount of revenue involved and also

the combined pre-GST rate. It further agreed that the proposal to reduce the rate of tax on rubber wrappers to collect latex to 5% shall be considered by the Fitment Committee.

Annexure I (Part 'B')

14.39. The Joint Secretary, TRU-I explained that the proposals in Part 'B' of Annexure I related to clarifications, valuation proposals and proposals for consequential changes. The issues discussed are recorded herein below.

Solar power generating System and other renewable energy system supplied under Erection, Procurement and Commissioning (EPC) (S.No.1):

14.40. The Joint Secretary, TRU-I explained that this proposal was regarding assigning value to the supplies falling under S.No.234 of Schedule I in Notification No.1/2017-Central Tax (Rates), when supplied along with other supplies like services under EPC and goods not covered under the said entry, and it was recommended to take the deemed value of goods falling under entry 234 as 70% of total amount charged and remaining 30% value may be deemed as value of supply of services. He added that it was based on fair estimation of the cost break-up. He stated that this proposal would eliminate disputes regarding applicable rate of tax on a total solar power project. The Council agreed to the proposal. The Council also agreed to the other proposals at S. Nos. 1 to 13 of Part 'B' of Annexure I.

Annexure II

14.41. The Council agreed to the proposals contained in S.Nos.1 to 19 of Annexure II, recommended by Fitment Committee in its meeting of 14th and 15th December, 2018.

Annexure III (List of goods not recommended for change in GST rate):

14.42. This contained a list of 172 items on which the Fitment Committee had not recommended any change in GST rate.

14.43. The Hon'ble Minister from Uttarakhand stated that he had circulated a written speech for the Council Meeting. He drew attention to Serial No.10 of Annexure III where the Fitment Committee did not recommend reduction in the rate for biscuits from 18% to 12%. The Fitment Committee had observed that biscuits were manufactured in the organised sector as well as by bakeries etc. and having two different slabs based on the selling price would lead to evasion of tax and would also have significant revenue implication. In this context, the Hon'ble Minister from Uttarakhand stated that earlier too, he had submitted that glucose biscuits were energy biscuits used by the poorer sections of society. He added that low priced biscuits having maximum selling price not exceeding Rs.100 per kg. was used by these class of people and was an affordable means of nutrition and was sold in packs of Rs.2, Rs.3 and Rs.5 each. Therefore, a reduced GST rate for biscuits having sale value up to Rs.100 per kg. would be in the larger interest of the society. He added that such biscuits were earlier exempted from Central Excise. It was also relevant to note that GST rate on footwear, apparels and hotels was also based on price-based classification and a similar provision could be considered for the rate of tax on low priced biscuits (price not exceeding Rs.100 per kg.). This could be taxed at the rate of 5%. He suggested that the recommendation of the Fitment Committee rejecting the proposal for reduction in the rate of biscuits should be reconsidered.

14.44. The Hon'ble Chairperson stated that any other request for reconsideration of change in GST rate could be sent in writing and then these could be reconsidered.

Annexure IV

(Issues on services where no change has been proposed by Fitment Committee on 14th and 15th December 2018)

14.45. This Annexure contained 46 items relating to services where the Fitment Committee did not recommend any change. The Council took note of it.

14.46. The Hon'ble Chairperson stated that any request for reconsideration of change in GST rate should be sent in writing and then these could be reconsidered.

Annexure V (Proposals referred by Fitment Committee on 14th and 15th December 2018 for decision by GST Council):

14.47. The Joint Secretary, TRU-II informed that the issues contained in Annexure V were discussed again by the Fitment Committee on 21st December 2018 and the Committee had reached a consensus on these issues. The points discussed in the Council on this Annexure is recorded as below:

Reduction in tax rate from 18% to 12% for GST on third party insurance of goods carrying vehicle (S.No.1):

14.48. The Joint Secretary, TRU-II stated that the Hon'ble Supreme Court in a recent judgement had observed that people were not getting third party insurance claims during accident and the judgement had made it compulsory to take such insurance for three years. He further stated that during the Officers' meeting, it was discussed that the most vulnerable groups who did not get insurance after accident were two-wheeler drivers and pedestrians. The Council agreed to the proposal.

Reducing the rate of tax on supply of cinema exhibition services (S.No.2):

14.49. The Joint Secretary, TRU-II stated that movies were a common man's entertainment and it was proposed to reduce the rate of tax on tickets of price upto Rs.100 from 18% to 12% and on tickets of price of more than Rs.100 from 28% to 18%. He added that the annual revenue implication of this proposal was about Rs.900 crore. The Hon'ble Minister from Kerala inquired as to what was the pre-GST rate of tax on cinema. The Joint Secretary, TRU-II stated that this ranged between 35% to 55%. The Hon'ble Minister from Kerala stated that while tax was getting reduced, the States were also being forced into giving compensation to the local governments on the basis of GST rates. Commissioner (State Tax), Tamil Nadu informed that they levied local body taxes along with GST on entertainment. The Hon'ble Minister from Karnataka recalled that earlier, consensus in the Council was to dissuade the local bodies from levying local entertainment tax. The Hon'ble Minister from Kerala suggested that a corollary decision must be taken that all cinema tickets should be electronic tickets. He added that the local government had withdrawn from taxation and, therefore, no revenue was accruing from this account. He added that the State should be given right to issue electronic tickets. The Hon'ble Chairperson stated that there should be an enabling power to issue electronic tickets. The Hon'ble Minister from

Kerala suggested to frame rules in this regard. The Hon'ble Chairperson suggested that the Council could agree that States are entitled to issue electronic tickets and that the Law Committee should formulate rules in this regard. The Council agreed to the rate reduction and to the suggestion made by the Hon'ble Chairperson.

To exempt or reduce GST rate on transport of passengers by air travelling in chartered flights in respect of religious pilgrimage facilitated by the Government of India under bilateral arrangement from 18% to 5%.

14.50. The Hon'ble Chairperson stated that this rate reduction was proposed for all religious pilgrimages facilitated by the Government of India under bilateral arrangement. The Council agreed to reduce the rate of tax on air transport of passengers in chartered flights, on such pilgrimages from 18% to 5%.

Annexure VI

Approval of the decisions of the Law Committee pertaining to taxability/GST rate on services:

14.51. The Council agreed to the proposals contained in this Annexure.

14.52. The Hon'ble Minister from Kerala raised a point that the issue regarding taxability of Extra Neutral Alcohol (ENA) under GST should be taken at an early date. He added that the earlier decision of the Council in its 20th Meeting (held on 5th August 2017) was to continue with the status quo on this issue till the opinion of the Attorney General of India was received. He added that the opinion of the Attorney General of India had been received months back which said that GST could be levied for use of ENA for industrial purpose but not food. Some officers in Kerala were taking an interpretation to impose 18% tax on ENA supplied for manufacture of potable alcohol as AG's opinion had been received. He added that lack of clarity on this issue was creating problem of interpretation at the field level. He suggested that the Council could take a decision to continue with status quo until the Council took a decision on this issue. The Hon'ble Minister from West Bengal stated that ENA had two uses and it was to be decided whether ENA going for manufacture of potable alcohol was liable to be charged to GST. The Hon'ble Chairperson stated that the status quo may be continued till the issue was decided in the Council. The Council agreed to this suggestion. The Hon'ble Chairperson also observed that this issue should be brought before the Council for decision at an early date.

15. **For Agenda Item 6**, the Council approved the proposals contained in Annexure I, Annexure II (except S.No.4 which stood withdrawn), Annexure III, Annexure IV, Annexure V and Annexure VI with the following additions/amendments:

(i) In Sl. No. 11 of Part 'A' of Annexure I, to add that that exemption of GST on auction proceeds shall also apply to gifts received by public servants which would cover Members of Parliament, MLAs as well as government officials;

(ii) All requests for reconsideration of rate of tax on goods and services to be sent in writing to the Fitment Committee/GST Council Secretariat;

(iii) Fitment Committee to reconsider the rate of tax on low priced biscuits (price not exceeding Rs.100 per kg.) and to examine the reduction in the rate of tax on rubber wrappers to collect latex to 5%;

(iv) States are entitled to issue electronic tickets and that Law Committee to formulate rules in this regard;

(v) The proposals of the Fitment Committee involving rate reduction shall have a column regarding the amount of revenue involved and also the combined pre-GST rate;

(vi) On ENA, status quo to be continued till the Council took a decision on this issue, i.e. Extra Neutral Alcohol supplied for industrial purpose shall attract GST at the rate of 18%.

Agenda Item 7: Issues recommended by the Law Committee for the consideration of the GST Council

16. Introducing this Agenda item, the Secretary informed that the issues under this Agenda item were discussed in detail in the Officers meeting held on 21st December 2018 and a presentation was also made (attached as **Annexure 4**). He informed that except for six issues, the officers were in agreement with the other proposals under this Agenda item. He stated that if the Council agreed then except the six issues, the Council may approve the rest of the proposals. The Council agreed to this proposal. He invited Commissioner (GST Policy Wing), CBIC to present five issues and Joint Secretary, DoR, to present one issue for the consideration of the Council.

16.1. The Hon'ble Minister from Punjab stated that before commencement of discussion on these issues, he wanted to draw the attention of the Council to a few issues. He stated that for Agenda Item 7(v) (Issue No.2) regarding introducing a provision in the GST Law to allow a buyer to pay tax for the supplies received from a new or unknown buyer, he had been approached by the rolling mills manufacturers of the Mandi Gobindgarh area, and they requested to allow them to make payment on reverse charge basis. He added that this proposal could add substantial amount of revenue and also contribute to ease of doing business. The Hon'ble Chairperson requested to send a proposal in writing so that the issue could be analysed with due process. In respect of Agenda Item 7(vii) on the proposal to amend Rule 41 of GST Rules for apportionment of unutilised input tax credit between entities arising out of the demerger of a company, the Hon'ble Minister from Punjab suggested that the mechanism to transfer input tax credit between the new entities should be looked at more carefully. He stated that where a business was getting demerged, there was little rationale in insisting on the manner of transfer of tax credits as proposed presently. He suggested that transfer of input tax credit should be allowed on actuals i.e. only on the basis of the value of those assets on which input tax credit had been availed. The Secretary suggested that this issue could be re-examined by the Law Committee. The Council agreed to the suggestion.

16.2. The Hon'ble Minister from Uttarakhand, in the written speech circulated during the Council Meeting, stated that with respect to Agenda Item 7(v) (issue No.3), in pre-GST period, in the State of Uttarakhand and Uttar Pradesh, there was a provision of composition for brick manufacturers to pay in lumpsum in lieu of tax. This provision was based on capacity of the brick kiln (number of *paye*) irrespective of the turnover. In GST, a general option of composition is available to such manufacturers based on turnover rather than capacity. He stated that during the VAT period, the tax collection from brick manufacturers was Rs.12 crore but in the GST period, it had declined sharply to Rs.2.71 crore.

16.3. With regard to Agenda Item 7(v) (Issue No.8), the Hon'ble Minister from Uttarakhand in his written speech stated that there was considerable delay on the part of the Government in

making payments due to paucity of funds and also the urgency in discharge of welfare commitments. There is a continuous complaint from works contractors providing services to the Government about the consistent delay in receiving their payments and it was affecting them adversely. He stated that it would be in the interest of these contractors to make the proposed amendment in order to avoid blockage of capital and to prevent them from becoming liable to pay late fee and interest. He, therefore, urged the Council to reconsider this issue.

16.4. After this preliminary discussion, Shri Upender Gupta, Commissioner (GST Policy Wing), CBIC made a presentation on the five issues where consensus was not reached during the Officers meeting held on 21st December 2018.

(i) Agenda Item 7(xiv): Proposal for centralized Authority for Advance Ruling (AAR) and centralized Appellate Authority for Advance Ruling (AAAR) under GST

16.5. The Commissioner (GST Policy Wing), CBIC stated that the Authority for Advance Ruling (AAR) in different States were giving conflicting decisions on similar issue involving similar facts. This caused confusion amongst the taxpayers as well as the tax officials. In view of this, in-principle approval of the Council was sought to replace the existing State specific AARs with a centralized AAR having a national bench with different regional benches across the country. A taxpayer having the same PAN registered in different States could approach the regional bench of the centralized AAR where the head office of the taxpayer was located. He informed that the Law Committee was not in favour of a centralized AAR but there was agreement to create a centralised Appellate Authority for Advance Ruling (AAAR) having a national bench with regional benches. The Hon'ble Minister from Kerala stated that the present system of AAR should be allowed to stabilise and the same should be continued. The Hon'ble Minister from West Bengal stated that centralization would create problems. He stated that both the proposals, namely model 1 and model 2 in the Agenda would end up creating centralization and would end up in creating problem for all the States. The Hon'ble Chairperson enquired as to how a problem would be resolved when the same taxpayer registered in two different States, was made to pay two different rates of tax on the same commodity on account of differing rulings by the AARs of the two States. He added that in view of this, there should be a mechanism of an appeal or a centralized authority because the issue would need to be resolved and, in its absence, GST would not be one tax.

16.6. The Hon'ble Deputy Chief Minister of Bihar stated that as per the news reports being published, AARs of different States were passing conflicting orders and there should be a centralized AAR which should apply to the whole country. The Hon'ble Chairperson suggested that normally when a State AAR gave a ruling, it should be binding with a right to appeal by the Centre or the State or anyone else. However, when there was conflicting ruling by AAARs of two or more States, there should be a right to appeal by Centre or State or anyone else to a Centralised Appellate Authority of Advance Ruling (CAAR). The Hon'ble Minister from West Bengal stated that there must be representation of the States in the Appellate body. The Hon'ble Chairperson stated that to constitute the CAAAR, the necessary procedural changes in the GST Laws should be prepared and recommended by the Law Committee and the same could be brought in the next Finance Bill. He added that the corresponding draft should be prepared for States also.

16.7. The Hon'ble Deputy Chief Minister of Gujarat stated that if two different rulings were given by AAR of two States, a time-limit should be prescribed to decide the appeal. The Hon'ble Chairperson stated that one should not have provisions to encourage further appeal. Appeal

should only lie in cases of conflicting decisions of two or more AAARs. For hearing appeals in such cases of conflicting decisions of AAARs of different States, the centralised Appellate Authority for Advance Ruling (CAAAR) could have a part-time Chairman from the legal background along with one officer from the Central Government and one from the State Government having worked in the revenue department in the past. It should work only as a part-time CAAAR.

16.8. The Hon'ble Minister from Tamil Nadu stated that the existing two-tier authority at the State level would suffice and a move to create the centralized authority would tantamount to depriving the States of their statutory rights and he was not in favour of such a mechanism. The Hon'ble Chairperson stated that there would be finality of ruling of AAR at the State level and this mechanism was only for conflicting decisions of AAARs for the same taxpayer registered in different States. The Hon'ble Deputy Chief Minister of Gujarat stated that since HSN codes were also given, there should be no reason for conflicting decisions. The Hon'ble Chairperson stated that classification disputes in central excise were common. Summing up, the Secretary stated that from the discussion it emerged that both AAR and AAAR would continue. However, where there were conflicting decisions of two or more AAARs in relation to a taxable person registered in two or more States (i.e. registered as distinct persons) on the same issue, an appeal would lie to a separate body (CAAAR) which would consist of a Chairman with a legal background and one officer from the Central Government and one officer from the State Government who had worked in the revenue department in the past. The Council agreed to this proposal and gave in principle approval with direction to the Law Committee to draft appropriate law changes in this regard.

(ii) Agenda Item 7(xv): Suggestions on allowing quarterly payment of tax by small taxpayers

16.9. The Commissioner (GST Policy Wing), CBIC stated that the Council had earlier agreed to allow quarterly return filing for small taxpayers with monthly payment of tax. In view of the various representations received regarding liquidity problem by small and medium businesses in depositing monthly tax, particularly when payments were pending for a long period (especially from Government departments). In this view, the matter was placed before the Council for consideration whether taxpayers having turnover upto Rs.5 crore may be allowed to also pay tax on quarterly basis and the buyers from such small taxpayers may be allowed to take input tax credit at the time of purchase i.e. even before the tax was due to be paid by the supplier. The Hon'ble Deputy Chief Minister of Bihar stated that the present provision of filing quarterly return and making monthly payments existed during the VAT regime even for small taxpayers. He observed that it was easier to deposit tax monthly and it should not be an issue for the taxpayers to deposit the tax.

16.10. The Hon'ble Minister from Uttar Pradesh stated that agreeing to this proposal would benefit the medium and small enterprises. The Hon'ble Minister from Karnataka stated that already a very significant concession had been given to small taxpayers to file quarterly return and now a mid-course correction would destabilise the system. He added that, since a new return system was in pipeline, these taxpayers should continue to make monthly payments and multiple changes in the system should be avoided. The Hon'ble Minister from Kerala stated that if input tax credit was allowed without payment of tax, this could lead to loss of revenue as some taxpayers could vanish. The Hon'ble Minister from West Bengal also suggested that tax payment should be made on monthly basis. The Hon'ble Chairperson stated that since the Members favoured monthly payment, the existing provisions could continue and the issue could be

revisited, if required, when the new return filing system was in place. The Council agreed to this suggestion.

(iii) **Agenda Item 7(xvi): Circular to clarify taxability of medicines and consumables supplied to in-patients in hospitals during the course of treatment**

16.11. The Commissioner (GST Policy Wing), CBIC stated that doubts had been raised on the issue of taxability on medicines and consumables like implants, stents, etc. supplied to in-patients in the hospitals (which were exempted from GST) during the course of medical treatment. He stated that Hospitals were charging patients on the basis of MRP which included GST but the Hospitals were not paying GST to the Government nor they were claiming Input Tax Credit. In view of this, it was proposed to clarify that supply of medicines etc., whether part of a package deal or otherwise, shall be taxable under GST with proportionate input tax credit as this was not a composite supply. Hospitals were categorised as retailers under the Drug Price Control Order (DPCO) and Drugs and Cosmetics Act and hospitals were billing medicines and consumable at MRP which meant that it was inclusive of taxes.

16.12. The Hon'ble Chairperson observed that if a hospital was charging medicines where tax component was in-built, then it would be fair for them to pay tax. The Hon'ble Deputy Chief Minister of Gujarat stated that it would increase the cost of treatment for patients. The Hon'ble Minister from West Bengal stated that the health sector was a sensitive sector and hospitals served thousands of patients in a day and one should examine the issue carefully. The Hon'ble Chairperson suggested that instead of making the clarification hospital specific, the Law Committee should further examine this issue and work on a formulation that wherever an exempted service was supplied which involved supply of taxable goods to the service recipient, the service provider shall be liable to pay tax on such goods.

16.13. Advisor (Financial Resources), Punjab stated that the issue involved in this case could have impact on the entire structure of the GST. He stated that issue was as to what constituted the composite supply and added that the composite supply is those supplies which are naturally bundled and therefore the tax would have to be charged based on the principal supply such as a hotel accommodation where breakfast was also provided within the same room rent. He added that the hospitals could be billing in two ways i.e. either they gave a breakup of individual consumables or medicines and charged separately for the health care services and the other like a composite supply. He suggested that the issue should be considered afresh and requested to drop this entire proposal pending further examination. The Hon'ble Chairperson suggested that this could be further discussed in the Law Committee. The Council agreed to this suggestion.

(iv) **Agenda Item No.7(xxi): Reduction in amount of late fee leviable on account of delayed furnishing of FORM GSTR-1, FORM GSTR-3B & FORM GSTR-4 for the months/quarters from July 2017 to September 2018**

16.14. The Commissioner (GST Policy Wing), CBIC stated that two alternative proposals were discussed by the officers during the meeting on 21st December 2018. The first alternative was that the late fee may be completely waived off for FORM GSTR-1, FORM GSTR-3B and FORM GSTR-4 for the months/quarters from July 2017 to September 2018 which will be furnished from 22nd December, 2018 but latest by 31st March 2019. However, no refund of late fee to be given to those taxpayers who have already furnished such details/returns. The second alternative was that the maximum amount of late fee payable may be reduced. In case of GSTR-1/GSTR-3B/GSTR-4 for the months of July 2017 to September 2018 which will be furnished from 22nd

December, 2018 but latest by 31st March 2019 in case of taxpayers with nil tax liability, to charge a reduced late fee of Rs.500 + Rs.500 per return i.e. under CGST and SGST Acts instead of the present limit of Rs.5,000 + Rs.5,000. For other taxpayers, the limit may be kept at Rs.1,000 + Rs.1,000 per return. However, no refund of late fee may be given to those taxpayers who have already furnished such details/returns. The Hon'ble Deputy Chief Minister of Bihar stated that since it was a one-time waiver and a large number of returns were pending on account of small taxpayers, it would be desirable to completely waive off the late fee. He added that there would not be much revenue implication but this would improve compliance. He suggested that the Council should agree to the first alternative. The Council agreed with this suggestion.

(v) **Agenda Item 7(xxii): Proposal to extend benefit of composition levy for small service providers**

16.15. The Commissioner (GST Policy Wing), CBIC stated that presently composition scheme was not available for service providers other than restaurant services. Following the CGST (Amendment) Act, 2018 a composition taxpayer could supply services (except restaurant sector) of value not exceeding 10% of its turnover in a State/Union Territory in the preceding financial year or 5 lakh rupees, whichever is higher. He stated that it was proposed to seek in-principle approval of the Council for extending the composition scheme to small service providers with annual turnover upto Rs.50 lakh in the preceding financial year with a uniform tax rate at 5% of the turnover in the State / Union Territory and no input tax credit to be allowed to them. He added that the proposed changes would require amendment to the CGST and SGST Acts.

16.16. The Hon'ble Chairperson elaborating on the proposal stated that the small service providers like electricians, plumbers, etc. were not professionals. They had to pay 18% tax and as they did not have much of input tax credit, this tax incidence was passed on to the customers. All this led to evasion of tax. He added that there were only 49,000 registrants as service providers with annual turnover upto Rs.1 crore. He stated that professionals in the services sector were completely becoming cash-centric and in order to get them into the tax system, it was desirable to have a composition scheme on the lines available for the small traders. This composition scheme could be limited to a smaller annual turnover of Rs.50 lakh and tax rate could be 5% or 12% given the fact that about 50% of the tax was normally paid through input tax credit. He added that those in favour of taxing such composition taxpayers at the rate of 12% had, instead, agreed to create a new rate of 9%. However, it would be better to continue with an existing rate, say 5%.

16.17. The Hon'ble Minister from West Bengal observed that the proposed annual turnover of Rs.50 lakh was very low. The Hon'ble Chairperson inquired whether the limit of annual turnover should be increased to Rs.1 crore. The Hon'ble Minister from West Bengal stated that if the rate of tax was lower, there would be greater chance of compliance. He also inquired that if the annual turnover was kept at Rs.50 lakh, what would be the loss of revenue. The Hon'ble Chairperson stated that the revenue loss would not be substantial. He stated that the State of Maharashtra had done some study on this issue and invited Shri Rajiv Jalota, Commissioner, State Tax to give details.

16.18. The Commissioner, State Tax, Maharashtra stated that in his State, there were about 2 lakh service providers with annual turnover upto Rs.50 lakh whose taxable turnover was approximately Rs 32030 crore and total tax liability was Rs 5053 crore out of which the amount paid through cash was Rs 3800 crore and payment through input tax credit was Rs.1368 crore. He added that if the tax rate was made to be 5%, then the revenue earned would be around Rs

3000 crore, out of which revenue in cash will be about Rs. 1700 crore. The Secretary stated that the data of the Central Government was in relation to pure service providers and enquired whether the data of 2 lakh service providers in Maharashtra also included those who made some supply of goods.

16.19. Shri Prakash Kumar, CEO, GSTN stated that the data of Maharashtra was based on a presumption, namely where more than 50% of the supply was made under chapter heading 99, it was presumed that these were services supplier. When analysed in these terms, it was seen that supplier of services were more than 2 lakh. The Hon'ble Minister from West Bengal stated that there seemed to be some data inconsistency as the data from Maharashtra showed 2 lakh pure service tax registrants with annual turnover upto Rs.50 lakh whereas Central data showed it to be only 49,000. The Hon'ble Minister from Karnataka suggested that some more States should look at their data before coming to any conclusion. The CEO, GSTN stated that they would try to arrive at data for other States on the same basis as for Maharashtra. The Hon'ble Deputy Chief Minister of Bihar stated that some States had been demanding for composition scheme for service providers. He suggested to introduce a composition scheme for pure service providers with annual turnover upto Rs.50 lakh with a tax rate of 5%.

16.20. The Hon'ble Minister from Tamil Nadu in his written speech stated that in respect of the proposal to allow composition levy for small service providers, keeping in view the high percentage of value addition for such taxpayers, he suggested that the Composition rate could be high, say 15%.

16.21. The Hon'ble Minister from Uttarakhand in the written speech circulated during the Council Meeting stated that in the interest of the petty contractors supplying to the Government, it was suggested that they must be given a provision to opt for composition as has been given to the restaurant services. This would make the procedure simpler. Earlier in the pre-GST regime also, there was a composition scheme for contractors to pay in lump sum in lieu of tax. He urged the Council to consider this provision.

16.22. The Hon'ble Minister from West Bengal stated that he was strongly in favour of a composition scheme for small service providers but the data regarding the revenue from such service providers was not clear and one should look at the numbers as to how many pure service suppliers would be covered, if their annual turnover was taken as Rs.50 lakh and Rs.1 crore. He stated that in-principle he agreed to have a composition scheme for small service providers. The Hon'ble Chairperson stated that the Council could give in-principle approval to the proposal to have a composition scheme for the small service providers but turnover threshold and the rate of tax should be discussed by the Law Committee and the Fitment Committee and should be brought before the next Council meeting. The Council agreed to this proposal.

(vi) **Agenda Item 7(xxiv): Single interface for disbursal of refund amounts**

16.23. The Joint Secretary, DoR made a presentation on this issue. He stated that currently refund order for a taxpayer was being issued by a single authority for all four taxes but disbursement of tax was taking place from two different sources. In some cases, taxpayers had to follow up for release of the fund amount from two different administrations. He stated that it was proposed that disbursement process should be automated and should happen from one source i.e. integration of refund order system of the GSTN with PFMS (Public Financial Management System) of the Central Government. He stated that initially disbursement could happen from the Central Government cash account and the data could directly flow from GSTN to PFMS of the

Central Government. The amount paid could be settled with the States on a monthly basis. He added that this was already happening on a small scale for UIN (Unique Identification Number) refunds. He stated that this process would make refund disbursement very smooth for the taxpayers.

16.24. The Hon'ble Minister from West Bengal stated that if the disbursement was to be done electronically, then there was no need to go to the Central account and there need not be any intermediation by the Central authority. The Secretary explained that the refund sanction order would continue to be given by the State which would be put in the system and then the refund would be given through electronic mode. The Hon'ble Minster from West Bengal stated that no centrality of role needs to be given to the Central Government. The Secretary stated that the GSTN system would make the payment from the Consolidated Fund of India and adjustment would be done later. The Hon'ble Minister from West Bengal observed that GSTN was already overloaded and whether it was desirable to burden them further. The Secretary stated that presently where tax refunds had been sanctioned, payments were getting delayed. Once refund was sanctioned, payment was needed to be made quickly. He pointed out that in income-tax, refund came to the taxpayer's account through the electronic system. The Hon'ble Minister from West Bengal stated that money should go to the taxpayer's account digitally.

16.25. The CEO, GSTN explained that refund of exports by the Customs was totally automated. Customs department checked the Shipping Bill and after its correctness was verified, the scroll went to PFMS for refund. The same process would be carried out under GST. He added that the refund sanction would be done by the respective tax authorities only. and the GST refund system could be connected to PFMS. The processing of refund claim would be done by the officers and then the payment advice would go through GSTN to PFMS. The Hon'ble Deputy Chief Minister of Bihar stated that the proposed new system would be much better as the applicant would get refund payment from one authority. He suggested that the Council may agree to it. The Hon'ble Minister from West Bengal stated that in case of export refund, a physical paper was being dealt with whereas it should be automatic and digital.

16.26. The Hon'ble Deputy Chief Minister of Gujarat stated that after sanction of refund, the refund order went to the treasury and the money was released from the treasury. If the State had no money in treasury and refund order was issued, then one needed to think how the situation would be dealt with. The Joint Secretary, DoR stated that treasury control of payment was only for payment of large sums of money and not for small individual payments. He added that for exporters, the monthly refund would mostly be in the range of Rs.1 lakh to Rs.2 lakh and normally treasury control was not exercised for such small amount. The Hon'ble Deputy Chief Minister of Gujarat suggested to put a ceiling for refund amount so that for larger amounts of refund, it could go with the approval of the treasury officer. He stated that Central Government may also need to have such a check. The Hon'ble Chairperson observed that by automating the system, the income-tax department was giving refund in weeks which earlier took years. The Hon'ble Minister from West Bengal stated that if the entire process of refund was to be digital then he would agree with the proposal. The Hon'ble Chairperson stated that the Central administration was giving 96% of the refund claim whereas States were giving 85% to 87%. He added that the Council should agree to start the new system on an experimental basis through a pilot project. The Council agreed to this suggestion.

17. **For Agenda Item 7**, the Council approved the agenda as proposed for the Agenda items 7(i), 7(ii) 7(iii), 7(iv), 7(vi), 7(viii), 7(ix), 7(x), 7(xi), 7(xii), 7(xiii), 7(xvii), 7(xviii), 7(xix), 7(xx),

7(xxiii), 7(xxv) and for other agenda items, the Council approved the proposals of the Law Committee with the following amendments/directions:

17.1. For Agenda Item 7(v), the Law Committee to further examine the issue no. 2 upon receipt of detailed proposal from the State of Punjab.

17.2. For Agenda item 7(vii), the Law Committee to re-examine the proposal to amend Rule 41 of GST Rules for apportionment of unutilised input tax credit between entities arising out of the demerger of a company;

17.3. For Agenda item 7 (xiv), where there are conflicting decisions of two or more different Appellate Authorities for Advance Ruling (AAAR) on the same issue in respect of a taxpayer having the same Permanent Account Number (PAN) and registered in two or more States (i.e. as distinct persons), an appeal shall lie to a separate part-time appellate body (CAAAR) consisting of a Chairman with a legal background and one officer each from the Central and the State Government who has worked in the revenue department in the past;

17.4. For Agenda item 7 (xv), there will be no quarterly payment of tax for taxpayers with turnover upto Rs. 5 crore and, as approved earlier, they shall pay tax on monthly basis, and issue could be revisited, if required, when the new return filing system was in place;

17.5. For Agenda item 7(xvi), the Law Committee to work on a formulation that wherever an exempted service was supplied which involved transfer of taxable goods to the service recipient, the service provider shall be liable to pay tax on such goods;

17.6. For Agenda item 7(xxi), to completely waive off the late fee for FORM GSTR-1, FORM GSTR-3B and FORM GSTR-4 for the months/quarters from July 2017 to September 2018 allowed to be furnished from 22nd December, 2018 but latest by 31st March 2019, but no refund of late fee to be given to those taxpayers who have already furnished such details/returns;

17.7. For Agenda items 7 (xxii), the Council agreed in-principle to have a composition scheme for small service providers and the Law Committee and the Fitment Committee to recommend the turnover threshold for Composition and the rate of tax to be applied on such composition taxpayers and to bring it up in the next Council meeting;

17.8. For Agenda item 7(xxiv), the Council agreed to start the new system of single interface for disbursal of refund amount on an experimental basis through a pilot project.

Agenda Item 8: Approval of modifications in Articles of Association (AOA) and Memorandum of Association (MOA) of Goods and Services Tax Network (GSTN) based on decision of the GST Council to convert it into a 100% Government-owned entity

18. Introducing this Agenda item, the Secretary informed that a corrigendum had been issued in respect of this Agenda item in which, instead of the proposed allotment of 10 shares to the GST Council remaining undistributed, after equal number of shares were allocated to all States,, the State of Maharashtra had been proposed to be allotted these remaining shares being on top among the States in GST collection and as proposed and approved by the Union Cabinet. He stated that this Agenda item was discussed during the Officers meeting held on 21st December, 2018 and there was full agreement on the same and the Council could also agree to the same. The Council agreed to the proposal made in under this Agenda item.

19. **For Agenda Item 8,** the Council approved the shareholding pattern of Goods and Services Tax Network (GSTN) contained in the revised Annexure 3 of the Agenda note circulated in Volume-3 of the Agenda notes. The Council also approved, in principle, the Articles of Association and the Memorandum of Association of GSTN and authorised GIC to go through them in detail and finalise the same.

Agenda Item 9: Status report of work of GoM on Revenue Mobilisation

20. The Secretary informed the status of work done by the GoM on Revenue Mobilisation. He stated that one meeting of the GoM was held on 18th October, 2018 during which it was decided to get views of the States on certain issues. A questionnaire had been circulated by the GST Council Secretariat to the States but views had been received only from the States of Gujarat and Karnataka while views of the other States were awaited.

20.1. The Hon'ble Minister from Kerala enquired regarding the time frame by which the report of the GoM would be finalised. The Hon'ble Deputy Chief Minister of Bihar, Convenor of the GoM on Revenue Mobilisation, stated that they would hold another meeting during January, 2019 and submit a report of the GoM during the next meeting of the Council.

20.2. On the proposal of the State of Kerala to levy additional 10% SGST in its own State for flood relief, the Hon'ble Minister from Tamil Nadu in the written speech circulated during the Council Meeting stated that he was, in principle, agreeable to the State-specific additional cess on the SGST of the particular State for the purpose of creating additional resource for funding for natural calamities and disasters through GST. He cautioned that such a cess or additional rate of tax should not be for an indefinite period and should be levied within the respective State and not be applicable on IGST payable on the goods when exported from that State. He added that system changes should not adversely affect the functioning of GSTN IT system in other States or cause compliance burden in other States.

20.3. The Hon'ble Minister from Uttarakhand in the written speech circulated during the Council Meeting stated that views of Uttarakhand on the questionnaire circulated by the GST Council Secretariat were part of the speech.

20.4. The Hon'ble Chairperson observed that there was already a high-level Committee comprising of Home Minister, Agriculture Minister and himself which deals with budgetary allocation to NDRF (National Disaster Response Fund). He stated that the GoM could consider whether there should be a parallel track for budgetary allocation in the Council or whether it should be subsumed in the NDRF. He added that the total outlay for the entire country for NDRF was about Rs. 10, 000 crore and it needed to be considered how much resources could be collected annually by additional levy on luxury items and what should be distribution mechanism as calamity were of two types. The Hon'ble Deputy Chief Minister of Bihar stated that in the last meeting of the GoM it was also discussed whether the State affected by calamity should only impose the tax or should the entire country share the responsibility. The Hon'ble Chairperson stated that if the State affected by calamity raised the tax, then consumers would suffer.

20.5. The Hon'ble Minister from Kerala stated that his State needed additional resources in view of the calamity suffered and the NDRF and the SDRF (State Disaster Response Fund) assistance was only for specific purpose. He added that if no consensus could be reached to impose a national level calamity cess, then the State could be given flexibility to impose additional cess for calamity. The money so raised could be used for relief work but this revenue would not be sufficient to finance the reconstruction cost. Therefore, he proposed that a sub-

committee of GoM could meet the Finance Commission and suggest that in assessing the reconstruction cost required, additional FRBM borrowing limit upto 0.5% could be allowed for two years. The Hon'ble Finance Minister stated that GoM should take note of the views of the State of Kerala and prepare a report and bring a proposal in the Council in the next meeting. The Council agreed to this suggestion.

21. **For Agenda Item 9,** the Council took note of the work done by the GoM on Revenue Mobilisation and decided that its Report shall be placed before the Council in its next meeting.

Agenda Item 10: Status report of passage of SGST (Amendment) Bill, 2018 in various States and Union Territories with Legislatures

22. Introducing this Agenda item, the Secretary informed that the Council, in its 28th Meeting held on 21st July, 2018, had approved the proposal for amendments in the CGST Act, 2017, IGST Act, 2017, UTGST Act, 2017 and GST (Compensation to States) Act, 2017. While the Central Government and majority of the States had passed the Amendment Acts, four States, namely Delhi, Meghalaya, Puducherry and Telangana had not yet passed the SGST (Amendment) Act. During the Officers meeting held on 21st December, 2018, it was informed that the Legislative Assemblies of Puducherry and Delhi had also passed the Amendment Bills on 18th and 21st December, 2018 respectively. The Amendment Bills were also expected to be passed shortly by the States of Meghalaya and Telangana. In view of this, it was proposed to notify the Amendment Acts on 1st February, 2019. The Council agreed to the proposal.

23. **For Agenda Item 10,** the Council took note of the status of the passage of the SGST Amendment Bills, 2018 and decided that the amended CGST Act, IGST Act, GST (Compensation to States) Act and SGST Acts shall be notified on 1st February, 2019.

Agenda Item 11: Reconstitution of membership of the Law Committee, Fitment Committee and IT Committee for information of the Council

24. Introducing this Agenda item, the Secretary stated that the membership of the Law Committee, Fitment Committee and IT Committee had been reconstituted on account of transfer of some of the erstwhile Members of the Committees. The orders were placed before the Council for information. The Council took note of the reconstitution of these three Committees.

25. **For Agenda Item 11,** the Council took note of the reconstituted membership of the Law Committee, Fitment Committee and IT Committee.

Agenda Item 12: Any other agenda item with the permission of the Chairperson

Agenda Item 12(i): Notification to be issued to extend the due date for filing of returns in FORM GST ITC-04 for the period July 2017 to December 2018

26. The Secretary informed that this Agenda item was discussed during the Officers meeting held on 21st December, 2018 and there was agreement amongst the officers to extend the due date for filing of return in FORM GST ITC-04 for the period July, 2017 to December, 2018 till 31st March, 2019 as development and implementation of the revised FORM GST ITC-04 was expected to take some more time. He proposed that the Council could agree to the same. The Council agreed to this proposal.

27. **For Agenda item 12(i),** the Council approved to extend the due date for filing of return in FORM GST ITC-04 for the period July, 2017 to December, 2018 till 31st March, 2019.

Agenda Item 12 (ii): *Ad hoc* Exemptions Order(s) issued under Section 25(2) of Customs Act, 1962 to be placed before the GST Council for information

28. Introducing this Agenda item, the Secretary stated that an *Ad hoc* Exemption Order No.02 of 2018 was issued on 11th December, 2018 on the request of the Ministry of Defence for Customs Duty exemption for import and re-export of guns/equipment from Sri Lanka. This also involved IGST exemption of about Rs.83.3 lakh. He stated that the Council may take note of the Order. The Council took note of the Order.

29. **For Agenda Item 12(ii),** the Council took note of the *Ad hoc* Exemption Order (AEO) No.02 of 2018 dated 11th December, 2018.

Agenda Item 12(iii): Proposals for boosting real estate sector under GST regime by providing a composition scheme for residential construction units

30. The Secretary stated that in view of the difficulties faced by the real estate sector, it was proposed that GST at the rate of 5% could be prescribed without input tax credit for construction of residential complexes, buildings and civil structures for houses other than affordable housing projects. For houses in affordable housing projects also, GST rate of 5% could be prescribed without input tax credit. In the interest of revenue, certain safeguards were suggested, like 80% of inputs, capital goods and input services other than TDR (transfer of development rights) or similar rights shall be purchased from a GST registered supplier only and for purchases which are below 80% benchmark and are procured from unregistered persons, GST at the rate of 12% on reverse charge basis should be paid in cash by the registered person without any input tax credit.

30.1. The Hon'ble Chairperson stated that this Agenda item on real estate sector was placed before the Council in order to give boost to this sector. He stated that about 7 to 8 lakh apartments were lying unsold, which had caused blockage of funds for the real estate developers. He explained that if a purchaser invested in a flat under construction, he had to pay GST at the rate of 12% and even though input tax credit was available, psychologically buyers found payment of 12% GST burdensome. He observed that if input tax credit was passed on to the buyers, the incidence of tax was not very high but the psychological factor was still there.

30.2. The Hon'ble Minister from Kerala stated that he needed time to study the proposal. The Hon'ble Minister from Goa suggested that as people in the real estate sector were suffering, it should be implemented early. The Hon'ble Chairperson observed that availability of input tax credit encouraged every transaction in real estate by cheque payment and introduction of composition scheme in the real estate sector had the risk of encouraging transactions in cash. Because of this, there was a proposal for payment of tax on reverse charge basis if more than 20% of the total construction material was purchased from an unregistered taxpayer. He stated that this suggestion was via media so that the tax could be reduced to 5% with no input tax credit provided if 80% of the inputs are purchased through banking transactions from registered dealers, otherwise the buyer would pay 5% and the builder would pay balance 7%. The Hon'ble Minister from West Bengal stated it would become complicated and added that if no input tax credit was permitted, then there would be more transactions in cash. The Hon'ble Minister from Kerala stated that the Fitment Committee had not looked into the proposal and it should be examined by the Committee. The Hon'ble Deputy Chief Minister of Gujarat stated that making housing

available was the responsibility of every State Government and this proposal should be implemented. The Hon'ble Chairperson suggested that this proposal could be examined jointly by the Fitment Committee and the Law Committee. The Council agreed to this proposal.

31. **For Agenda Item 12(iii),** the Council approved that the proposal shall be examined jointly by the Fitment Committee and the Law Committee and thereafter, their recommendations shall be placed before the Council.

Agenda Item 12(iv): Proposal to increase the threshold exemption limit for supplier of Goods (manufacturers and traders) under GST from existing turnover of Rs. 20 lakh to Rs. 75 lakh and from Rs. 10 lakh to Rs. 20 lakh for Special Category States in a year

32. Introducing this Agenda item, the Secretary stated that the present exemption limit for taking registration under GST was annual turnover of Rs.20 lakh. However, this had caused compliance burden for small taxpayers. He added that in the pre-GST days, small manufacturers having annual turnover upto Rs. 1.5 crore were exempt from registration under Central Excise. For the smaller manufacturers, return filing had become burdensome. In view of this, it was proposed to increase the threshold exemption limit for suppliers of goods (manufacturers and traders) from the existing annual turnover of Rs.20 lakh to Rs.75 lakh and from Rs.10 lakh to Rs.20 lakh for 'Special Category' States.

32.1. The Hon'ble Chairperson stated that this was an important issue and this could be considered in the GoM on MSME. The Council agreed to the same.

33. **For Agenda Item 12(iv),** the Council approved to refer this issue to the GoM on MSME for consideration and making available their recommendations to the Council.

Agenda Item 12(v): Proposal for removal of differential rate of GST on lottery run by State Government and lottery authorized by the State Government

34. Introducing this Agenda item, the Secretary stated that representations had been received from All India Federation of Lottery Trade and Allied Industries that the present two rates of GST on lottery, namely 28% on lotteries authorised by the State Governments and 12% on lotteries run by the State Governments were creating different types of difficulties. It had led to reduction in sales; it was anomalous to have two rates on the same product of lottery when sold in the State itself and when sold in another State and a huge variation of 16% between two rates helped the larger States and exploited customers of smaller States, who could not compete with the former. High differential rates also encouraged non-compliance by small business. In view of this, it was proposed to rationalise the rates by increasing the GST rate of 12% on lotteries run by State Governments. The Hon'ble Chairperson enquired as to what was the experience of maintaining two different rates on lottery. The Hon'ble Minister from Kerala suggested that *status quo* should be maintained and stated that he would prefer to discuss the issue bilaterally with the Hon'ble Minister from Maharashtra, Punjab and West Bengal regarding the problems. He also added that legality of such rationale was unquestionable and this had been upheld by the Hon'ble High Court too. The Secretary proposed that it could also be discussed in the Committee of Officers. The Hon'ble Chairperson suggested that the issue could be discussed in the joint meeting of Fitment Committee and the Law Committee. The Council agreed to this proposal.

35. **For Agenda Item 12(v),** the Council approved that the issue shall be discussed in the joint meeting of the Fitment Committee and the Law Committee and their recommendations shall be placed before the Council in its next meeting.

Other Issues

36. The Hon'ble Ministers from Tamil Nadu and Uttarakhand circulated written speeches during the Meeting of the Council. The extracts of the speech relating to the relevant Agenda item have been recorded as part of discussion on those Agenda items. In addition to that, some other important issues highlighted in the written speech are recorded herein below.

36.1. In the written speech of the Hon'ble Minister from Tamil Nadu, he suggested that taxpayers, who could not claim transitional credit due to issues other than IT glitches, namely clerical errors, entry of claim in the wrong table and so on, were filing writ petitions before the High Courts and getting directions to consider their representations. To resolve this problem, Tamil Nadu had proposed that the IT Grievance Redressal Committee itself could be mandated to deal with such non-IT glitch cases also. The IT Grievance Redressal Committee had resolved to bring a subject to the Council, but surprisingly this had not been done. He urged the Council to resolve this matter. He expressed agreement with most of the recommendations of the Law Committee, but on the proposal of single interface for disbursal of refund amounts, he stated that GSTN must devise a glitch-free module for refund. The State would prefer that the existing system of allowing claims of refund based on invoices which find place in FORM GSTR-2A should continue. He also suggested that the Hon'ble Chairperson should look into the matter of constituting the GST Appellate Tribunal at the earliest as there were several litigations pending, challenging the qualifications prescribed for the members of the proposed GST Appellate Tribunal.

36.2. In the written speech circulated by the Hon'ble Minister from Uttarakhand, it was highlighted that the State of Uttarakhand is a landlocked Himalayan State and there was a special Central Industrial package for the State, which gave area-based exemption in Central Excise. During the period, a lot many industries were established in the region and there was a huge spurt in growth of revenue in the State. The revenue accruing to the State due to CST was almost 29.5% of the total revenue, which was no more the case (the national average was just 8%). In addition to this, the drop in the rate of tax in GST, when compared to VAT, also impacted the revenue and the contribution from service sector had been minimal. Thus, due to structural reasons, his State had lost out on revenue, which was not recoverable by means of just enforcement action, as it was not a case of tax evasion. Thus, Uttarakhand was in a disadvantageous position, which was also noted by the Hon'ble Chairperson during the earlier Council meeting. In pursuance of this, the former Finance Secretary had recently visited Uttarakhand to study the impact of GST. In his report on the Revenue Gap Analysis, it was stated that Uttarakhand is among the top 5 States in terms of the percentage of revenue shortfall. Up to November, 2018, the average revenue shortfall of Uttarakhand was 34% as against the national average of 10%. The Study observed that due to structural factors connected to switchover, Uttarakhand had lost about 34.5% of its revenue base (29.5% of CST and 5% of input tax credit reversal on stock transfer). The Hon'ble Minister added that it was imperative that for States where the revenue base was reduced due to structural factors, some remedy be given. He requested the Council to recommend to the Union Government/Finance Commission and other bodies to keep this in mind and account for the loss the State had suffered due to structural changes brought about by GST.

36.3. He further suggested that the revenue position of the State could be improved by notifying sub-rule (7) of Rule 138 of the GST Rules, which provides for generation of e-Way bill by the transporter where the aggregate value of the consignment carried in a conveyance is more than Rs.50,000. This provision was presently kept in abeyance. In the absence of this provision, transporters were taking multiple consignments of various dealers with each individual dealer's consignment being less than Rs.50,000, but in aggregate it was far more, thus circumventing the spirit of law. He added that Uttarakhand has a very porous border near Hardwar / Bijnor /

Muzaffarnagar / Saharanpur and also near Udhamsingh Nagar / Moradabad / Rampur / Bareilly. He stated that to check evasion, the State had earlier a system of trip-sheets, which covered every transaction/import irrespective of the value of goods. Now with no mandatory provision for online declaration for importing goods, if the consignment is of multiple persons with individual value less than Rs.50,000, the capacity of the enforcement unit is drastically reduced. He also suggested that for goods, which are high in weight/quantity but low in cost, such as minor minerals, river bed material, soap stone and bricks, the e-Way bill should be based on weight/quantity rather than value.

Agenda Item 13: Date of the next meeting of the GST Council

37. The Hon'ble Chairperson stated that the date of the next meeting of the Council would be informed at a later date once the issues referred to the GoM on MSME and the Fitment Committee and the Law Committee were examined and their recommendations were ready.

38. The meeting ended with a vote of thanks to the Chair.

Annexure 1

List of Ministers who attended the 31st GST Council Meeting on 22 December 2018			
Sl No	**State/Centre**	**Name of Hon'ble Minister**	**Charge**
1	Govt of India	Shri Arun Jaitley	Union Finance Minister
2	Govt of India	Shri S.P. Shukla	Minister of State (Finance)
3	Andhra Pradesh	Shri Yanamala Ramakrishnudu	Minister of Finance, Planning, CT and Legislative Affairs
4	Assam	Dr Himanta Biswa Sarma	Finance Minister
5	Bihar	Shri Sushil Kumar Modi	Deputy Chief Minister
6	Delhi	Shri Manish Sisodia	Deputy Chief Minister
7	Goa	Shri Mauvin Godinho	Minister for Panchayat
8	Gujarat	Shri Nitinbhai Patel	Deputy Chief Minister
9	Haryana	Capt. Abhimanyu	Excise & Taxation Minister
10	Jharkhand	Shri C.P. Singh	Minister - Department of Urban Development, Housing and Transport
11	Karnataka	Shri Krishna Byregowda	Minister for Rural Development and Panchayati Raj, Law and Parliamentary Affairs
12	Kerala	Dr. T M Thomas Isaac	Finance Minister
13	Maharashtra	Prof. Ram Shinde	Minister for Water Conservation & Protocol
14	Manipur	Shri Y Joykumar Singh	Dy. Chief Minister
15	Odisha	Shri Shashi Bhusan Behera	Finance Minister
16	Puducherry	Shri V. Narayanasamy	Chief Minister
17	Punjab	Shri Manpreet Singh Badal	Finance Minister
18	Tamil Nadu	Shri D. Jayakumar	Minister for Fisheries and Personnel & Administrative Reforms
19	Tripura	Shri Jishnu Dev Varma	Deputy Chief Minister
20	Uttarakhand	Shri Prakash Pant	Finance Minister
21	Uttar Pradesh	Shri Rajesh Kumar Agarwal	Finance Minister
22	West Bengal	Dr. Amit Mitra	Finance Minister
23	Jammu & Kashmir*	Shri K K Sharma	Adviser to Hon'ble Governor (I/C Finance)

*The representative from Jammu & Kashmir attended the Meeting on behalf of the Hon'ble Governor of Jammu & Kashmir. The matter regarding exact status of the Advisor to the Governor in the GST Council was under consideration in consultation with the Union Ministry of Law

Annexure 2

Officials who attended 31st GST Council Meeting on 22 December 2018			
Sl No	**State/Centre**	**Name of the Officer**	**Charge**
1	Govt. of India	Dr. A B Pandey	Revenue Secretary
2	Govt. of India	Shri S Ramesh	Chairman, CBIC
3	Govt. of India	Shri Mahender Singh	Member (GST), CBIC
4	Govt. of India	Shri P.K. Das	Member (Cus), CBIC
5	Govt. of India	Dr. John Joseph	Member (Budget), CBIC
6	Govt. of India	Dr. Rajeev Ranjan	Special Secretary, GST Council
7	Govt. of India	Shri J S Chawla	Pr. CCA
8	Govt. of India	Shri Manoj Sethi	CCA
9	Govt. of India	Shri P.K. Mohanty	Advisor (GST), CBIC
10	Govt. of India	Shri P.K. Jain	Pr. DG, DG-Audit, CBIC
11	Govt. of India	Shri G.D. Lohani	Joint Secretary, TRU I, DoR
12	Govt. of India	Shri Manish Kumar Sinha	Joint Secretary, TRU II, DoR
13	Govt. of India	Shri Ritvik Pandey	Joint Secretary, DoR
14	Govt. of India	Shri Upender Gupta	Commissioner (GST), CBIC
15	Govt. of India	Shri Yogendra Garg	ADG, GST, CBIC
16	Govt. of India	Shri S.K. Rahman	ADG, GST, CBIC
17	Govt. of India	Shri Venkat Reddy	ADG, DG-GST
18	Govt. of India	Shri D.S. Malik	DG (M&C)
19	Govt. of India	Shri Rajesh Malhotra	ADG (M&C)
20	Govt. of India	Shri Reyaz Ahmad	Director, TRU I
21	Govt. of India	Shri Parmod Kumar	OSD, TRU-II, DoR
22	Govt. of India	Shri Gaurav Singh	Deputy Secretary, TRU-I, DoR
23	Govt. of India	Shri Pramod Kumar	Deputy Secretary, TRU-II, DoR
24	Govt. of India	Shri N Gandhi Kumar	Deputy Secretary, DoR
25	Govt. of India	Ms Himani Bhayana	Joint Comm., GST Policy Wing
26	Govt. of India	Shri Amaresh Kumar	Joint Comm., GST Policy Wing
27	Govt. of India	Shri Rahil Gupta	Technical Officer, TRU-I, DoR
28	Govt. of India	Shri Shikhar Pant	Technical Officer, TRU-I, DoR
29	Govt. of India	Shri Nikhil Goyal	Technical Officer, TRU-I, DoR
30	Govt. of India	Shri Sushanta Mishra	Technical Officer, TRU-II, DoR
31	Govt. of India	Shri Harsh Singh	Technical Officer, TRU-II, DoR
32	Govt. of India	Shri Shashikant Mehta	OSD, TRU-II, DoR
33	Govt. of India	Shri Harish Y N	OSD, TRU-II, DoR
34	Govt. of India	Ms Nisha Gupta	Dy. Comm., GST Policy Wing
35	Govt. of India	Shri Vikash Kumar	Dy. Comm., GST Policy Wing
36	Govt. of India	Shri Asim Anand	Asst. Comm., GST Policy Wing

37	Govt. of India	Shri Paras Sankhla	OSD to Union Minister
38	Govt. of India	Shri Nikhil Varma	OSD to MoS (Finance)
39	Govt. of India	Shri Mahesh Tiwari	PS to MoS
40	Govt. of India	Shri Debashis Chakraborty	OSD to Finance Secretary
41	Govt. of India	Shri Anurag Sehgal	OSD to Chairman, CBIC
42	Govt. of India	Shri Nagendra Goel	Advisor, CBIC
43	GST Council	Shri Shashank Priya	Joint Secretary
44	GST Council	Shri Dheeraj Rastogi	Joint Secretary
45	GST Council	Shri G.S. Sinha	Director
46	GST Council	Shri Jagmohan	Director
47	GST Council	Shri Arjun Meena	Under Secretary
48	GST Council	Shri Rakesh Agarwal	Under Secretary
49	GST Council	Shri Rahul Raja	Under Secretary
50	GST Council	Shri Mahesh Singarapu	Under Secretary
51	GST Council	Shri Mukesh Gaur	Superintendent
52	GST Council	Shri Rajeev Mirchia	Superintendent
53	GST Council	Shri Sandeep Bhutani	Superintendent
54	GST Council	Shri Vipul Sharma	Superintendent
55	GST Council	Shri Sarib Sahran	Superintendent
56	GST Council	Shri Amit Soni	Superintendent
57	GST Council	Shri Anis Alam	Superintendent
58	GST Council	Shri Dipendra Kumar Singh	Superintendent
59	GST Council	Shri Sunil Kumar	Superintendent
60	GST Council	Ms Sangeeta Dalal	Inspector
61	GSTN	Shri Prakash Kumar	CEO
62	GSTN	Ms Kajal Singh	EVP (Services)
63	GSTN	Shri Sarthak Saxena	OSD to CEO
64	Govt. of India	Shri C K Jain	ADG, Audit
65	Govt. of India	Shri V C Gupta	ADG, Systems
66	Govt. of India	Shri Kishori Lal	Commissioner, Chandigarh Zone, CBIC
67	Govt of India	Shri Pradeep Kumar Goel	Commissioner, Meerut Zone, CBIC
68	Govt of India	Shri Neerav Kumar Mallick	Commissioner, Bhopal Zone, CBIC
69	Govt of India	Shri Narayana Swamy	Commissioner, Bengaluru Zone, CBIC
70	Govt. of India	Shri R.C. Sankhla	Commissioner, Lucknow Zone, CBIC
71	Govt. of India	Shri S. Kannan	Commissioner, Chennai Zone, CBIC
72	Govt. of India	Shri Vijay Mohan Jain	Commissioner, Rohtak Zone, CBIC
73	Govt. of India	Shri Virender Choudhary	Commissioner, Vadodara Zone, CBIC

74	Govt. of India	Shri P.K. Singh	Commissioner, Jaipur Zone, CBIC
75	Govt. of India	Shri Milind Gawai	Commissioner, Pune Zone, CBIC
76	Govt. of India	Shri B. Hareram	Chief Commissioner, Vishakhapatnam Zone, CBIC
77	Govt. of India	Shri Sanjay Mahendru	Commissioner, Mumbai Zone, CBIC
78	Govt. of India	Shri Nitin Anand	Commissioner, Ranchi Zone, CBIC
79	Andhra Pradesh	Dr D.Sambasiva Rao	Special Chief Secretary, Revenue
80	Andhra Pradesh	Shri J.Syamala Rao	Chief Commissioner, State Tax
81	Andhra Pradesh	Shri T Ramesh Babu	Commissioner, State Tax
82	Arunachal Pradesh	Shri Anirudh S Singh	Commissioner (Tax & Excise)
83	Assam	Shri Anurag Goel	Commissioner, CT
84	Bihar	Dr Pratima	Commissioner and Secretary, CTD
85	Bihar	Shri Arun Kumar Mishra	Additional Secretary, CTD
86	Bihar	Shri Ajitabh Mishra	Dy. Commissioner, CTD
87	Chhattisgarh	Smt Sangeetha P	Commissioner, CT
88	Delhi	Shri H. Rajesh Prasad	Commissioner, State Tax
89	Delhi	Shri Rajesh Goel	Additional Commissioner, State Tax
90	Delhi	Shri LS Yadav	Asst. Commissioner, State Tax
91	Goa	Shri Dipak Bandekar	Commissioner, CT
92	Gujarat	Shri Arvind Agarwal	Addl. Chief Secretary, Finance Dept.
93	Gujarat	Dr. P.D. Vaghela	Chief Commissioner of State Tax
94	Gujarat	Shri Ajay Kumar	Special Commissioner
95	Gujarat	Shri Riddhesh Raval	Dy. Commissioner
96	Haryana	Shri Sanjeev Kaushal	Addl. Chief Secretary, E & T Dept
97	Himachal Pradesh	Shri Jagdish Chander Sharma	Principal Secretary (E&T)
98	Himachal Pradesh	Shri Rajeev Sharma	Commissioner of State Tax and Excise
99	Himachal Pradesh	Shri Rakesh Sharma	Joint Comm., State Tax & Excise
100	Jammu & Kashmir	Shri Navin K. Choudhary	Pr. Secretary, Finance Dept.
101	Jammu & Kashmir	Shri P K Bhatt	Commissioner, CT
102	Jharkhand	Shri Prashant Kumar	Secretary & CCT

103	Jharkhand	Shri Ajay Kumar Sinha	Addl. Commissioner of State Taxes
104	Jharkhand	Shri Brajesh Kumar	State Tax officer
105	Karnataka	Shri Srikar M.S.	Commissioner, CT
106	Kerala	Dr. Rajan Khobragade	Pr. Secretary
107	Kerala	Smt Tinku Biswal	CCT
108	Madhya Pradesh	Shri Pawan Kumar Sharma	Commissioner, CT
109	Madhya Pradesh	Shri Sudip Gupta	Jt. Commissioner, CT
110	Madhya Pradesh	Shri Manoj Kumar Choube	Dy. Comm, CT
111	Maharashtra	Shri Rajiv Jalota	Commissioner, State Tax
112	Maharashtra	Shri Dhananjay Akhade	Jt. Commissioner, State Tax
113	Manipur	Shri R. K Khurkishore Singh	Jt. Commissioner, State Tax
114	Mizoram	Shri H. K. Lalhawngliana	Jt. Commissioner, State Tax
115	Odisha	Shri A. K. K. Meena	Principal Secretary, Finance
116	Odisha	Shri Saswat Mishra	Commissioner, CT
117	Odisha	Shri Sahadev Sahoo	Addl. Commissioner, CT
118	Puducherry	Shri Dr. V. Candavelou	Secretary to Govt. (Finance)
119	Puducherry	Shri K Shridhar	Dy Commissioner (ST)
120	Punjab	Shri M. P Singh	Addl. Chief Secretary-cum-Financial Commissioner (Taxation)
121	Punjab	Shri V. K. Garg	Advisor (Financial Resources) to CM
122	Punjab	Shri Vivek Pratap Singh	Excise & Taxation Commissioner
123	Rajasthan	Shri Niranjan Arya	Pr. Secretary, Finance
124	Rajasthan	Dr. Prithviraj	Secretary Finance (Revenue)
125	Rajasthan	Shri Alok Gupta	Commissioner, State Tax
126	Rajasthan	Shri Ketan Sharma	Addl. Commissioner, GST, State Tax Dept
127	Sikkim	Ms Dipa Basnet	Commissioner, CT
128	Tamil Nadu	Shri Ka. Balachandran	Prl Secretary, CT & Registration
129	Tamil Nadu	Dr. T.V Somanathan	ACS/CCT
130	Tamil Nadu	Shri Gnanasekaran	Addl. Commissioner (Taxation)
131	Telangana	Shri Somesh Kumar	Pr. Secretary (Finance)
132	Telangana	Shri Anil Kumar	Commissioner of State Tax
133	Telangana	Shri Laxminarayan Jannu	Addl. Commissioner, State Tax
134	Tripura	Shri Sudip Bhowmik	Dy Commissioner, State Tax
135	Tripura	Shri Badal Baidya	Superintendent of State Tax
136	Uttar Pradesh	Shri Alok Sinha	ACS, CT
137	Uttar Pradesh	Shri Vivek Kumar	Addl. Commissioner, CT
138	Uttar Pradesh	Shri C. P. Mishra	Joint Secretary, CT

139	Uttarakhand	Ms. Sowjanya	Commissioner, State Tax
140	Uttarakhand	Shri Piyush Kumar	Addl. Commissioner State Tax
141	Uttarakhand	Shri Rakesh Verma	Jt. Comm., State Tax
142	West Bengal	Ms. Smaraki Mahapatra	Commissioner, CT
143	West Bengal	Shri Khalid A Anwar	Senior Joint Commissioner, CT

Annexure 3



Agenda

- **Agenda No. 2 -** Deemed Ratification of Notification / Circulars issued post 30th Meeting of GST Council
- **Agenda No. 3 -** Decisions taken by GIC post 30th Meeting of GST Council
- **Agenda No. 4** – Decisions taken by ITGRC

2

Agenda No. 2
Ratification of Notifications, Circulars & Orders (1/1)

- Ratification of following notifications, circulars & orders issued post 30th meeting (dated 28th September, 2018) of GST Council:

Act/Rules	Type	Notification / Circular / Order Nos.
CGST Act/CGST Rules	Central Tax	53 to 66 of 2018
IGST Act	Integrated Tax	3 of 2018
UTGST Act	Union territory Tax	12 to 15 of 2018
Circulars	Under the CGST Act	66 to 74 of 2018
ROD Orders	Under the CGST Act	1 of 2018

3

Agenda No. 3
Decisions of GIC post 30th meeting of GSTC (1/7)

Decisions in 22nd Meeting of GIC (10.10.2018)

- Extension of due date for filing of **FORM ITC-04** for the period from July, 2017 to September, 2018 till 31.12.2018
  - ✓ Notification No 59/2018 – CT dated 26.10.2018 issued
- Extension of due date for filing of final return in **FORM GSTR-10,** for those taxpayers who got their registration cancelled on or before 30.09.2018, up to 31st December, 2018
  - ✓ Notification No 58/2018 – CT dated 26.10.2018 issued
- Standard Operating Procedure (SOP) for processing of Applications for Cancellation of Registration submitted in **FORM GST REG-16**
  - ✓ Circular No. 69/43/2018-GST dated 26.10.201 issued

4

Agenda No. 3
Decisions of GIC post 30th meeting of GSTC (2/7)

Decisions in 22nd Meeting of GIC (10.10.2018)

- Clarification on certain issues related to refund
  - ✓ Circular No. 70/44/2018-GST dated 26.10.2018 issued
- Clarification on issues pertaining to registration as a casual taxable person and recovery of excess ITC distributed by an ISD
  - ✓ Circular No. 71/45/2018-GST dated 26.10.2018 issued
- Clarification on procedure for return of time expired drugs or medicines
  - ✓ Circular No. 72/46/2018-GST dated 26.10.2018 issued

5

Agenda No. 3
Decisions of GIC post 30th meeting of GSTC (3/7)

Decisions in 22nd Meeting of GIC (10.10.2018)

- Exempt from TDS compliance to authorities incurring expenditure subject to post audit under Ministry of Defence
  - ✓ Notification No. 57/2018 – CT dated 23.10.2018
- Amendments to CGST Rules, 2017
  - Amendment in **FORM GST REG-16**
  - ✓ Notification No. 60/2018 – CT dated 30.10.2018

Decision by Circulation (21.10.2018)

- Extension of due date for filing of return in **FORM GSTR-3B** for the month of September, 2018 upto 25.10.2018
  - ✓ Notification No. 55/2018 – CT dated 21.10.2018 issued

6

Agenda No. 3
Decisions of GIC post 30th meeting of GSTC (4/7)

Decisions in 23rd Meeting of GIC (26.10.2018)

- Clarification on scope and ambit of principal and agent relationship under Schedule I of CGST Act in the context of del-credere agent (DCA)
  - ✓ Circular No. 73/47/2018-GST dated 05.11.2018 issued
- Corrigendum to Circular No. 57/31/2018-GST dated 04.09.2018
  - ✓ Corrigendum dated 05.11.2018 issued
- Collection of TCS by Tea Board of India (under Ministry of Commerce and Industry, Government of India)
  - ✓ Circular No. 74/48/2018-GST dated 05.11.2018 issued

7

Agenda No. 3
Decisions of GIC post 30th meeting of GSTC (5/7)

Decisions in 23rd Meeting of GIC (26.10.2018)

- Exempting supply from PSU to PSU from applicability of provisions relating to TDS
  - ✓ Notification No. 61/2018 –CT dated 05.11.2018 issued
- Amendments to CGST Rules, 2017
  - Rule 83A - Examination of GSTP
  - Rule 142A - Procedure for recovery of dues under existing laws
  - Insertion of **FORM GST DRC-07A** and **FORM DRC-08A**
  - ✓ Notification No. 60/2018 – CT dated 30.11.2018 issued

Decision by Circulation (30.10.2018)

- Provisional settlement of another Rs. 30,000 crore, 50% to Centre and 50% to States
  - ✓ Order No. F. No. S-34011/21/2018-ST-I DoR dated 31.10.2018 issued

8

Agenda No. 3
Decisions of GIC post 30th meeting of GSTC (6/7)

Decision by Circulation (22.11.2018)

- Extending the due date for filing of details of outward supplies in **FORM GSTR-1** and returns in **FORM GSTR-3B / FORM GSTR-4** by taxpayers registered in the district of Srikakulam in AP and 11 districts of TN
  - ✓ Notification Nos. 62/2018 – CT; 63/2018 – CT; 64/2018 – CT and 65/2018 – CT all dated 29.11.2018 issued
- Clarifying issues related to challenges faced by e-Commerce operators after implementation of the provisions of Tax Collection at Source
  - ✓ Revised FAQs issued on 30.11.2018

9

Agenda No. 3
Decisions of GIC post 30th meeting of GSTC (7/7)

Decision by Circulation (22.11.2018)

- Extending the due date for filing of return for TDS in **FORM GSTR-7** for the months of October to December, 2018 till 31.01.2019
  - ✓ Notification No. 66/2018 -CT dated 29.11.2018 issued

Decision by Circulation (03.12.2018)

- Extending the due date for filing of for filing **FORM GSTR-9, FORM GSTR-9A** & **FORM GSTR-9C** till 31.03.2019
  - ✓ Removal of Difficulty Order No. 1/2018 - CT dated 11.12.2018 issued

10

Agenda No. 4
Decisions/recommendations of the ITGRC (1/3)

IT grievance redressal process

- Circular No. 39/13/2013 dated 03.04.2018 prescribing the procedure for taxpayers for lodging their grievance due to technical glitch in the GST system was issued
- GIC to act as IT Grievance Redressal Committee (IT-GRC) for resolving problems of the taxpayers who have not been able to file their documents such as TRAN-1, GSTR-3B / GSTR-1 or Registration/ migration etc. due to technical glitches at Common Portal
- Taxpayers are required to submit their grievance application of technical glitch to the designated field nodal officer of State /Center along with evidence

11

Agenda No. 4
Decisions/recommendations of the ITGRC (2/3)

- Field nodal officers to examine the taxpayers application and the supporting evidence and if it is prima facie found to be a case of technical glitch then send the issues after collating with their remarks/ recommendation to the GSTN Nodal officer by email
- GSTN issued a SOP on 12.04.2018 which is to be followed by the Nodal officers of the States / Center while referring the technical glitches to GSTN

IT Grievance Redressal Committee (IT-GRC) meetings

- Three meetings of IT-GRC have been held till now
- Two meetings were held on 22.06.2018 and 21.08.2018
- **Third IT-GRC** meeting was held on 26.10.2018 and after examination and deliberation on 268 TRAN-1 cases, IT-GRC decided to allow 70 cases

12

Agenda No. 4
Decisions/recommendations of the ITGRC (3/3)

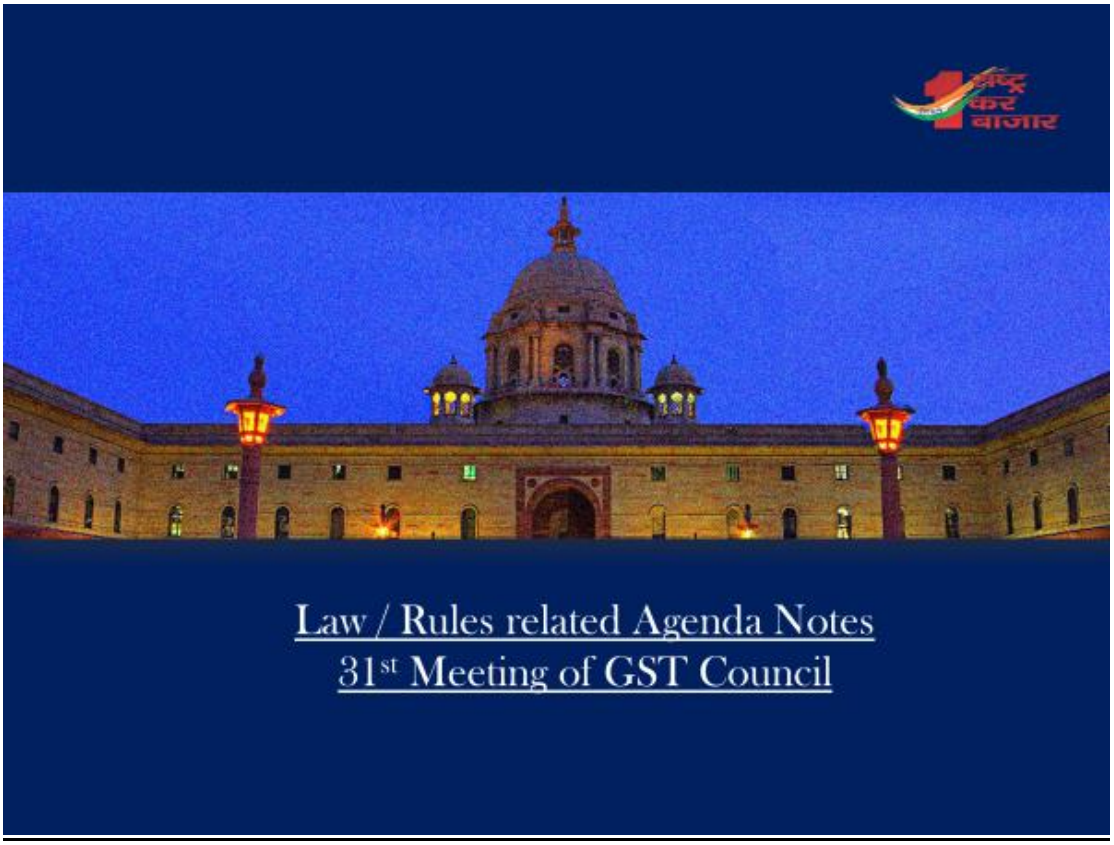
- Total 778 TRAN-1 cases (including cases where writ petitions have been filed in various High Courts) were presented to IT-GRC out of which a total of 405 cases have been approved

Implementation of the Decisions of ITGRC

- TRAN 1 filing has been enabled for the approved taxpayers in the system
- E-mails have been sent by GSTN to the taxpayers asking them to file TRAN 1
- A total of 1307 cases of TRAN-1 have been received from the nodal officers till 17/12/2018 by GSTN
- Another lot of around 450 cases of TRAN-1 have been examined by GSTN and will be presented to the IT-GRC for decision shortly
- Rest of the cases are under investigation and checking of logs in the system

13

Annexure 4



Agenda

- Issues for consideration of the GST Council

2

Agenda No. 7 (i) (1/1)

Extension of the due date for furnishing the statement in FORM GSTR-8 by ECOs for the months of October, November and December, 2018 till 31.01.2019

- ECOs might not have a physical presence in every State – they may declare their HO as its place of business for obtaining registration in that State/UT where it does not have physical presence
- Each State/UT has indicated one administrative jurisdiction where all e-commerce operators having business (but not having physical presence) in that State/UT shall register
- Some ECOs have not been able to obtain registration in the month of October, 2018 but have already collected TCS

3

Agenda No. 7 (ii) (1/1)

Extension of last date for allowing migration of taxpayers who received Provisional Identification Number (PID) till 31.12.2017

- Proposal for further extension for such migrated taxpayers to furnish requisite details to the jurisdictional nodal officer on or before the 31.01.2019 (instead of 31.08.2018) & the requisite details by email to GSTN by 28.02.2019 (instead of 30.09.2018)
- Further, extension of the last date for furnishing **FORM GSTR-3B** and **FORM GSTR-1** for the period July, 2017 to February, 2019/quarters July, 2017 to December, 2018 by such taxpayers till 31.03.2019 (instead of 31.12.2018)

4

Agenda No. 7 (iii) (1/1)

Revision of FAQ (sl. no. 80) on Banking, Insurance and Stock Brokers Sector

- The issue relates to leviability of GST on interest/ delayed payment charges charged to clients for settlement obligations/ margin trading facility
- Proposal to clarify that interest is not subject to GST as:
  - ✓the settlement obligations/ margin trading facilities are transactions which are in the nature of extending loans or advances & are exempted by virtue of being covered by entry No. 27 of NN 12/2017- CT (R) dated 28.06.2017

5

Agenda No. 7 (iv) (1/1)

Amendment of SOP issued on TDS

- Doubts have been raised whether persons required to deduct tax at source who have obtained registration after 01.10.2018 should report the details of tax deducted during the intervening period (i.e. from 01.10.2018 till the date of registration) while filing their first return in **FORM GSTR-7**
- SOP proposed to be amended to clarify that delay may be condoned and all such deductions may be included in the first return to be furnished by the deductor after obtaining registration, by:
  - ✓Insertion of Para 10.3 after Para 10.2
  - ✓Insertion of FAQ No. 68 after FAQ No. 67 in SOP

6

Agenda No. 7 (v) (1/5)

Update on the implementation status of the issues referred to LC by Hon'ble GSTC

- Method to ensure that taxpayers availing the benefit of filing quarterly tax return pay the correct estimated amount of tax every month and to charge interest where tax paid in any month was less than the value of supply declared in that month
  - ✓Proposal to insert a provision in law to allow monthly payment of tax on self-assessment
  - ✓a monthly payment statement detailing output liability and credit availed
  - ✓Differential tax payment with interest on filing of quarterly return

7

Agenda No. 7 (v) (2/5)

Update on the implementation status of the issues referred to LC by Hon'ble GSTC

- Introduce a provision in the GST Law to allow a buyer to pay tax for the supplies received from a new or unknown supplier
  - ✓Introducing an option for the recipient to pay the tax, instead of the supplier, would require large-scale changes to the return design, software and the Law/rules.
  - ✓Would lead to increase in the working capital requirement of both the supplier (on account of accumulation of ITC) and the recipient (on account of having to pay the tax, in cash, on supplies received by him)
  - ✓New return system now allows ITC on the basis of invoices uploaded by the supplier

8

Agenda No. 7 (v) (3/5)

Update on the implementation status of the issues referred to LC by Hon'ble GSTC

- Exclusion of Brick Kilns, Menthol and Sand Mining activities from the benefit of Composition scheme
  - ✓Matter would be re-examined on receipt of the details/inputs from the remaining States
- Feasibility of MRP-based and capacity- based tax
  - ✓Not advisable to adopt capacity based levy/MRP based levy as GST is a value added tax and tax is levied on the supply of goods
  - ✓It would not be possible to collect tax at the subsequent stage in the value chain as it would be a single point levy.
  - ✓Tax would not flow to the destination State

9

Agenda No. 7 (v) (4/5)

Update on the implementation status of the issues referred to LC by Hon'ble GSTC

- Proposal to deny the facility of generation of e-way bills to taxpayers who had not filed returns for two consecutive tax periods
  - ✓New rule 138 E in the CGST Rules is proposed to be inserted
- Examine further simplification of the application form for filing anti-profiteering complaints
  - ✓Maharashtra shall formulate a draft and the Form would be simplified in consultation with National Anti-profiteering Authority (NAA)

10

Agenda No. 7 (v) (5/5)

Update on the implementation status of the issues referred to LC by Hon'ble GSTC

- Examine the problem of small contractors executing works contract for the Government due to time of supply provisions under GST
  - ✓Not advisable to make a special dispensation for works contractors, to the exclusion of other similarly placed small taxpayers
  - ✓Proposal require large scale changes in law
  - ✓Proposal require large scale changes in the proposed new return system also

11

Agenda No. 7 (vi) (1/1)

Exemption from TDS on taxable supplies from one Government Authority to another Government Authority or to PSU & vice versa

- Section 51 for TDS deduction has been implemented form 01.10.2018 vide NN 50/2018- CT dated 13.09.2018
- Vide NN 61/2018- CT dated 05.11.2018, supply from PSU to PSU has been exempted from TDS deduction requirement
- Proposal to extend similar exemption in respect of supply from one Government Authority to another or to PSU & vice versa

12

Agenda No. 7 (vii) (1/10)

Amendments to the CGST Rules, 2017

- Insertion of Rule 12(1A): E-commerce operators may be given the option to provide the address of their HO (which may be located in a different State) while applying for registration in those States where they do not have a physical presence
- Insertion of Explanation to Rule 41(1): For apportionment of ITC consequent to a demerger, the 'value of assets' shall mean the value of the entire assets of the business whether or not input tax credit has been availed thereon

13

Agenda No. 7 (vii) (2/10)

Amendments to the CGST Rules, 2017

- Amendment to rule 45(3): Words "or sent from one job worker to another" proposed to be deleted so as to obviate the problem of the principal not having the information regarding the details of subsequent challans issued by the job-workers and to align the rule with the amended **FORM GST ITC-04**
- Amendment to Rule 46: Insertion of a proviso to prescribe that the signature or digital signature of the supplier are not required in case of computer-generated invoices
- Amendment to rules 49, 54(2) and 54 (4): to align the proposed insertion of proviso to rule 46 with the provision of these three rules
- Amendment to Explanation (b) to rule 89(5): The term "relevant period" under rule 89 (5) shall have the same meaning as under rule 89 (4)

14

Agenda No. 7 (vii) (3/10)

Amendments to the CGST Rules, 2017

- Amendment to rule 96(1)(a): To insert the words "a departure manifest" so as to align this clause with Sea Cargo Manifest and Transshipment Regulations, 2018
- Amendment to rule 101(1): To insert the words "or part thereof" so as to align the provisions of section 73 and 74 (proceedings) and section 65 (Audit) of the CGST Act
- Insertion of Rule 109B: To operationalize the provision under section 108 of the CGST Act regarding issuance of order by Revisional Authority

15

Agenda No. 7 (vii) (4/10)

Amendments to the CGST Rules, 2017

- Insertion of rule 138E: To insert provisions for restricting taxpayers who have not filed returns, but have been issuing e-way bills under rule 138certain , from generating e-way bills:
  - ✓Consignor, consignee, transporter, e-commerce operator, courier agency not eligible to generate e-way bill
  - ✓In case of those GSTINs who have not filed their returns (for a consecutive period of two months/two tax-periods
  - ✓Jurisdictional Commissioner may allow furnishing e-way bill subject to conditions
- **Rule to be inserted when GSTN / NIC make available the functionality**

16

Agenda No. 7 (vii) (5/10)

Amendments to the CGST Rules, 2017

- Amendment to rule 142(5) : To include section 75(12) for enabling the officers to issue an order in **FORM GST DRC-07** for posting the interest liability in cases detailed above
- Amendment to **FORM GST RFD-01**: Changes required so as to align FORM GST RFD-01 and FORM GST RFD-01A

17

Agenda No. 7 (vii) (6/10)

Amendments to the CGST Rules, 2017

- Amendment to **FORM GST RFD-01A**: to include:
  - ✓types of refunds that have been recently introduced by GSTN on the portal e.g. refund on account of assessment/provisional assessment/appeal, excess payment of tax etc.
  - ✓Changes on account of changes made in rule 89(5) vide NN 21/2018 – CT dated 18.04.2018
  - ✓Changes so as to specify GSTIN in case of refund on imports inputs / reverse charge supplies

18

Agenda No. 7 (vii) (7/10)

Amendments to the CGST Rules, 2017

- Amendment in **FORM GSTR-9 / FORM GSTR-9A / FORM GSTR-9C** & instructions relating thereto:
  - ✓Amendment of headings in the FORMS to specify that the return in **FORM GSTR-9** & **FORM GSTR-9A** would be in respect of supplies etc. 'made during the year' and not 'as declared in returns filed during the year'
  - ✓All returns in **FORM GSTR-1** & **FORM GSTR-3B** have to be filed before filing of **FORM GSTR-9** & **FORM GSTR-9C**
  - ✓All returns in **FORM GSTR-4** have to be filed before filing of **FORM GSTR-9A**
  - ✓HSN code may be declared only for those inward supplies whose value independently accounts for 10% or more of the total value of inward supplies

19

Agenda No. 7 (vii) (8/10)

Amendments to the CGST Rules, 2017

- Amendment in **FORM GSTR-9 / FORM GSTR-9A / FORM GSTR-9C** & instructions relating thereto:
  - ✓Additional payments, if any allowed through **GST DRC-03** only in cash
  - ✓ITC cannot be availed through **FORM GSTR-9** & **FORM GSTR-9C**
  - ✓Applicable ITC not availed earlier, can only be availed through return in **FORM GSTR-3B** for upto the month of September 2018 and not through **FORM GSTR-9** & **FORM GSTR-9C**
  - ✓All Invoices pertaining to previous FY (irrespective of month in which such invoice is reported in **GSTR-1**) would be auto-populated in Table 8A of **FORM GSTR-9**

20

Agenda No. 7 (vii) (9/10)

Amendments to the CGST Rules, 2017

- Amendment in **FORM GSTR-9 / FORM GSTR-9A / FORM GSTR-9C** & instructions relating thereto:
  - ✓ITC for a particular year will be the year in which the recipient avails the ITC even if reversed due to non-payment by recipient in FY 2017-18 but the same was reclaimed in FY 2018-19
  - ✓The value of "non-GST supply" shall also include the value of "no supply" and may be reported in Table 5D, 5E and 5F of **FORM GSTR-9**
  - ✓Verification by taxpayer who is uploading reconciliation statement proposed to be added in **FORM GSTR-9C**

21

Agenda No. 7 (vii) (10/10)

Amendments to the CGST Rules, 2017

- Insertion of **FORM GST RVN-01**: to operationalize section 108 that would enable Revisional Authority to revise the order passed by a subordinate officer and issue notice to the concerned person
- Amendment to **FORM GST APL-04**: On account of the proposed insertion of rule 109B, changes need to be made in **FORM GST APL-04** so that the Revisional Authority can indicate the amount confirmed and include the summary of its order in **FORM GST APL-04**

22

Agenda No. 7 (viii) (1/5)

IGST Rules for apportionment of value among States when service is provided in more than one State/UTs

- **Rule 4:** Services in relation to immovable property:
  - ✓Lodging accommodation by a hotel, inn, guest house, etc. (**except** cases where such property is a single property located in two or more contiguous states and/or UTs) and services ancillary thereto: **as per the contract failing which in proportion to the number of nights stayed in such accommodation**
  - ✓Other services in relation to immovable property and services ancillary (including lodging accommodation by a hotel, inn, guest house, etc. where such property is a single property located in two or more contiguous states and/or UTs) : **as per the contract failing which on the basis of area of property lying in each State/UT**

23

Agenda No. 7 (viii) (2/5)

IGST Rules for determination of Place of Supply

- **Rule 4:** Services in relation to immovable property:
  - ✓Lodging accommodation by a house boat or any other vessel and services ancillary thereto: **as per the contract failing which time spent by the boat or vessel in each such State/UT, determined on the basis of a declaration made by service provider**
- **Rule 5:** Services by way of organization of cultural, artistic, sporting, scientific, educational, entertainment event etc. and services ancillary thereto; assigning of sponsorship to such events (other than B2B supply): **as per the contract failing which as per the Generally Accepted Accounting Principles**

24

Agenda No. 7 (viii) (3/5)

IGST Rules for determination of Place of Supply

- **Rule 6:** Services by way of leased circuits: **as per the contract failing which equal division among the number of points involved in the circuit**
- **Rule 8:** Services in respect of **same** goods required to be made physically available (location of the supplier or recipient outside India): **as per the contract failing which based on equal division of the value of services in each State**
- **Rule 8:** Services in respect of **different** goods required to be made physically available (location of the supplier or recipient outside India): **as per the contract failing which based on dividing the value of services in the ratio of invoice value of goods in each State**

25

Agenda No. 7 (viii) (4/5)

IGST Rules for determination of Place of Supply

- **Rule 8:** Services supplied to an individual requiring physical presence of recipient or person acting on behalf of the recipient (location of supplier or recipient outside India): **as per the contract failing which as per the Generally Accepted Accounting Principles**
- **Rule 9:** Services in relation to immovable property where the location of the supplier or the recipient is outside India: **As per Rule 4**

26

Agenda No. 7 (viii) (5/5)

IGST Rules for determination of Place of Supply

- **Rule 10:** Services by way of admission to or organization of cultural, artistic, sporting, scientific, educational or entertainment event etc. and services ancillary where location of supplier or recipient is outside India: **As per Rule 5**
- Rule 3 to be renumbered as Rule 7
- Amendment in sub rule (h) of rule 3 : "(h) in the case of advertisements over internet, the service shall be deemed to have been provided all over India"
- Rules come into effect from **01.01.2019**

27

Agenda No. 7 (ix) (1/3)

Circular to clarify six issues under GST

- Whether the supply of used vehicles, seized and confiscated goods, old and used goods, waste and scrap by Government departments are taxable under GST?
  - ✓the respective Government departments shall be liable to get registered and pay GST on intra-State and inter-State supply of used vehicles, etc. made by them to an unregistered person subject to the provisions of sections 22 and 24
- Whether penalty in accordance with section 73 (11) should be levied in cases where the return in **FORM GSTR-3B** has been filed after the due date of furnishing such return?
  - ✓penalty under the provisions of section 73(11) is not payable in such cases but would be leviable under section 125

28

Agenda No. 7 (ix) (2/3)

Circular to clarify six issues under GST

- In case a debit note is to be issued under section 142(2)(a) or a credit note under section 142(2)(b), what will be the tax rate applicable – the rate in the pre-GST regime or the rate applicable under GST?
  - ✓Rate as per the provisions of the GST Acts (both CGST and SGST or IGST) would be applicable
- Applicability of the provisions of section 51 related to TDS in the context of NN 50/2018-CT dated 13.09.2018
  - ✓Section 51 applicable only to such authority or Board, etc. set up by the Act of Parliament / State in which 51% or more participation by way of equity or control is with the Government.

29

Agenda No. 7 (ix) (3/3)

Circular to clarify six issues under GST

- What is the correct valuation methodology for ascertainment of GST on account of Tax collected at source (TCS) under Income Tax Act, 1961?
  - ✓taxable value for the purposes of GST shall include the TCS amount collected under the provisions of the Income Tax Act
- Who will be considered as the 'owner of the goods' for the purposes of section 129(1)?
  - ✓if the invoice or any other specified document is accompanying the consignment of goods, then either the consignor or the consignee should be deemed to be the owner. If not accompanied by invoice, the proper officer should determine the owner of goods

30

Agenda No. 7 (x) (1/1)

Circular to clarify denial of composition option by tax authorities and effective date thereof

- Effective date of withdrawal (by the taxpayer) - date indicated in the intimation/application filed in **FORM GST CMP-04** (but not prior to the commencement of the F.Y. in which such intimation/application for withdrawal is being filed)
- Effective date of denial (by the tax authority) - date including any retrospective date as may be determined by tax authorities (but not prior to the date of contravention of the provisions of the CGST Act or the CGST Rules)
- Follow up action to levy tax , etc. to be taken by the tax authorities on retrospective denial

31

Agenda No. 7 (xi) (1/4)

Circular to clarify refund related issues

- Difficulties being faced by taxpayers owing to requirement of manual submission of refund in **FORM GST RFD-01A**
  - ✓Supporting documents/invoices would be uploaded on the portal itself along with refund application
  - ✓ Fifteen days time to start from date of uploading
- Interpretational challenges regarding rule 89(5) as to whether for refund on inverted duty structure, refund of inputs at the same or lower rates would be included
  - ✓ITC to be calculated on all inputs (i.e. whether higher or lower rate than rate on output)

32

Agenda No. 7 (xi) (2/4)

Circular to clarify refund related issues

- Delays in disbursal of refunds after issuance of sanction order
  - ✓To clarify that officers should complete sanction process within 45 days so that disbursal is complete within 60 days
- Large number of applications that have been generated on common portal but not yet been received in the jurisdictional tax offices
  - ✓Detailed guidelines on how to deal with such cases
  - ✓Communications to be sent via email to claimants
  - ✓Rejection in case of no response

33

Agenda No. 7 (xi) (3/4)

Circular to clarify refund related issues

- Lack of clarity on how to process refunds of accumulated ITC of compensation cess
  - ✓Detailed clarification on treatment of accumulated input tax credit of compensation cess in different scenarios
- Admissibility of ITC of GST paid on invoices of earlier tax period in subsequent tax periods
  - ✓ITC on invoices issued in particular tax period can be availed till filing of return of September of succeeding financial year or filing of annual return, whichever is earlier

34

Agenda No. 7 (xi) (4/4)

Circular to clarify refund related issues

- Common mis-interpretations of the meaning of inputs
  - ✓ITC available on stores, spares, packaging material and capital goods
- Whether refund of accumulated ITC of input services & capital goods is available on account of inverted duty structure?
  - ✓Law and the related rules do not allow refund of tax paid on input services & capital goods as part of refund of ITC accumulated on account of inverted duty structure

35

Agenda No. 7 (xii) (1/1)

Circular to clarify export of services under GST

- Issues related to export of services under the GST laws wherein an exporter of services outsources a portion of the services contract to another person located outside India (not being a distinct person) and does not receive the full consideration for the outsourced services in India
- Proposed to clarify that
  - ✓the entire value would be considered as export of services if so permitted by RBI; and
  - ✓portion of services which has been provided by the supplier located outside India to the recipient of services located outside India would be considered as import of services in the hands of the supplier of services located in India & he would be liable to pay IGST on reverse charge basis on such imports and take credit on the same

36

Agenda No. 7 (xiii) (1/1)

Requirement of submission of invoices for processing of refund claims of unutilised Input Tax Credit (ITC) in FORM GST RFD-01A

- Circular No. 59/33/2018-GST dated 04.09.2018 clarified that refund claims shall be accompanied by **FORM GSTR-2A** of relevant period and wherever details of all the invoices relating to ITC availed not contained in **FORM GSTR-2A**, the proper officer may call for the hard copies of invoices to sanction refund
- Certain State tax administrations are denying refund of invoices which are not reflected in **FORM GSTR-2A**
- Directions sought on whether applications for refund submitted in **FORM GST RFD-01A** can be processed on the basis of:
  - ✓ self-certified copies of invoices submitted by the claimant in case the invoices do not appear in **FORM GSTR-2A** of the relevant period; or
  - ✓ refund would be allowed only to the extent of those invoices which appear in **FORM GSTR-2A**

37

Agenda No. 7 (xiv) (1/1)

Proposal for centralized Authority for Advance Ruling (AAR) and centralized Appellate Authority for Advance Ruling (AAAR) under GST

- Conflicting decisions by AAR in different States on similar issues involving similar facts causing confusion among taxpayers as well as tax officials
- In-principle approval of Hon'ble Council (as the proposed changes require amendment to CGST as well as SGST Acts) sought for:
  - ✓ creation of a Centralized AAR with a National Bench & various regional benches across the country to replace the existing State-specific AARs
  - ✓ creation of a Centralized AAAR with National Bench along with various regional benches

38

Agenda No. 7 (xv) (1/1)

Suggestions on allowing quarterly payment by small taxpayers

- Hon'ble GST Council had earlier agreed to allow quarterly filing for small taxpayers with monthly payment
- Direction of the Hon'ble Council is sought on whether
  - ✓taxpayers having turnover upto Rs. 5 crore may be allowed to pay tax on quarterly basis; and
  - ✓the buyers from them may be allowed to take ITC at the time of purchases i.e. even before the tax is due to be paid by the supplier.

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Agenda No. 7 (xvi) (1/1)

Circular to clarify taxability of medicines and consumables supplied to in- patients in hospitals during the course of treatment

- Doubts have been raised on the issue of taxability of medicines and consumables, etc. supplied to in-patients in the hospitals during the course of medical treatment
- Proposed to clarify that supply of medicines etc., whether part of a package deal or otherwise, shall be taxable under GST with proportionate ITC as:
  - ✓this is not a composite supply
  - ✓hospitals are categorized as retailers under DPCO & Drugs and Cosmetics Act
  - ✓they are billing at MRP which is inclusive of taxes

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Agenda No. 7 (xvii) (1/3)

Amendments to the CGST Rules, 2017, consequential to notifying the provisions of the CGST (Amendment) Act, 2018, SGST (Amendment) Act, 2018 and IGST (Amendment) Act, 2018

1	10 (Composition Rules)	Amendment in heading of Chapter-II
2	10 (Composition Rules)	Amendment in Rule 7 and **FORM GSTR-4** to include service providers (subject to turnover limit) under Composition levy
3	25 (Registration)	Amendment in Rule 8(1) to do away with the requirement for separate registration for units located outside SEZ
4	2(18), 25	Amendment in Rule 11 due to omission of concept of "business vertical"
5	29 (Cancellation or suspension of registration)	Insertion of Rule 21A to introduce the concept of "deemed suspension"

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Agenda No. 7 (xvii) (2/3)

6	25 (Registration)	Insertion of Rule 41A for apportionment of unutilized ITC if a person obtains separate registration for multiple places of business within a State
7	20, 54 of the CGST Act & 2(6) of the IGST Act	Amendment to Rule 42 and 43 so that the term "turnover" excludes any duty/tax levied under Entry 92A of the Constitution
8	34 (Credit and Debit Notes)	Insertion of sub-rule (1A) in rule 53 to allow issuance of credit/debit note for more than one tax invoice
9	35 (Accounts and other records)	Amendment to sub-rule (3) of rule 80 to exempt Govt. organizations from filing **FORM GSTR-9C** if their books of a/c are audited by the CAG
10	Renaming of CBEC to CBIC vide Finance Act, 2018	Amendment to clause (a) of sub-rule (1) of rule 83
11	48 (GST Practitioner)	Amendment to sub-rule (8) of rule 83 to prescribe other functions that can be performed by GST practitioner
12	Insertion of 49A and 49B regarding order of utilisation of ITC	Amendment to Rule 85 to subject debit from Electronic Liability Register to provisions of section 49A and 49B
13	Insertion of 49A and 49B regarding order of utilisation of ITC	Amendment to Rule 86 to subject debit from Electronic Credit Ledger to provisions of section 49A and 49B

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Agenda No. 7 (xvii) (3/3)

14	Sub-section (8) of section 54 regarding refund to the applicant	Amendment to clause (f) of sub-rule (2) of rule 89 to clarify that the SEZ unit shall furnish the undertaking that is required to claim refund
15	54 of the CGST Act & 2(6) of IGST Act	Amendment to Rule 96A due to addition of the words "or in Indian rupees wherever permitted by RBI" in Explanation (2)(c)(i) under section 54"
16	2(18) - omission of "business vertical"	Amendment to **FORM GST REG-01**
17	29 (deemed suspension of registration)	Amendments to **FORM GST REG-17** and **FORM GST REG-20**
18	25 (Registration)	Insertion of **FORM GST ITC-02A** to provide for transfer of ITC from a single GSTIN to multiple GSTINs in the same State
19	48 (to prescribe other functions of GST Practitioner)	Amendments to **FORM GST PCT-05** to include other functions of GST Practitioners
20	107 (Appeals to Appellate Authority)	Amendments to **FORM GST APL-01** to cap the amount of pre-deposit and include PoS wise details of IGST paid
21	112 (Appeals to Appellate Tribunal)	Amendments to **FORM GST APL-05** to cap the amount of pre-deposit and include PoS wise details of IGST paid

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Agenda No. 7 (xviii) (1/2)

Proposal to extend the due date for availing ITC on the invoices or debit notes relating to such invoices issued during the FY 2017-18 under section 16(4) of CGST Act till the due date for furnishing of FORM GSTR-3B for the month upto March, 2019

- Trade and industry were not able to reconcile their ITC as many of their suppliers had not furnished details of invoices / debit notes relating to such invoices in **FORM GSTR-1** & therefore it did not reflect in **FORM GSTR-2A**
- Hence, request was made to extend the due date for availment of ITC on invoices /debit notes for FY-2017-18

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Agenda No. 7 (xviii) (2/2)

- Proposal to allow ITC, in relaxation of the proviso to section 37(3) and as a one time measure, beyond 25.10.2018 till 20.04.2019, subject to the condition that:
  - ✓the recipient would avail credit during the extended period only on those invoices, etc. which are uploaded by the corresponding suppliers in their statement in **FORM GSTR-1** upto the month of March, 2019/quarter January-March, 2019; and
  - ✓the recipient would avail the ITC on the said documents so uploaded in his return in **FORM GSTR-3B** upto the month of March, 2019

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Agenda No. 7 (xix) (1/1)

Extension of the due date for furnishing of annual returns in FORM GSTR-9, FORM GSTR-9A and reconciliation statement in FORM GSTR-9C for the Financial Year 2017 – 2018

- This is the first year for furnishing annual return in GST
- The **FORM GSTR9/9A/9C** have not been made available till date and therefore, a demand made by trade and industry to extend the due date for furnishing annual return
- Removal of difficulty order No. 1/2018 – CT dated 11.12.2018 was issued to extend the last date to 31.03.2019
- Proposed to further extend the date till 30.06.2019

46

Agenda No. 7 (xx) (1/2)

Proposal for amendment of Section 50 of CGST Act to allow payment of interest on net cash liability

- Law permits furnishing of a return without payment of full tax as self-assessed as per the said return but the said return would be regarded as an invalid return
- No such facility has been yet made available on the common portal. This inflexibility of the system increases the interest burden
- GST only on value addition

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Agenda No. 7 (xx) (2/2)

Proposal for amendment of Section 50 of CGST Act, 2017 to allow payment of interest on net cash liability

- Accordingly, in principle approval for amendment in law (as the proposed changes require amendment to CGST as well as SGST Acts) is sought so as to provide that:
  - ✓interest should be charged only on the net liability of the taxpayer, after taking into account the admissible credit, i.e. the amount payable through electronic cash ledger
  - ✓interest would be charged on tax calculated on taxable value where invoices or debit notes are uploaded late

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Agenda No. 7 (xxi) (1/2)

Reduction in amount of late fees leviable on account of delayed furnishing of FORM GSTR-1, FORM GSTR-3B & FORM GSTR-4 for the months/quarters from July, 2017 to September, 2018

- Being the first year of implementation of GST, taxpayers were not familiar with the provisions of GST and were not able to furnish returns timely
- Two alternative proposals:
  - ✓ **Alternative – 1:** Late fees may be completely waived
    - In case **FORM GSTR-1, FORM GSTR-3B & FORM GSTR-4** for the months / quarters July, 2017 to September, 2018, are furnished after 22.12.2018 but latest by 31.03.2019; and
    - No refund of late fees to those taxpayers who have already furnished such details /returns

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Agenda No. 7 (xxi) (2/2)

Reduction in amount of late fees leviable on account of delayed furnishing of FORM GSTR-1, FORM GSTR-3B and FORM GSTR-4 for the months/quarters from July, 2017 to September, 2018

- Two alternative proposals:
  - ✓ **Alternative – 2:** Late fees payable may be reduced
    - In case **FORM GSTR-1/FORM GSTR-3B/FORM GSTR-4** for the period July, 2017 to September, 2018 are furnished after 22.12.2018 but latest by 31.03.2019 subject to the condition that the:
      - ✧ by taxpayers with NIL tax liability may be limited to Rs.500/- + Rs.500/- per return (instead of present limit of Rs. 5000/- + Rs. 5000/); and
      - ✧ by other taxpayers may be limited to Rs. 1000/- + Rs.1000/- per return
    - No refund of late fees to those taxpayers who have already furnished such details /returns

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Agenda No. 7 (xxii) (1/1)

Proposal to extend benefit of composition levy for small service providers

- Composition scheme is not available for service providers, other than restaurant service
- Consequent to the CGST (Amendment) Act, 2018, composition tax payer may supply services of value not exceeding 10% of turnover in a State / UT in the preceding financial year or five lakh rupees, whichever is higher
- In principle approval of the GST Council (as the proposed changes require amendment to CGST as well as SGST Acts) is sought for extending the Composition scheme to small service providers
  - ✓with annual turnover in last year was upto Rs. 50 lacs
  - ✓with a uniform tax rate at 5% ot turnover in the State / UT
  - ✓No ITC

51

Agenda No. 7 (xxiii) (1/1)

Proposal to introduce the new return system on trial basis from 01.04.2019 and on mandatory basis from 01.07.2019

- Hon'ble GST Council in its 28th Meeting held on 21.07.2018 approved the features and formats of the proposed new returns and directed that features and formats may be finalized by the GIC in consultation with various stakeholders
- Proposed to introduce new return system on:
  - ✓trial basis from 01.04.2019
  - ✓mandatory basis from 01.07.2019

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Agenda No. 12 (i) (1/1)

Proposal to extend the due date for filing of returns in FORM GST ITC-04 for the period July 2017 to December 2018

- Development and the implementation of revised **FORM GST ITC-04** is expected to take some more time as the said FORM was revised vide NN 39/2018- CT dated 04.09.2018
- Due date for filing **FORM GST ITC-04** for the period from July 2017 to September 2018 was extended till 31.12.2018 vide NN 59/2018 - CT dated 26.10.2018
- Proposal to further extend the last date for filing the said FORM for the period July 2017 to December 2018 till 31.03.2019

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Agenda No. 7 (xxiv) (1/1)

Single interface for disbursal of refund amounts

- Currently, refund orders for a taxpayer are being issued by a single authority for all four taxes
- However, disbursement of tax is happening from two different sources
- In cases, tax payers have to follow up for release of refund amount
- Proposed that disbursement process should be automated and should happen from one source
  - ✓would make it smooth for taxpayers
  - ✓initial disbursement to happen from central government cash account
  - ✓direct flow of data from GSTN to PFMS
  - ✓amount to be settled later on a monthly basis
  - ✓already happening at a small scale for UIN refunds

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Agenda No. 7 (xxv) (1/1)

Rationalization of cash ledgers in GST

- Currently five legers being maintained for every tax/cess
  - ✓4x5=20 ledgers
- Leading to mistakes – causing hardship for taxpayers
- Proposed to have one ledger per tax
- In accordance with Section 49 (1) of CGST/SGST Act
- All payments to any component of a tax to be made from same ledger
- System for ledger to ledger transfer of balance

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

In the 22nd meeting of the GST Council held at New Delhi on 06th October, 2017, it was decided that the Notifications, Circulars and Orders which are being issued by the Central Government with the approval of the competent authority shall be forwarded to the GST Council Secretariat, through email, for information and deemed ratification by the GST Council. Accordingly, in the 31st meeting held on 22nd December, 2018, the GST Council had ratified all the Notifications, Circulars, and Orders issued before the said date.

2. In this respect, the following Notifications, Circulars and Orders issued after 22nd December, 2018 (date of the 31st GST Council Meeting), till 2nd January, 2019, under the GST laws by the Central Government, as available on www.cbic.gov.in, are placed before the Council for information and ratification: -

Act/Rules	Type	Notification/Circular/Order Nos.
CGST Act/CGST Rules	Central Tax	67 to 78 of 2018
	Central Tax (Rate)	24 to 30 of 2018
IGST Act	Integrated Tax	4 of 2018
	Integrated Tax (Rate)	25 to 31 of 2018
UTGST Act	Union territory tax (Rate)	24 to 30 of 2018
Circulars	Under the CGST Act	76 to 81 of 2018 and 82 to 86 of 2019
ROD Orders	Under the CGST Act	2 to 4 of 2018

3. The GST Council may grant deemed ratification to the Notifications, Circulars and Orders listed above.

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

GST Implementation Committee (GIC) took one decision between 22nd December 2018 (when the 31st GST Council Meeting was held) and 02nd January 2019 (before the 32nd GST Council Meeting scheduled on 10th January 2019). Due to the urgency involved, this decision was taken after obtaining approval by circulation amongst the GIC Members. The details of the decisions taken is given below:

Decisions by Circulation – 27th December 2018

2. A proposal for approval of the GIC was received from Commissioner, GST Policy Wing, CBIC regarding settlement of an additional IGST amount of Rs. 18, 000 crore on *ad hoc* basis.

2.1. It was mentioned that the agenda note had been received from the Department of Revenue for approval of the GIC. It was stated that depending on the amount of IGST remaining unapportioned, provisional settlement was being done from time to time on an *ad hoc* basis. Accordingly, Rs. 35,000 crore was apportioned in February, 2018, Rs. 50,000 crore was apportioned in June, 2018, Rs.12,000 crore was apportioned in August, 2018 and Rs. 30,000 crore was apportioned in October, 2018. These amounts were settled in a ratio of 50:50 to the Centre and the States and the amount apportioned to States was divided in the ratio of subsumed/ protected revenue.

2.2. Further, based on the collection of IGST during the year, net of refunds and the settlement of IGST during the period, both regular and provisional, it was proposed to do provisional settlement of another Rs.18,000 crore, 50% to the Centre and 50% to the States. It was added that this would reduce the revenue gap of States and therefore, the compensation required.

2.3. The GIC agreed to the proposal to settle an additional IGST amount of Rs. 18, 000 crore, 50% to the Centre and 50% to the States, on *ad hoc* basis. Accordingly, the implementing Order. No. F.No. S-34011/21/2018-ST-I DoR dated 28th December 2018 was issued.

3. The decision of the GIC is placed for information of the Council.

Agenda Item 5: Issues recommended by the Fitment Committee for the consideration of the GST Council

Agenda Item 5(i): Proposals for boosting real estate sector under GST regime by providing a composition scheme for residential construction units

I. Background

CREDAI has requested that GST on construction of residential complex, building, and civil structure may be fixed at the composite rate of 5% without input tax credit. Similarly, GST on affordable housing projects may be completely exempted. The advantages it would offer consist of continuity with service tax regime which followed a composition system with the service tax being levied at 4.5%. Secondly, the composite rate of 5% would reduce the adverse impact on the land abatement of 33% being offered under the present system. Thirdly, such a composite rate would be transparent, objective and non-discretionary and enhance ease of doing business. Fourthly, the industry would be freed from the requirement of monthly returns for availing input tax credit which are unduly cumbersome. Fifthly, the composite rate of 5% would correct the imbalance under the present GST regime which subjects under construction projects but leaves completed units out of its scope. Lastly, the overall impact of the reduction is likely to be revenue positive with enhanced output. CREDAI has alternatively requested for rate reductions with input tax credit. Ministry of Housing and Urban Affairs has also written supporting the first proposal of CREDAI to charge GST @ 5% without ITC. On affordable housing, they have suggested exemption or tax rate lower than 5%.

2. Similarly, Maharashtra Real Estate Regulatory Authority has stated that there is a perception among owners of property that the transition from service tax to GST regime has resulted in much higher outgoings for consumers and the Govt. is the beneficiary of that. This perception can be corrected if the Govt. brings in a flat rate of GST of say 12% for all types of real estate projects, with land abatement of 50% (2/3rd for affordable housing projects) and no ITC. This would mean an effective rate of 6% (4 % for affordable housing projects) which will be comparable to that of the service tax+ VAT rate of 5.5%. Such a move would not only give the necessary fillip to affordable housing projects but also help in bringing down the high level of unsold inventory of under construction projects, generate necessary liquidity in such under construction projects and help expedite completion.

3. Another issue which is constantly raised by the builder is that 1/3rd abatement towards value of land is not proper. The property prices are directly linked with land, i.e. location of property, so property prices vary from city to city or location to location depending upon the location of the property. Therefore, builders have demanded to prescribe higher percentages of land abatement in metro cities. Further, many representations have been received from stake holders complaining that builders are not passing concessional GST benefit of 8% for CLSS (Credit Linked Supply Scheme) housing in the absence of any authenticated document. CLSS component is one of the major limb of Pradhan Mantri Awas Yojana (Housing for all). Because of non-passing of reduced tax benefit to beneficiaries, the purpose of tax concession gets defeated.

4. From the above representations is appears that representatives of industry have suggested following measures may be taken by ministry to boost the real estate sector. The suggestions are as under:

i. to levy 5% or similar lower rate of GST on sales of both under construction and ready to move in flats with no input tax credit.
ii. to exempt transfer of development rights (TDR) and development rights in a Joint Development Agreement from GST.
iii. to rationalize the deemed deduction of 1/3rd of the consideration towards value of land.

5. In pre-GST regime, two options were available with service providers for assessment and payment of Service Tax on construction of a complex, building, civil structure and parts thereof as under:

Option for assessment and payment of Tax	**Value of construction service for payment of Tax**	**Effective rate of tax**	**Conditions**
Composition Scheme	30% of value –Rule 2A of the Service Tax (Determination of value) Rules, 2006. The same abatement in value of service was also available vide Sr. No. 10 of notification No. 26/2012-ST.	4.5% of the Total Amount charged from buyer for the flat/house [0.3*ST@15%=0.45]	1. Value of land included 2. ITC of capital goods and input services was available. Credit of duties or cess paid on any inputs, used in or in relation to the said works contract was not available.
Deduction of actual value of land and goods	Total amount charged from buyer for the flat/house minus actual value of land and goods.	15% on value of service	–

5.1. Apart from Service Tax of 4.5%, State VAT, in the range of 1% (Delhi, Gurgaon, Mumbai, Chennai) to 5% (Bangalore) under composition scheme, was also payable. Different states had different methodologies and options for payment of VAT. For example, in Maharashtra and Uttar Pradesh following options were available for payment of VAT:

State	**Options for VAT payment**	**Rate**	**Conditions**
Maharashtra	Composition Scheme	8%	Set off of upto 64% of the eligible credit on purchase of inputs was allowed.
	Composition scheme for notified contracts	5%	Set off of upto 4% of eligible credit on purchase of inputs was allowed
	Composition scheme for Builder and Developers	1%	No set-off of taxes on inputs was allowed.
Uttar Pradesh	Composition Scheme	1%	Where inputs in the works contract have been procured from within the State.
		3%	Where import inputs in the works contract have been used besides goods procured from within the State.

5.2. Considering pre-GST incidence of Service Tax and VAT, the effective combined tax in pre-GST regime was in the range of 5.5% to 9.5% of value of flat plus embedded taxes.

6. At present, construction of houses under the following schemes attracts concessional rate of GST of 12% (effective rate of 8% after deduction of 1/3rd value of land)-

i. Following components of Pradhan Mantri Awas Yojana(PMAY):
   a. the "ln-situ redevelopment of existing slums using land as a resource.
   b. the "Beneficiary led individual house construction / enhancement".
   c. low cost houses up to a carpet area of **60 square metres** per house in a housing project approved by the competent authority under- (1) the "Affordable Housing in Partnership" component of the Housing for All (Urban) Mission/Pradhan Mantri Awas Yojana; (2) any housing scheme of a State Government.
   d. the "Economically Weaker Section (EWS) houses" constructed under the Affordable Housing in partnership by State or Union territory or local authority or urban development authority). EWS house has been defined in the PMAY scheme guidelines as a house having carpet area of **30 square metres.**
   e. the "houses constructed or acquired under the Credit Linked Subsidy Scheme for Economically Weaker Section (EWS)/ Lower Income Group (LIG)/ Middle Income Group-1 (MlG-1)/ Middle Income Group-2 (MlG-2)"
      EWS: 30 sqm
      LIG: 60 sqm
      MIG I: 160 sqm
      MIG II: 200 sqm

ii. low-cost houses up to a carpet area of **60 square metres** per house in an affordable housing project which has been given infrastructure status vide notification of Government of India, in Ministry of Finance, Department of Economic Affairs vide F. No. 13/6/2009-INF, dated the 30th March, 2017.

iii. single residential unit otherwise than as a part of a residential complex.

iv. a residential complex predominantly meant for self-use or the use of their employees or other persons specified in paragraph 3 of the Schedule III of the Central Goods and Services Tax Act, 2017.

Erstwhile schemes:

v. a scheme under Jawaharlal Nehru National Urban Renewal Mission or Rajiv Awaas Yojana.

vi. low-cost houses up to a carpet area of 60 square metres per house in a housing project approved by competent authority empowered under the 'Scheme of Affordable Housing in Partnership' framed by the Ministry of Housing and Urban Poverty Alleviation, Government of India (subsumed under PMAY, but projects started under the scheme may be continuing).

II. Discussion

7. The Reserve Bank of India has issued a guideline for priority sector lending. Loans to individuals up to ₹3.5 million in metropolitan centres (with population of ten lakh and above) and loans up to ₹2.5 million in other centres for purchase/construction of a dwelling unit per family provided the overall cost of the dwelling unit in the metropolitan centre and at other centres does not exceed ₹4.5 million and ₹3 million, respectively. The loans sanctioned by banks for housing projects exclusively for the purpose of construction of houses for Economically Weaker Sections (EWS) and Low Income Groups (LIG), the total cost of which does not exceed ₹1 million per dwelling unit. For the purpose of identifying the economically weaker sections and low-income groups, the family income limit is revised to ₹0.3 million per annum for EWS

and ₹0.6 million per annum for LIG, in alignment with the income criteria specified under the Pradhan Mantri Awas Yojana.

8. The effective combined pre-GST incidence of Service Tax and VAT on construction of houses was in the range of 5.5% to 9.5% of value of flat plus embedded taxes. Thus, **GST rate of 5% without ITC on construction of houses will lead to collection of the same amount of tax as earlier and will also ease compliance burden on this sector. Therefore, we may consider prescribing GST rate of 5% without ITC on construction of houses. To ensure that benefit of lower rate is passed on to the buyers, the proposed rate structure may be made compulsory with no option to pay GST at effective rate of 12% or 8% with ITC.**

9. We may consider prescribing concessional GST rate of 3% without ITC for affordable housing. The concessional GST rate structure on affordable housing may be aligned with the priority sector lending norms of RBI.

10. Some of the issues/challenges that may arise in implementation of the above rate structure are as discussed below:

i. Construction is an evasion prone sector. Reducing tax to 5% without ITC may also lead to revenue loss on supply of inputs such as steel, cement, sanitary items, paint, varnish etc. used by the construction industry as it may start procuring such inputs without bills and without properly accounting for the same in their books of account. Therefore, condition need to be made that inputs, capital goods and input services other than TDR/JDR not less than 80% shall be purchased from GST registered supplier only. It will help to maintain the integrity of the supply chain.

ii. Proposal to charge 5% without ITC may lead to blockage of ITC and will be against the spirit of GST. Since GST on inputs is a cost for the supply, later request to lower GST on inputs may be received from trade. Therefore, in communication it shall be made clear that input tax reduction would not be considered as the rate of 5% has been arrived taking standard GST of 18% on inputs.

iii. All credits relating to inputs, input services and capital goods shall lapse on pro rata basis to the extent used in construction of flats. Transition would also be based on this principle and such inputs which are meant to be used for construction of flats shall also undergo reversal of ITC.

iv. No request for refund shall be entertained in relation to any input tax credit which is accumulated and proposed to be lapsed. This shall be made clear to the industry from the beginning only.

v. The concessional rates based on cost of flats/houses may lead to some under valuation of property. Buyers will tend to pay the cost in cash and manipulate the price ceiling so as to enjoy the benefit GST rate of 3% without ITC. However, this may be addressed by audit and enforcement.

vi. Teething problems would be addressed by seeking representation from the trade proactively. Transition of input tax credit is expected to be the major area where there would be transition problems which would be addressed. The proposal is not likely to lead to any revenue loss as, at present, tax payments in cash are getting reported at rates less than 5% of the gross value of the project.

III. Proposal before the Joint Law and Fitment Committee meeting held on 04.01.2019

11. Proposal before the Joint Committee was: -

i. GST rate of 5% without ITC may be prescribed for construction of all houses including the affordable housing under various schemes.

Alternatively,

ii. With a view to align the GST rate structure on construction of houses with Priority Sector Lending guidelines of RBI for housing loans, we may prescribe GST on construction of houses as under,

Sl. No.	Description of service	Tax rate
1	Construction of houses/ flats in a residential complex where gross amount charged from a buyer for the house, excluding stamp duty, in metropolitan centres (with population of ten lakh and above) is up to Rs. 45 lakh and at other centres upto Rs. 30 lakh;	3% without ITC. (Effective rate after 1/3rd deduction towards value of land)
2	Treatment of existing projects: Existing projects under various schemes of Government at present attracting GST @ 8%, where the agreement to sale has been signed before 1st February, 2019;	3% without ITC. (Effective rate after 1/3rd deduction towards value of land), prospectively
3	Construction of houses/ flats in a residential complex other than (1) and (2) above.	5% without ITC (Effective rate after 1/3rd deduction towards value of land)

12. To ensure that benefit of lower rate is passed on to the buyers, the proposed rate structure may be made compulsory with no option to pay GST at effective rate of 12% or 8% with ITC irrespective of whether proposal at 11 (i) or 11 (ii) is recommended.

IV. Safeguards

13. Further following safeguards/conditions may be prescribed to address the concerns of revenue: -

a) Inputs, Capital goods and Input services not less than 80% other than TDR (or similar rights) shall be purchased from a GST registered supplier only, to maintain the integrity of the supply chain.
b) ITC treatment shall be such that supply of goods/services used for construction of residential accommodation shall be treated as supplied for exempted supplies and therefore reversed.
c) Accounting of purchases and whether the purchases constitute 80% from registered persons shall be carried out financial year wise.
d) On such purchases which are below 80% benchmark and are procured from unregistered persons, GST at the applicable rates on RCM basis shall be paid in cash by the trade without any input tax credit. This would require that the amended law be brought into force before this scheme is operationalized, as section 9(4) stands suspended as of now and amended Section 9(3) would need to be used to impose tax under RCM.
e) Credits in the ledger which is relatable to material or services in store or work in progress or consumed in construction of residential flats shall be required to be reversed (lapsed) within 60 days of the launch of the scheme. This may be allowed on self-assessment

basis with certification by Chartered Accountant where the amount is greater than the threshold.

V. Proposal on transfer of development of rights (TDR) and development rights in a Joint Development Agreement

14. Representatives have stated that TDR is equivalent to land sale, so no GST should be applicable. GST should not be leviable on a right to use of a development right in the context of a Joint Development Agreement also. It is like sale of land particularly when cost is included in the tax on sale.

15. In so far as this contention is concerned, it is stated that Joint Development rights or transfer of development rights in joint development agreement cannot be equated to outright sale of land as same does not amount to transfer of land as contemplated under Section 53A of the Transfer of Property Act. This position is as per various pronouncements of the Hon'ble Courts.

16. Further, transfer of development right is a service by the land owner to the developer/ builder of the property who in turn is engaged in the taxable supply of construction service. The GST paid on such transfer of development rights is available as ITC to off-set the final GST liability on the construction service. However, in the alternate scheme of composition of 5% GST proposed, tax on these rights will stick as cost for the project. In order to provide boost to the construction sector, we may exempt GST on TDR on construction of residential property only. It will also address the cash flow issue. This exemption may not be granted for sale of residential property which has been booked for sale after completion certificate has been issued. In this regard, builder would be required to pay the GST leviable on such development rights thus effectively reversing the exemption availed on TDR/ JDR used for such property at the time of issue of completion certificate. To some extent, this would lead to addressing the problem of the perception of differential GST on under construction and completed flats. This will be explicitly communicated through media if needed.

17. **Proposal on TDR before the Joint Law and Fitment Committee meeting held on 04.01.2019:**

i. TDR/ development rights in JDA to the extent used for construction of residential property except where entire consideration is received after issuance of completion certificate may be exempted.
ii. Properties which were not booked before completion for sale and for which completion certificate has been issued, exemption from GST on TDR/ development rights in JDA shall be withdrawn. Hence, builder would be required to pay the GST on TDR to the extent of TDR is used for these property at the time of issue of completion certificate. This would address the problem of cash flow in relation to taxes on TDR/JDR.
iii. GST on TDR/ development rights in JDA for properties other than residential purpose may continue to be taxed as usual.
iv. Time of supply of TDR/JDR for residential property may be shifted to point of issue of completion certificate. This would lead to extinguishing of interest liability on TDR/development rights in JDA.

18. **Recommendation of the Joint Law and Fitment Committee meeting on 04.01.19**

18.1. The issue was discussed in detail along with data analysis presented by various States. The Committee noted following advantages of the proposal:

a) It provides better perception (optics) of the rate of taxation on real estate;
b) It simplifies the tax structure for residential houses, particularly from the consumers' perspective;
c) It addresses the concern of buyers that builders are not passing the benefit of ITC to the customers;
d) It will give a fillip to purchase of flats as the buyers at present are dissuaded by the headline rate of GST.

18.2. However, the following concerns were expressed in the Committee:

a) It will lead to price rise of residential sector, particularly in the lower cost segment, in view of the fact that the present tax payment in cash is less than 5% of the gross value while in the very high-end segment there may be a reduction in prices;
b) The control on input side by introducing the clause of minimum of 80% purchase from registered taxpayers is not as strong as maintaining the integrity of credit flow;
c) To bring real estate into GST will require a journey in exactly the opposite direction;
d) Compliance of composite projects (residential plus commercial) would become difficult.

19. In view of the above, the Joint Committee recommended that the matter be decided in the Council.

Agenda Item 5(ii): Proposal regarding rationalisation of GST rates on Lottery

Proposal	Comments
Request to remove differential rate of GST on lottery i.e. between lottery run by state government and lottery authorized by the state government Reference: All India Federation of Lottery Trade & Allied Industries	**Recommendation of Joint Law and Fitment Committee meeting on 04.01.19:** **As the matter pertains to only a few States, many of whom (NE States) are not members of this Committee, and the fact that rate for this item was decided by the Council, the Joint Committee felt that this matter may be discussed in the Officers' meeting.** **Proposal before the Joint Law and Fitment Committee meeting held on 04.01.2019:** Differential levy of GST of 28% on lottery authorized by State Government and 12% on lottery run by State Government may be **rationalised by increasing GST of 12% on lottery run by State Government. If the rate is increased to 28% from 12% revenue gain would be approximately Rs. 1250 Cr.** **Discussion:** At present two different rates of GST are being levied on lottery as follows: - 1) GST@28% on Lottery authorized by State Governments 2) GST@12% on Lottery run by State governments. 2. Representations on this rate structure have been received from few States and trade for removing differential levy of GST on two categories of lotteries. At present litigations are also pending before various courts on this issue. The request for removing this differential treatment has been represented by trade on account of the following: - i. There is only one type of State lottery i.e. the one which conforms to the provisions of the section 4 of the Lotteries Regulations Act, 1998. Discrimination in GST rates is leading to reduction of sales especially in major states of Maharashtra and Punjab. ii. It is beyond comprehension as to how two different rates of GST can be fixed on same product when sold in the state itself and when sold in the other states, which is against the provisions of the Competitions Act, 2012. Discrimination does not exist in any other category of products. iii. The huge variation of 16% between two rates help the larger states to exploit customers fully as smaller states cannot compete with them. High differential rates encourage non-compliance by small business.

Proposal	Comments
	3. Calcutta High Court in judgement dated 10.10.2018 in the case of Teesta Distributor vs UoI has upheld the present rate structure. Even then, the product being a sin / de-merit good, needs to be taxed at rates higher than 12%. The high differential in tax also leads to malpractice of attempting to avail tax rate of 12% by mis-representation.

Agenda Item 5(iii): Request by CAPSI (Central Association of Private Security Industry) to bring the entire security services sector including body corporate under RCM (Reverse Charge Mechanism)

Proposal	Comments
Request by CAPSI to bring the entire security services sector including body corporate under RCM Justification: Private Security Industry plays important role in creating employment and maintaining law and order. Delayed payments from clients which is forcing security industry to pay GST before the actual payment receipt. Reference: 1) CAPSI, 2)CCT, Gujarat	**Recommendation of Joint Law and Fitment Committee meeting on 04.01.19:** **TRU recommendation accepted.** **Proposal before the Joint Law and Fitment Committee meeting held on 04.01.2019:** TRU recommended that the proposal may not be accepted as body corporate supplies are not put under RCM on grounds of compliance difficulty or cash flow problems. Similar problem can be cited by many industries. **Discussion:** As per the Sl. No. 14 of Notification No 29/2018 dated 31.12.2018 i.e. Security services (supply of security personnel) provided by any person other than a body corporate to a registered person, except Government Departments which have taken registration for TDS and entities registered under composition scheme, has been put under RCM 2. Now the request is to incorporate supplies of security services body corporate to body corporate may be placed under RCM. 3. Background: 3.1 Reverse charge on security services did not cover body corporates in Service Tax era because purpose of reverse charge is to increase tax compliance from smaller/unorganised service providers and to increase tax revenue. As per Sl. No. 8 of Notification No. 30/2012-Service Tax dated 20.06.2012, security services by any individual, Hindu Undivided Family or partnership firm, whether registered or not, including association of persons, located in the taxable territory to a business entity registered as body corporate, located in the taxable territory was under reverse charge mechanism. 3.2 On lines of Service Tax provisions, TRU recommended to Fitment Committee on 14.12.2018 as below: - *Supply of Manpower for any purpose or Security services, by any individual, Hindu Undivided Family or partnership firm, whether registered or not, including association of persons, located in the*

Proposal	Comments
	taxable territory to a business entity registered as a body corporate located in the taxable territory may be levied GST under reverse charge mechanism (RCM) 3.3 As per the Fitment Committee decision, Agenda of GST Council Meeting read with the recommendation of TRU, the provisions are made as per the Sl. No 14 of Notification No 29/2018 dated 31.12.2018 i.e. Security services (supply of security personnel) provided by any registered person other than a body corporate to a registered person, except Government Departments which have taken registration for TDS and entities registered under composition scheme, are put under RCM.

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

Agenda Item 6(i): Notification of provisions of the CGST (Amendment) Act, 2018; UTGST (Amendment) Act, 2018 and the GST (Compensation to States) Amendment Act, 2018 and the IGST (Amendment) Act, 2018

GST Council in its 31st Meeting held on 22.12.2018 has recommended that the CGST (Amendment) Act, 2018; IGST (Amendment) Act, 2018; UTGST (Amendment) Act, 2018, the GST (Compensation to States) Amendment Act, 2018 (hereafter referred to as the GST Amendment Acts) and all the SGST (Amendment) Acts are to be brought in force with effect from 01.02.2019.

2. In this regard, the Law Committee examined the provisions of the GST Amendment Acts, in conjunction with the CGST Act, 2017, and the IGST Act, 2017 (hereafter referred to as the Principal Acts), and proposed to bring into force all the provisions of these four GST Amendment Acts, except the ones mentioned below:

(i) Provisions of the CGST (Amendment) Act, 2018:
   (a) Section 17 and Section 18: These sections intend to make amendments to the current return system (by amending section 39 of the CGST Act, 2017) and introduce provisions relating to introduction of the new system (by inserting section 43A of the CGST Act, 2017). However, till the time the new return system is introduced and is made mandatory, the present system of filing of returns are required to be in place. Therefore, it is proposed that these provisions may be notified only on the date of introduction of the new return system.
   (b) Section 8(b): The said sub-section amends section 16 of the Principal Act to bring in reference to the newly proposed section 43A. Since, it has been proposed that section 43A of the amendment Act may not be notified at present, the said sub-section of the amendment Act may also be notified as and when section 17 and section 18 are notified.
   (c) Section 20(a): The said sub-section amends sub-section (2) of section 49 of the principal Act to bring in reference to the newly proposed section 43A. Since, it has been proposed that section 43A of the amendment Act may not be notified at present, the said sub-section of the amendment Act may also be notified as and when section 17 and section 18 are notified.
   (d) Clause (i) of sub-section (b) of section 28 and clause (i) of sub-section (c) of section 28: The said clauses, which links Explanation 1 and Explanation 2 of section 140 to section 140(1) is not to be notified.

3. Accordingly, approval of the GST Council is sought for notifying the provisions of CGST (Amendment) Act, 2018; UTGST (Amendment) Act, 2018 and the GST (Compensation to States) Amendment Act, 2018 and the IGST (Amendment) Act, 2018 except the provisions contained in section 8(b), 17, 18, 20(a), 28(b)(i) and 28(c)(i) of the CGST (Amendment) Act, 2018. Further States would be required to notify all the provisions of the respective SGST (Amendment) Acts, except the provisions which correspond to the provisions contained in section 8(b), 17, 18, 20(a), 28(b)(i) and 28(c)(i) of the CGST (Amendment) Act, 2018. The provisions of section 8(b), 17, 18, 20(a) of the CGST (Amendment) Act, 2018 and corresponding provisions in the SGST (Amendment) Acts of the respective States would be notified at a later date along with the introduction of the new return system. The provisions contained in section 28(b)(i) and 28(c)(i) of the CGST (Amendment) Act, 2018 are not proposed to be notified.

Agenda Item 6(ii): Consequential amendments in notifications issued earlier in light of bringing into force the provisions of the CGST (Amendment) Act, 2018; the UTGST (Amendment) Act, 2018; the GST (Compensation to States) Amendment Act, 2018 and the IGST (Amendment) Act, 2018

GST Council in its 31st Meeting held on 22.12.2018 has recommended that the CGST (Amendment) Act, 2018; IGST (Amendment) Act, 2018; UTGST (Amendment) Act, 2018 and the GST (Compensation to States) Amendment Act, 2018 (hereafter referred to as the GST Amendment Acts) are to be brought in force with effect from 01.02.2019. Further all the SGST (Amendment) Acts would also be brought into force with effect from the same date.

2. In this regard, the Law Committee has examined the Notifications issued under the CGST Act, 2017 and the IGST Act, 2017 (hereafter referred to as the Principal Acts) in conjunction with the provisions of the GST Amendment Acts, and proposed to amend certain notifications. The details of the proposed amendments are in **Annexure-A**.

3. Accordingly, approval of the GST Council is sought for amending the Notifications issued earlier. Similar amendments are required in corresponding notifications issued by the States (except in Notification No. 02/2017- Central Tax dated 19-06-2017). The notification carrying out the said amendments shall be issued after due vetting by the Union Law Ministry.

Annexure – A

List of Notifications issued earlier in which changes are proposed				
Sl. No.	**No.**	**Subject**	**Amendments**	**Rationale**
1	02/2017- Central Tax dated 19-06-2017	Appointment of officers under CGST Act, 2018	Joint Commissioner (Appeals) to be included as proper officer	This needs to be streamlined in light of the amendment already made in the CGST Rules (This is not related to GST Amendment Acts). To be done only in notification issued under the CGST Act
2	08/2017-Central Tax dated 27-06-2017(amended vide Notification No. 46/2017)	Seeks to notify the turnover limit for Composition Levy for CGST	Notification needs to be re-aligned with the Rule 7 of the CGST Rules	This needs to be streamlined in light of the proposed amendment in the Rule 7 of CGST Rules.
3	57/2017-Central tax dated 15-11-2017	Seeks to prescribe quarterly furnishing of **FORM GSTR-1** for those taxpayers with aggregate turnover of upto Rs.1.5 crore	To be finalised after new return system design is brought into force	This is required in view of the new return system that is proposed to be introduced To be revisited after new return is finalized
4	65/2017-Central tax dated 15-11-2017	Seeks to exempt suppliers of services through an e-commerce platform from obtaining compulsory registration	Needs to be amended for the special category States. It needs to read as – 'State or Union territory in accordance with sub-section (1) of section 22 of the said Act, read with clause (iii) of the Explanation to that section'	This needs to be revised in view of the amendment (section 11 of the CGST (Amendment) Act, 2018) proposed in section 22 of the CGST Act, 2017 allowing enhancing of threshold for certain special category States
5	07/2017- Integrated Tax, dated 14-09-2017	Seeks to amend the notification in order to draw a clear linkage with goods exempted from the	Proviso (b) to be amended "against serial number 151 in the Annexure to rule 138"	To draw a clear linkage with goods exempted from the requirement of e-way Bill under rule 138 of the CGST

		requirement of e-way Bill under rule 138 of the CGST Rules.		Rules (This is not related to GST Amendment Acts)
6	10/2017-Integrated Tax, dated 13-10-2017	Seeks to exempt persons making inter-State supplies of taxable services from registration under section 23(2)	Needs to be amended for the special category States. It needs to read as – 'State or Union territory in accordance with sub-section (1) of section 22 of the said Act, read with clause (iii) of the Explanation to that section'	This needs to be revised in view of the amendment (section 11 of the CGST (Amendment) Act, 2018) proposed in section 22 of the CGST Act, 2017 allowing enhancing of threshold for certain special category states
7	08/2017- Central Tax (Rate), dated as amended vide notification No. 38/2017-Central Tax (Rate), 10/2018-Central Tax (Rate), 12/2018- Central Tax (Rate) and 22/2018-Central Tax (Rate)	Seeks to prescribe limit relating to reverse charge	To be rescinded	In view of amendment (section 4 of the CGST (Amendment) Act, 2018) proposed in section 9(4) of the CGST Act, 2017 in relation to reverse charge.
8	09/2017-Integrated Tax (Rate)as amended by 42/2017- Integrated Tax (Rate)		S. No. 10D of Table of this notification is to be rescinded	This needs to be revised in view of the amendment (section 2 of the IGST (Amendment) Act, 2018) proposed in section 2(6) of the IGST Act, 2017 allowing realization of export proceeds in INR, wherever allowed by the RBI. To be carried out by TRU

Proposed Consequential changes

Notification No. 02/2017- Central Tax dated 19-06-2017

4. The Commissioners of Central Tax (Appeals) and ~~*Additional Commissioners of Central Tax (Appeals)*~~ *any officer not below the rank of Joint Commissioner (Appeals)* specified in column (2) of Table III and the central tax officers subordinate to them are hereby vested with the territorial jurisdiction of the Principal Commissioners of Central Tax or the Commissioners of Central Tax, as the case may be, specified in the corresponding entry in column (3) of the said Table.

Notification No. 08/2017-Central Tax dated 27-06-2017(amended vide Notification No. 46/2017)

G.S.R. (E).- In exercise of the powers conferred under the proviso to sub-section (1) of section 10 of the Central Goods and Services Tax Act, 2017 (12 of 2017) (hereinafter referred to as the said Act), the Central Government, on the recommendations of the Council, hereby prescribes that an eligible registered person, whose aggregate turnover in the preceding financial year did not exceed seventy five lakh rupees, may opt to pay, in lieu of the central tax payable by him, an amount *of tax* calculated at the rate *prescribed in Rule 7 of the CGST Rules, 2017.*~~*of, —*~~

~~*(i) one per cent. of the turnover in State in case of a manufacturer,*~~

~~*(ii) two and a half per cent. of the turnover in State in case of persons engaged in making supplies referred to in clause (b) of paragraph 6 of Schedule II of the said Act, and*~~

~~*(iii) half per cent. of the turnover in State in case of other suppliers:*~~

Notification No. 65/2017-Central tax dated 15-11-2017

Provided that the aggregate value of such supplies, to be computed on all India basis should not exceed an amount of ten lakh rupees in case of "special category States" as specified in *sub-section (1) of section 22 of the said Act, read with clause (iii) of the Explanation to the said section* ~~*sub-clause (g) of clause (4) of article 279A of the Constitution, other than the State of Jammu and Kashmir*~~.

Notification No. 07/2017- Integrated Tax, dated 14-09-2017

Provided that nothing contained in this notification shall apply to a job-worker –

(a) who is liable to be registered under sub-section (1) of section 22 or who opts to take registration voluntarily under sub-section (3) of section 25 of the said Act; or

(b) who is involved in making supply of services in relation to the goods mentioned against serial number *5* ~~*151*~~ in the Annexure to rule 138 of the Central Goods and Services Tax Rules, 2017.

Notification No. 10/2017-Integrated Tax, dated 13-10-2017

Provided that the aggregate value of such supplies, to be computed on all India basis, should not exceed an amount of ten lakh rupees in case of "special category States" as specified in *sub-section (1) of section 22 of the said Act, read with clause (iii) of the Explanation to the said section* ~~*sub-clause (g) of clause (4) of article 279A of the Constitution, other than the State of Jammu and Kashmir.*~~

Notification No. 09/2017-Integrated Tax (Rate) as amended by Notification No. 42/2017-Integrated Tax (Rate)

~~*(1)*~~	~~*(2)*~~	~~*(3)*~~	~~*(4)*~~	~~*(5)*~~
~~*10D*~~	~~*Chapter 99*~~	~~*Supply of services having place of supply in Nepal or Bhutan, against payment in Indian Rupees*~~	~~*Nil*~~	~~*Nil*~~

Agenda Item 6(iii): Consequential amendments in Circulars and Orders issued earlier in light of bringing into force the provisions of the CGST (Amendment) Act, 2018; the UTGST (Amendment) Act, 2018; the GST (Compensation to States) (Amendment) Act, 2018 and the IGST (Amendment) Act, 2018

GST Council in its 31st Meeting held on 22.12.2018 has recommended that the CGST (Amendment) Act, 2018; IGST (Amendment) Act, 2018; UTGST (Amendment) Act, 2018 and the GST (Compensation to States) Amendment Act, 2018 (hereinafter referred to as the GST Amendment Acts) are to be brought in force with effect from 01.02.2019. Further all the SGST (Amendment) Acts would also be brought into force with effect from the same date.

2. In this regard, the Law Committee has examined the Circulars and Orders issued earlier under the CGST Act, 2017 and the IGST Act, 2017 (hereinafter referred to as the Principal Acts) in conjunction with the provisions of the GST Amendment Acts, and proposed to amend certain circulars and orders. The details of the proposed amendments are in **Annexure-A**.

3. One of the proposals agreed to by the Law Committee relates to rescinding of removal of difficulty Order No. 01/2017-Central Tax dated 13.10.2017 which was issued to remove difficulties in implementing provisions of composition scheme. The Law Committee has further recommended issuance of a new removal of difficulty Order in order to provide for extension of the beneficial condition detailed below for all composition taxpayers:

that for computing the aggregate turnover in order to determine eligibility for composition scheme, value of supply of exempt services by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount shall not be taken into account.

4. Accordingly, approval of the GST Council is sought for amending the Circulars and Orders issued earlier (as proposed in para 2 above). Similar amendments are required in the Circulars and Orders issued by the States. Further, approval of the GST Council is also sought for issuance of the new removal of difficulty Order (as proposed in para 3 above). The removal of difficulty Order would be issued in consultation with the Union Law Ministry. States would also be required to issue corresponding removal of difficulty Order.

Annexure – A

List of Circulars and Orders issued earlier in which changes are proposed				
Sl. No.	**No.**	**Subject**	**Amendments**	**Rationale**
1	7/7/2017 dated 01.09.2017	System based reconciliation of information furnished in **FORM GSTR-1** and **FORM GSTR-2** with **FORM GSTR-3B**	To be rescinded after the new return system is brought into force as **FORM GSTR-2** has been kept in abeyance To be revisited after section 43A is notified.	The process of system-based reconciliation in the proposed new return scheme is different from that envisaged under the earlier system, and hence requires to be rescinded.
2	8/8/2017 dated 04.10.2017	Clarification on issues related to furnishing of Bond/LUT for exports	Para 2(k) to be amended in order to allow acceptance of LUT for supply of services to any country for which payment is received as per RBI guidelines (by inserting the words 'or in Indian rupees wherever permitted by the Reserve Bank of India')	This needs to be revised in view of the amendment (section 2 of the IGST (Amendment) Act, 2018) proposed in section 2(6) of the IGST Act, 2017 allowing realization of export proceeds in INR, wherever allowed by the RBI.
3	15/15/2017 dated 06.11.2017	Due date for generation of **FORM GSTR-2A** and **FORM GSTR-1A** in accordance with the extension of due date for filing **FORM GSTR-1** and **FORM GSTR-2** respectively	To be rescinded after the new return system is brought into force To be revisited after section 43A is notified.	This is required as features of new return system are different from the existing return system
4	26/26/2017 dated 29.12.2017	Filing of returns under GST	To be rescinded after the new return system is brought into force To be revisited after section 43A is notified.	This is required as features of new return system are different from the existing return system
5	38/12/2018 dated 26.03.2018	Clarifications on issues related to Job Work	1. Amendment required in for para 2 to replace the time of one year/3years to	This needs to be revised in view of the amendment (section 29 of the CGST

			read as "within the time period specified in section 143". 2. Similar amendment required in para 3 to replace the time of one year/3years to read as "within the time period specified in section 143". 3. Amendment required in para 6.1 to provide for mentioning threshold limit of states who are special category but have opted for a threshold limit of Rs. 20 lakhs (presently only J & K is mentioned therein). 4. Para 9.4(i) and 9.6containing reference to section 9(4) of the CGST Act needs to be removed.	(Amendment) Act, 2018) proposed in section 143 of the CGST Act, 2017 empowering the Commissioner to extend the period for return of inputs and capital goods from the job worker. Further on account of amendment (section 4 of the CGST (Amendment) Act, 2018) proposed in section 9(4) of the CGST Act, 2017 in relation to reverse charge, certain amendments to the Circular are required.
6	41/15/2018 dated 13.04.2018	E-way bill verification related issues and forms	7 days to be changed to 14 days at - 7 days to be changed to 14 days at – (i) para 2(k) (ii) MOV08 – 4th para (iii) MOV 09-10th para	This needs to be revised in view of the amendment (section 27 of the CGST (Amendment) Act, 2018) proposed in section 129 of the CGST Act, 2017 allowing 14 days for owner/transporter to pay tax/penalty for seized goods
7	58/32/2018 dated 04.09.2018	Recovery of arrears of wrongly availed CENVAT credit under the existing law and inadmissible transitional credit.	(i) Recovery vide **FORM DRC-03**&**FORM DRC-07** also needs to be mentioned in the circular. (ii) Provision of reversal of transitional credit through **FORM**	Modes of recovery have been streamlined

			GSTR-3B needs to be revisited.	
8	69/43/2018 dated 26.10.2018	Circular on Standard Operating Procedure for Processing of Applications for Cancellation of Registration submitted in **FORM GST REG-16**	Suspension as mentioned in Section 21A of CGST Act needs to be mentioned (by amending para 11 to mention that registration may be suspended and notices may not be issued while processing applications for suspension of registration)	This needs to be revised in view of the amendment (section 14 of the CGST (Amendment) Act, 2018) proposed in section 29 of the CGST Act, 2017 allowing suspension of registration
9	Order-01/2017-Central Tax dated 13.10.2017	To remove difficulties in implementing provisions of composition scheme.	To be rescinded and reissued after obtaining GST Council recommendation.	This needs to be rescinded in view of the amendment (section 5 of the CGST (Amendment) Act, 2018) proposed in section 10 of the CGST Act, 2017 making changes to the Composition scheme, difficulties regarding which were removed by the said removal of difficulty order.
10	03/01/2018 -IGST	Circular on applicability of IGST on goods supplied while being deposited in a customs bonded warehouse	To be rescinded	This needs to be revised in view of the amendment (section 32 of the CGST (Amendment) Act, 2018) proposed in Schedule III of the CGST Act, 2017 which declares supply of warehoused goods to any person before clearance for home consumption as neither supply of goods nor supply of services.

Proposed Consequential Changes

Circular No. 8/8/2017 dated 04.10.2017 2(k) **Realization of export proceeds in Indian Rupee**: Attention is invited to para A (v) Part-I of RBI Master Circular No. 14/2015-16 dated 01st July, 2015 (updated as on 05th November, 2015), which states that "*there is no restriction on invoicing of export contracts in Indian Rupees in terms of the Rules, Regulations, Notifications and Directions framed under the Foreign Exchange Management Act, 1999. Further, in terms of Para 2.52 of the Foreign Trade Policy (2015-2020), all export contracts and invoices shall be denominated either in freely convertible currency or Indian rupees but export proceeds shall be realized in freely convertible currency. However, export proceeds against specific exports may also be realized in rupees, provided it is through a freely convertible Vostro account of a non-resident bank situated in any country other than a member country of Asian Clearing Union (ACU) or Nepal or Bhutan". Further, attention is invited to the amendment to section 2(6) of the IGST Act, 2017 which allows realization of export proceeds of services in INR, wherever allowed by the RBI.* Accordingly, it is clarified that the acceptance of LUT for supplies of goods or services to countries outside India ~~*Nepal or Bhutan*~~ or SEZ developer or SEZ unit will be permissible irrespective of whether the payments are made in Indian currency or convertible foreign exchange as long as they are in accordance with the applicable RBI guidelines. ~~*It may also be noted that the supply of services to SEZ developer or SEZ unit under LUT will also be permissible on the same lines. The supply of services, however, to Nepal or Bhutan will be deemed to be export of services only if the payment for such services is received by the supplier in convertible foreign exchange.*~~
Circular No. 69/43/2018 dated 26.10.2018 11. It is pertinent to mention here that section 29 of the CGST Act has been amended by the CGST (Amendment) Act, 2018 to provide for "Suspension" of registration. The intent of the said amendment is to ensure that a taxpayer is freed from the routine compliances, including filing returns, under GST Act during the pendency of the proceedings related to cancellation. ~~*Although the provisions of CGST (Amendment) Act, 2018 have not yet been brought into force,it will be prudent for*~~ *Accordingly,* the field formations may not ~~to~~ issue notices for non-filing of return for taxpayers who have already filed an application for cancellation of registration under section 29 of the CGST Act. ~~*However*~~ *Further*, the requirement of filing a final return, as under section 45 of the CGST Act, remains unchanged.
Circular No. 58/32/2018 dated 04.09.2018 3. *It may be noted that all such liabilities may be discharged by the taxpayers, either voluntarily in* ***FORM GST DRC-03*** *or may be recovered vide order uploaded in* ***FORM GST DRC-07,*** *and payment against the said order shall be made in* ***FORM GST DRC-03****. It is further clarified that the alternative method of reversing*~~*Currently, the functionality to record this liability in the electronic liability register is not available on the common portal. Therefore, it is clarified that as an alternative method, taxpayers may reverse*~~ the wrongly availed CENVAT credit under the existing law and inadmissible transitional credit through Table 4(B)(2) of **FORM GSTR-3B** *would no longer be available to taxpayers*. The applicable interest and penalty shall apply *in respect of* all *such amounts*, ~~*shall*~~ *which shall also be paid in* ***FORM GST DRC-03*****.**
Circular No. 41/15/2018 dated 13.04.2018 2(k) In case the proposed tax and penalty are not paid within ~~*seven*~~ *fourteen* days from the date of the issue of the order of detention in **FORM GST MOV-06,** the action under section 130

of the CGST Act shall be initiated by serving a notice in **FORM GST MOV-10,** proposing confiscation of the goods and conveyance and imposition of penalty**.**

MOV-08

And if all taxes, interest, penalty, fine and other lawful charges demanded by the proper officer are duly paid within ~~*seven*~~ *fourteen* days of the date of detention being made in writing by the said proper officer, this obligation shall be void.

MOV-09

10. You are hereby directed to make the payment forthwith/not later than ~~*seven*~~ *fourteen* days from the date of the issue of the order of detention in **FORM GST MOV-06**, failing which action under section 130 of the Central/State Goods and Services Tax Act /section 21 of the Union Territory Goods and Services Tax Act or section 20 of the Integrated Goods and Services Act shall be initiated.

Circular No. 38/12/2018 dated 26.03.2018

2. As per clause (68) of section 2 of the CGST Act, 2017, "job work" means any treatment or process undertaken by a person on goods belonging to another registered person and the expression "job worker" shall be construed accordingly. The registered person on whose goods (inputs or capital goods) job work is performed is called the "Principal" for the purposes of section 143 of the CGST Act. The said section which encapsulates the provisions related to job work, provides that the registered principal may, without payment of tax, send inputs or capital goods to a job worker for job work and, if required, from there subsequently to another job worker and so on. Subsequently, on completion of the job work (by the last job worker), the principal shall either bring back the goods to his place of business or supply (including export) the same directly from the place of business/premises of the job worker within *the time specified under section 143*~~*one year in case of inputs or within three years in case of capital goods (except moulds and dies, jigs and fixtures or tools)*~~.

3. It may be noted that the responsibility of keeping proper accounts of the inputs and capital goods sent for job work lies with the principal. Moreover, if the time frame *specified under section 143*~~*of one year / three years*~~ for bringing back or further supplying the inputs / capital goods is not adhered to, the activity of sending the goods for job work shall be deemed to be a supply by the principal on the day when the said inputs / capital goods were sent out by him. Thus, essentially, sending goods for job work is not a supply as such, but it acquires the character of supply only when the inputs/capital goods sent for job work are neither received back by the principal nor supplied further by the principal from the place of business / premises of the job worker within *the specified time period (under section 143)* ~~*one/three years*~~ of being sent out. It may be noted that the responsibility for sending the goods for job work as well as bringing them back or supplying them has been cast on the principal.

6.1 Doubts have been raised about the requirement of obtaining registration by job workers when they are located in the same State where the principal is located or when they are located in a State different from that of the principal. It may be noted that the job worker is required to obtain registration only if his aggregate turnover, to be computed on all India basis, in a financial year exceeds the specified threshold limit *as specified in sub-section (1) of section 22 of the said Act, read with clause (iii) of the Explanation to the said section* ~~*(i.e. Rs 20 lakhs or Rs. 10 lakhs in case of special category States except Jammu & Kashmir)*~~ in case both the principal and the job worker are located in the same State. Where the principal and the job worker are located in different States, the requirement for registration flows from clause (i) of section 24 of the CGST Act which provides for compulsory registration of suppliers making any inter-State supply of services. However, exemption from registration has been granted in case the aggregate turnover of the inter-State supply of taxable services does not *exceed the specified threshold limit as specified in sub-section (1) of section 22 of the said Act, read with*

clause (iii) of the Explanation to the said section ~~Rs 20 lakhs or Rs. 10 lakhs in case of special category States except Jammu & Kashmir~~ in a financial year vide notification No. 10/2017 – Integrated Tax dated 13.10.2017. Therefore, it is clarified that a job worker is required to obtain registration only in cases where his aggregate turnover, to be computed on all India basis, in a financial year exceeds the threshold limit regardless of whether the principal and the job worker are located in the same State or in different States.

9.4.i. Supply of job work services: The job worker, as a supplier of services, is liable to pay GST if he is liable to be registered. He shall issue an invoice at the time of supply of the services as determined in terms of section 13 read with section 31 of the CGST Act. The value of services would be determined in terms of section 15 of the CGST Act and would include not only the service charges but also the value of any goods or services used by him for supplying the job work services, if recovered from the principal. Doubts have been raised whether the value of moulds and dies, jigs and fixtures or tools which have been provided by the principal to the job worker and have been used by the latter for providing job work services would be included in the value of job work services. In this regard, attention is invited to section 15 of the CGST Act which lays down the principles for determining the value of any supply under GST. Importantly, clause (b) of sub-section (2) of section 15 of the CGST Act provides that any amount that the supplier is liable to pay in relation to the supply but which has been incurred by the recipient will form part of the valuation for that particular supply, provided it has not been included in the price for such supply. Accordingly, it is clarified that the value of such moulds and dies, jigs and fixtures or tools may not be included in the value of job work services provided its value has been factored in the price for the supply of such services by the job worker. *~~It may be noted that if the job worker is not registered, GST would be payable by the principal on reverse charge basis in terms of the provisions contained in section 9(4) of the CGST Act. However, the said provision has been kept in abeyance for the time being.~~*

9.6 Thus, if the inputs or capital goods are neither returned nor supplied from the job worker's place of business / premises within the specified time period, the principal would issue an invoice for the same and declare such supplies in his return for that particular month in which the time period of one year / three years has expired. The date of supply shall be the date on which such inputs or capital goods were initially sent to the job worker and interest for the intervening period shall also be payable on the tax. If such goods are returned by the job worker after the stipulated time period, the same would be treated as a supply by the job worker to the principal and the job worker would be liable to pay GST if he is liable for registration in accordance with the provisions contained in the CGST Act read with the rules made thereunder. *~~It may be noted that if the job worker is not registered, GST would be payable by the principal on reverse charge basis in terms of the provisions contained in section 9(4) of the CGST Act. However, the said provision has been kept in abeyance for the time being.~~*

Further, there is no requirement of either returning back or supplying the goods from the job worker's place of business/premises as far as moulds and dies, jigs and fixtures, or tools are concerned.

Agenda Item 6(iv): Proposal for amendment in CGST Rules, 2017

In the Law Committee meeting held on 3rd – 4th January 2019, the Law Committee recommended minor amendment in the CGST Rules, 2017 to ease the process of refunds and to extend date of examination for GST Practitioners. The recommended amendment to CGST Rules along with the rationale is provided in Table below.

Table: Amendment in CGST Rules, 2017

Sl. No.	Proposed Amendment	Rationale
1	**Second Proviso to Rule 83(3):** *Provided further that no person to whom the provisions of clause (b) of sub-rule (1) apply shall be eligible to remain enrolled unless he passes the said examination within a period of [~~eighteen months~~ thirty months] from the appointed date.*	Only 1439 candidates out of 4106 candidates who have enrolled for GST Practitioner have cleared the examination. 723 candidates failed and 229 candidates did not appear for the examination. It may be noted that as per the said sub-rule, all such practitioners were required to clear the examination within a period of eighteen months from the appointed date i.e. by 31.12.2018. In view of the status of the result as well as still ongoing process of enrolment under said sub-rule, it is recommended that period of clearing this exam may be extended to 31.12.2019.
2	**Sub-clause (f) of Clause (2) of Rule 89:** Recommendation of the 31st GST Council for amendment in Sub-clause (f) of Clause (2) of Rule 89: *(f) a declaration ~~to the effect~~ by ~~that~~ the Special Economic Zone unit or the Special Economic Zone developer to the effect that it has not availed the input tax credit of the tax paid by the supplier of goods or services or both, in a case where the refund is on account of supply of goods or services made to a Special Economic Zone unit or a Special Economic Zone developer;* It is now proposed to amend in Sub-clause (f) of Clause (2) of Rule 89 as follows instead of what was approved earlier: *(f) a declaration to the effect that tax has not been collected from the Special Economic Zone unit or the Special Economic Zone developer ~~has not availed the input tax credit of the tax paid by the supplier of goods or services or both~~, in a case where the refund is on account of supply of goods or services made to a*	In the 31st GST Council minor amendment in the language of sub-clause (f) of Clause (2) of Rule 89 was recommended. On further discussion, it was observed that since this declaration was to be given by the supplier who is supplying goods or services to the SEZ unit or developer, the declaration should be limited to the fact that no tax has been collected on such transaction. As the supplier, cannot declare / certify on behalf of the SEZ unit or developer that no tax has been collected and no ITC has been availed. Further, if such declaration were to be provided by the SEZ Unit or developer then the supplier will have to take this declaration from the SEZ Unit or Developer and hence the overall process of refund will be delayed. Therefore, it is proposed that Rule 89(2)(f) may be amended to take such declaration from the supplier providing

	Special Economic Zone unit or a Special Economic Zone developer;	goods or services to the SEZ Unit or Developer only.
3	**Declaration under Rule 89(2)(f) in FORM RFD-01A:** *I hereby declare that tax has not been collected from the Special Economic Zone unit /the Special Economic Zone developer in respect of supply of goods or services or both covered under this refund claim ~~has not availed of the input tax credit of the tax paid by the applicant, covered under this refund claim.~~* *Signature* *Name –* *Designation / Status*	Amendment to **FORM RFD-01A** consequent to amendment in Sub-clause (f) of Clause (2) of Rule 89 above
4	**Sub-Rule (2) and (3) of Rule 91:** *(2) The proper officer, after scrutiny of the claim and the evidence submitted in support thereof and on being prima facie satisfied that the amount claimed as refund under sub-rule (1) is due to the applicant in accordance with the provisions of sub-section (6) of section 54, shall make an order in FORM GST RFD-04, sanctioning the amount of refund due to the said applicant on a provisional basis within a period not exceeding seven days from the date of the acknowledgement under sub-rule (1) or sub-rule (2) of rule 90.* *Provided that the order issued in **FORM GST RFD-04** is not required to be revalidated by the proper officer.* *(3) The proper officer shall issue a payment advice in **FORM GST RFD-05** for the amount sanctioned under sub-rule (2) and the same shall be electronically credited to any of the bank accounts of the applicant mentioned in his registration particulars and as specified in the application for refund.* *Provided that the payment advice in **FORM GST RFD-05** is required to be revalidated where the refund has not been disbursed within the same financial year in which the said payment advice was issued.* Sub-Rule (4) of Rule 92: *(4) Where the proper officer is satisfied that the amount refundable under*	Representations have been received from various formations about issues leading to delay in disbursement of refund. One such issue pertains to the need of revalidation of refund order i.e. **FORM RFD-04/06** in case of non-issuance of **FORM RFD-05** (payment advice) within a period of 3 months from the date of sanction order (**FORM RFD-04/06).** In this regard attention is drawn to the Rule 145 of the Receipt & Payments Rules, 1983, (R&P Rules for short) of the Government of India which reads as follows- ***Rule 145. Period of validity of refund order*** *— Unless otherwise provided by any law, rule or departmental regulation, an order for refund of revenue shall remain in force for a period of three months only from the date of its issue and no payment shall be made on its authority thereafter unless it is revalidated by the sanctioning authority.* It was further clarified by the O/o Pr. CCA vide letter dated 5.12.2018 that since the GST Law or Rules do not provide for re-validation of GST Refund orders, hence the provisions of Rule 145 of R&P Rules will be applicable . If any Payment Advice (**FORM RFD-05**) is not issued within 3 months of the issuance of the Refund Order (**FORM RFD-04/06**) then the refund order would be required to be re-validated in terms of the Rule 145 of R&P Rules.

	sub-rule (1) or sub-rule (2) is payable to the applicant under sub-section (8) of section 54, he shall make an order in ***FORM GST RFD-06*** *and issue a payment advice in* ***FORM GST RFD-05*** *for the amount of refund and the same shall be electronically credited to any of the bank accounts of the applicant mentioned in his registration particulars and as specified in the application for refund.* *Provided that the order issued in* ***FORM GST RFD-06*** *is not required to be revalidated by the proper officer:* *Provided further that the payment advice in* ***FORM GST RFD-05*** *is required to be revalidated where the refund has not been disbursed within the same financial year in which the said payment advice was issued.*	The above position of law is leading to delay in disbursement of refund. To streamline this and to align our provisions with the R&P Rules, it is proposed that following provisos may be added in rule 91 and 92 of the CGST Rules.

2. Accordingly, the approval of the GST Council is sought so that the above detailed amendments in the CGST Rules, 2017 may be carried out. *Pari materia* changes would also be required to be carried out in the respective SGST Rules. The notification carrying out the said amendments shall be issued after due vetting by the Union Law Ministry.

Agenda Item 7: Review of Revenue Position

In the 31st GST Council meeting held on 22nd December, 2018, revenue collection figures for September to November, 2018 were placed before the Council. The Table 1 below gives the details of revenue collected as Central Goods and Services Tax (CGST), State Goods and Services Tax (SGST), Integrated Goods and Services Tax (IGST) and Cess in the month of December, 2018.

Table 1*: GST revenue for December, 2018

(Figures in Rs. crore)

MONTH	Oct-18	Nov-18	Dec-18
CGST	16,464	16,812	16,442
SGST	22,826	23,070	22,459
IGST	53,419	49,725	47,936
Domestic	26,511	25,593	24,301
Imports	26,908	24,133	23,635
Comp Cess	8,000	8,031	7,888
Domestic	7,045	7,189	7,051
Imports	955	842	838
Total	**1,00,710**	**97,637**	**94,726**

*Figures rounded to nearest whole number

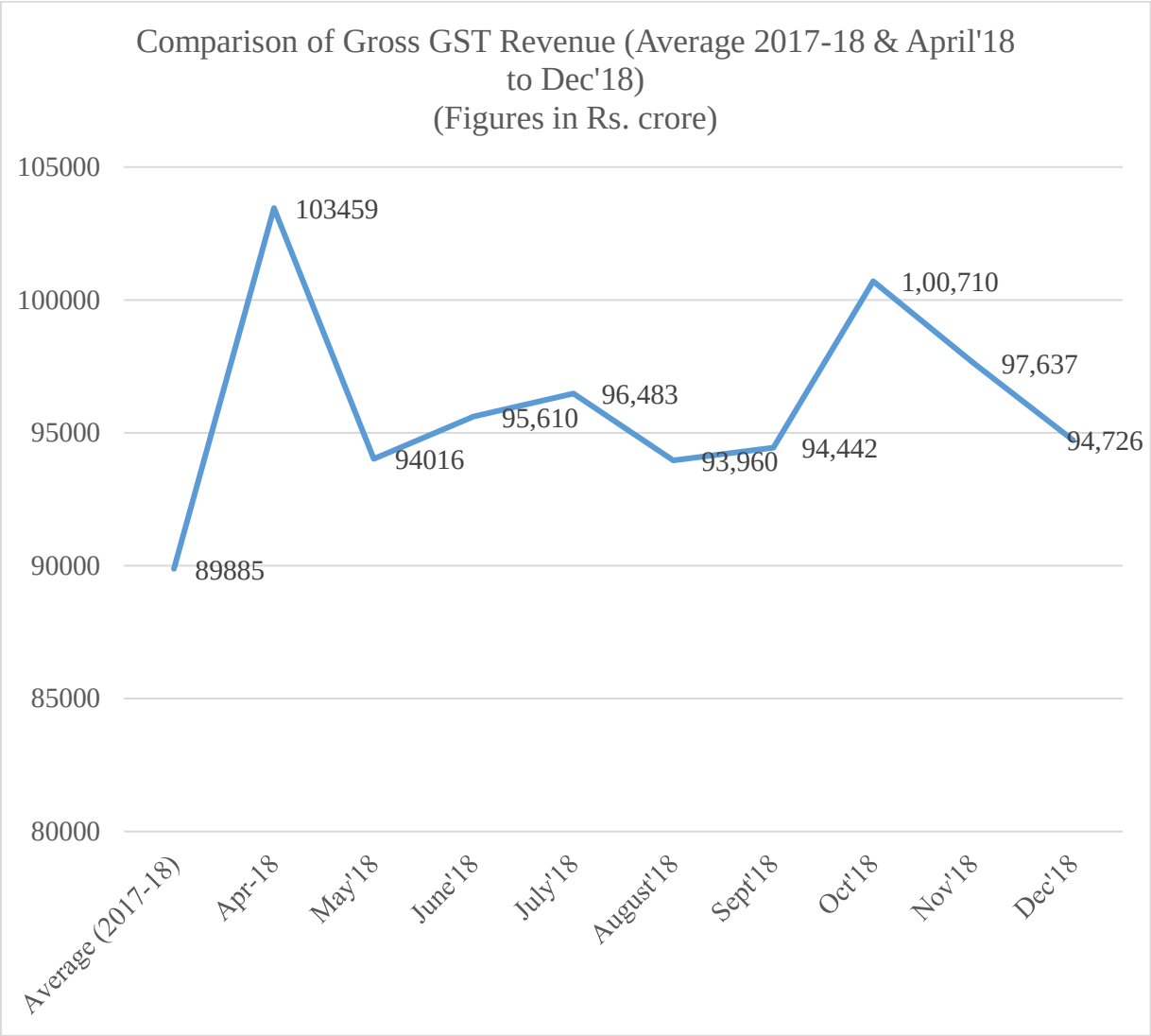
2. Table 2 below shows the IGST collected, refunded and settled/ apportioned during the period

Table 2: IGST Collection/Settlement/Apportionment/Refund in December'18

(Figures in Rs. crore)

Month	Oct-18	Nov-18	Dec-18
IGST Collections	53,419	49,725	47,936
IGST Refunds	5,864	7,813	6,096
IGST Settlement	62,589	33,966	51,202
CGST	17,486	18,262	18,409
SGST	15,103	15,704	14,793
CGST ad hoc	15,000	-	9,000
SGST ad hoc	15,000	-	9,000
Balance during year	**9,109**	**17,056**	**7,694**

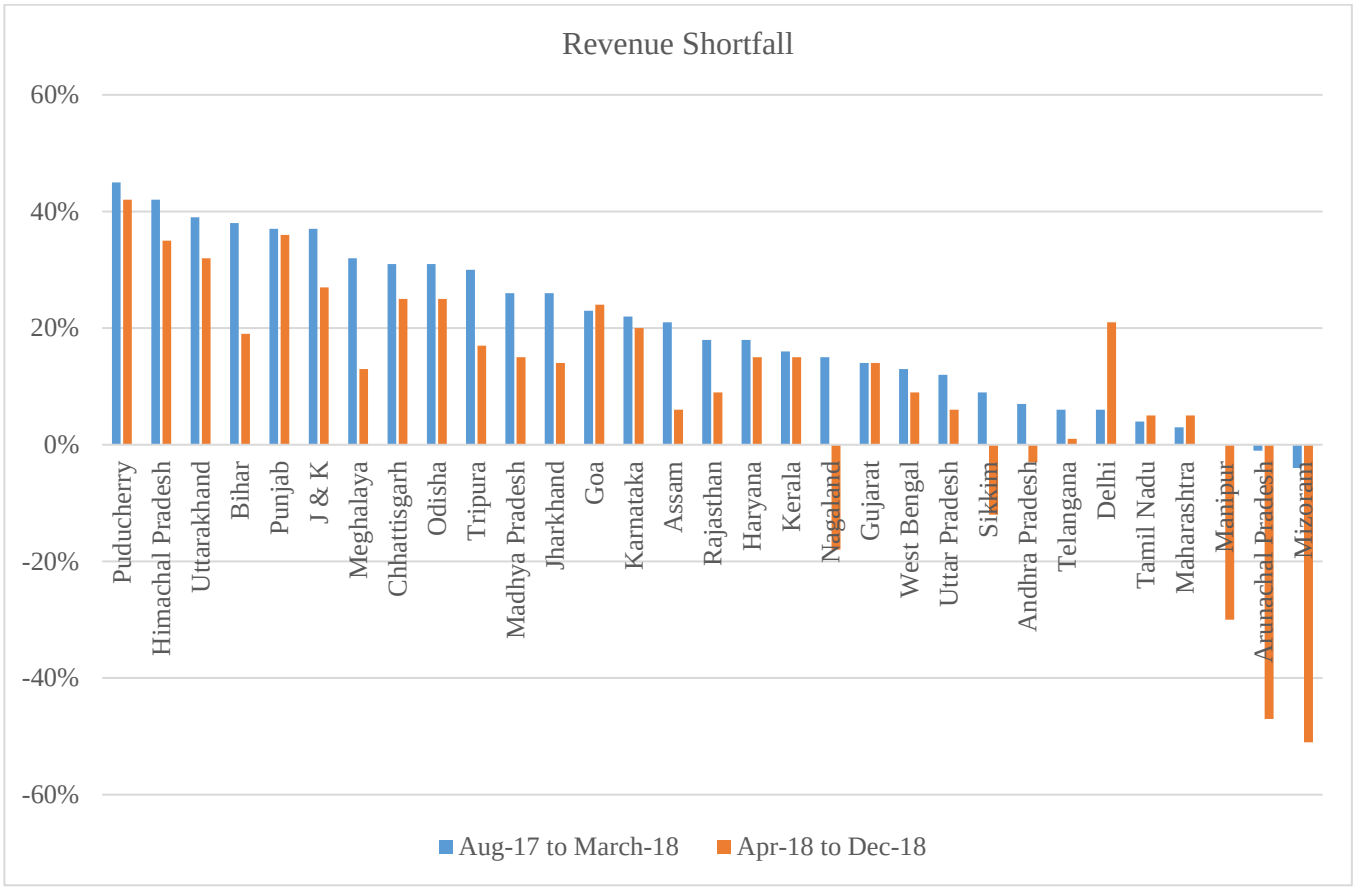
Figures rounded to nearest whole number


Comparison of Gross GST Revenue (Average 2017-18 & April'18 to Dec'18)
(Figures in Rs. crore)
105000
100000
95000
90000
85000
80000
89885
103459
94016
95,610
96,483
93,960
94,442
1,00,710
97,637
94,726
Average (2017-18)
Apr-18
May'18
June'18
July'18
August'18
Sept'18
Oct'18
Nov'18
Dec'18

Revenue Trends

3. The details of state-wise revenue to be protected and percentage revenue shortfall of GST collections between April-December, 2018 as compared to the period August-17 to March-18 are given in Table 3 below:

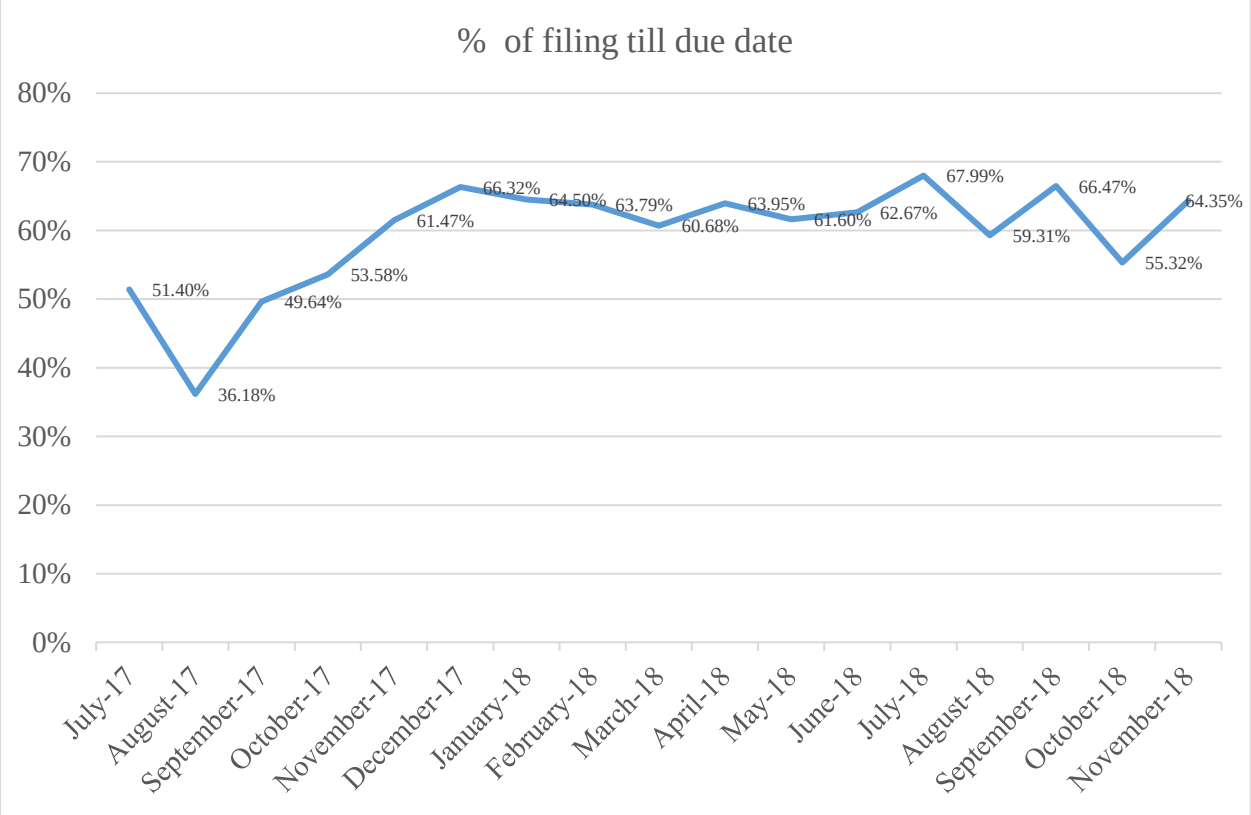
S. No.	State	Aug-17 to March-18	Apr-18 to Dec-18
1	Puducherry	45%	42%
2	Himachal Pradesh	42%	35%
3	Uttarakhand	39%	32%
4	Bihar	38%	19%
5	Punjab	37%	36%
6	J & K	37%	27%
7	Meghalaya	32%	13%
8	Chhattisgarh	31%	25%
9	Odisha	31%	25%
10	Tripura	30%	17%
11	Madhya Pradesh	26%	15%
12	Jharkhand	26%	14%
13	Goa	23%	24%
14	Karnataka	22%	20%
15	Assam	21%	6%
16	Rajasthan	18%	9%
17	Haryana	18%	15%
18	Kerala	16%	15%
19	Nagaland	15%	-18%
20	Gujarat	14%	14%
21	West Bengal	13%	9%
22	Uttar Pradesh	12%	6%
23	Sikkim	9%	-12%
24	Andhra Pradesh	7%	-3%
25	Telangana	6%	1%
26	Delhi	6%	21%
27	Tamil Nadu	4%	5%
28	Maharashtra	3%	5%
29	Manipur	0%	-30%
30	Arunachal Pradesh	-1%	-47%
31	Mizoram	-4%	-51%
	Grand Total	**16%**	**13%**


Revenue Shortfall
60%
40%
20%
0%
-20%
-40%
-60%
Puducherry
Himachal Pradesh
Uttarakhand
Bihar
Punjab
J & K
Meghalaya
Chhattisgarh
Odisha
Tripura
Madhya Pradesh
Jharkhand
Goa
Karnataka
Assam
Rajasthan
Haryana
Kerala
Nagaland
Gujarat
West Bengal
Uttar Pradesh
Sikkim
Andhra Pradesh
Telangana
Delhi
Tamil Nadu
Maharashtra
Manipur
Arunachal Pradesh
Mizoram
Aug-17 to March-18
Apr-18 to Dec-18

Trends in Return Filing

4. The table 4 below shows the trend in returns in FORM GSTR-3B till due date and till date for return periods upto November, 2018

Tax Period	Taxpayers eligible to file	Filed till due date	% till due date of filing	Filed till date 3rd Jan, 2019	% till date 3rd Jan, 2019
Jul-17	74,61,214	38,34,877	51.40%	65,22,950	87.42%
Aug-17	75,32,807	27,25,183	36.18%	70,76,360	93.94%
Sep-17	79,25,831	39,34,256	49.64%	74,00,449	93.37%
Oct-17	81,54,303	43,68,711	53.58%	71,35,996	87.51%
Nov-17	79,92,517	49,13,065	61.47%	71,70,724	89.72%
Dec-17	81,82,277	54,26,278	66.32%	72,27,719	88.33%
Jan-18	83,63,437	53,94,018	64.50%	73,10,247	87.41%
Feb-18	85,45,661	54,51,004	63.79%	73,98,778	86.58%
Mar-18	87,08,493	52,83,962	60.68%	74,60,566	85.67%
Apr-18	88,17,798	56,38,813	63.95%	74,29,626	84.26%
May-18	91,22,309	56,18,925	61.60%	75,17,863	82.41%
Jun-18	93,16,710	58,39,034	62.67%	75,55,632	81.10%
Jul-18	94,70,282	64,39,259	67.99%	75,59,211	79.82%
Aug-18	96,15,273	57,02,349	59.31%	75,45,416	78.47%
Sep-18	96,57,239	64,19,403	66.47%	74,52,775	77.17%
Oct-18	97,57,664	53,98,369	55.32%	72,04,912	73.84%
Nov-18	9,846,645	6,336,787	64.35%	7,203,476	73.16%



5. Till now, the highest level of return filing was observed for December, 2017 and after that, a downward trend was being observed. However, for July, 2018, highest level of return filing till now, at 68% has been observed. The next two tables show the State-wise breakup of this data.

Table 5: Return filling due date

State Code	State/UT Name	Apr 18	May 18	Jun 18	Jul 18	Aug 18	Sep 18	Oct 18	Nov 18
1	Jammu and Kashmir	60%	59%	59%	64%	59%	63%	59%	61%
2	Himachal Pradesh	69%	67%	65%	72%	63%	70%	66%	68%
3	Punjab	80%	78%	76%	82%	74%	79%	75%	76%
4	Chandigarh	75%	73%	73%	79%	69%	78%	73%	75%
5	Uttarakhand	59%	58%	57%	63%	56%	63%	57%	61%
6	Haryana	70%	69%	68%	73%	63%	71%	64%	67%
7	Delhi	64%	64%	63%	68%	59%	66%	59%	62%
8	Rajasthan	68%	67%	65%	71%	63%	71%	64%	68%
9	Uttar Pradesh	71%	70%	68%	73%	66%	73%	67%	70%
10	Bihar	55%	54%	53%	60%	54%	58%	52%	57%
11	Sikkim	55%	54%	54%	62%	54%	58%	52%	55%
12	Arunachal Pradesh	30%	30%	30%	36%	31%	35%	32%	34%
13	Nagaland	30%	33%	34%	41%	37%	41%	36%	39%
14	Manipur	34%	33%	31%	44%	38%	43%	37%	37%
15	Mizoram	42%	42%	42%	47%	44%	48%	43%	44%
16	Tripura	56%	56%	56%	64%	58%	61%	59%	61%
17	Meghalaya	48%	49%	51%	57%	53%	57%	54%	54%
18	Assam	41%	42%	42%	48%	41%	44%	42%	44%
19	West Bengal	67%	65%	65%	70%	62%	67%	64%	67%
20	Jharkhand	59%	58%	58%	66%	58%	63%	57%	61%
21	Odisha	58%	54%	54%	62%	52%	59%	56%	57%
22	Chhattisgarh	52%	51%	52%	62%	51%	59%	51%	57%
23	Madhya Pradesh	60%	61%	61%	69%	60%	67%	61%	66%
24	Gujarat	72%	72%	71%	76%	68%	75%	67%	73%
25	Daman and Diu	62%	63%	62%	69%	58%	67%	59%	62%
26	Dadra and Nagar Haveli	61%	61%	61%	66%	56%	65%	57%	60%
27	Maharashtra	62%	61%	61%	67%	56%	65%	59%	63%
29	Karnataka	62%	62%	62%	67%	60%	65%	61%	63%
30	Goa	56%	56%	56%	61%	52%	60%	55%	55%
31	Lakshadweep	25%	22%	22%	22%	21%	24%	20%	25%
32	Kerala	59%	58%	58%	55%	40%	62%	52%	58%
33	Tamil Nadu	59%	59%	59%	63%	57%	62%	57%	62%
34	Puducherry	58%	57%	58%	63%	54%	63%	55%	58%
35	Andaman & Nicobar Islands	23%	24%	27%	32%	25%	30%	25%	27%
36	Telangana	56%	55%	54%	60%	49%	57%	54%	57%
37	Andhra Pradesh	60%	61%	60%	67%	57%	63%	61%	63%
97	Other Territory	54%	55%	65%	71%	60%	77%	68%	68%

Table 6: Return filling till date (03/01/2019)

State Code	State/UT Name	Apr 18	May 18	Jun 18	Jul 18	Aug 18	Sep 18	Oct 18	Nov 18
1	Jammu and Kashmir	83%	81%	80%	78%	77%	75%	71%	70%
2	Himachal Pradesh	87%	84%	83%	82%	81%	79%	77%	76%
3	Punjab	92%	90%	89%	89%	88%	87%	85%	85%
4	Chandigarh	89%	88%	88%	88%	88%	87%	85%	84%
5	Uttarakhand	80%	79%	77%	76%	74%	73%	70%	70%
6	Haryana	87%	86%	85%	83%	82%	80%	77%	76%
7	Delhi	84%	83%	81%	79%	78%	77%	73%	72%
8	Rajasthan	86%	84%	82%	81%	80%	80%	76%	76%
9	Uttar Pradesh	87%	86%	84%	83%	82%	81%	78%	78%
10	Bihar	79%	77%	75%	73%	72%	70%	66%	66%
11	Sikkim	83%	82%	79%	78%	76%	73%	67%	65%
12	Arunachal Pradesh	62%	60%	57%	55%	52%	48%	42%	41%
13	Nagaland	64%	63%	61%	59%	57%	54%	49%	45%
14	Manipur	65%	64%	62%	60%	57%	54%	49%	47%
15	Mizoram	71%	69%	67%	65%	63%	60%	54%	49%
16	Tripura	79%	78%	76%	75%	74%	72%	69%	68%
17	Meghalaya	75%	74%	73%	71%	70%	67%	63%	60%
18	Assam	68%	66%	64%	62%	60%	58%	54%	53%
19	West Bengal	86%	84%	82%	81%	80%	78%	74%	74%
20	Jharkhand	84%	82%	81%	79%	78%	76%	72%	71%
21	Odisha	79%	76%	74%	73%	72%	70%	66%	66%
22	Chhattisgarh	84%	81%	81%	80%	78%	75%	70%	70%
23	Madhya Pradesh	87%	85%	84%	84%	82%	81%	77%	76%
24	Gujarat	90%	88%	87%	86%	85%	84%	81%	81%
25	Daman and Diu	86%	85%	84%	82%	81%	78%	74%	73%
26	Dadra and Nagar Haveli	86%	84%	83%	81%	79%	76%	71%	70%
27	Maharashtra	83%	81%	80%	78%	77%	75%	71%	70%
29	Karnataka	83%	81%	80%	78%	77%	75%	72%	72%
30	Goa	80%	78%	76%	75%	73%	71%	66%	64%
31	Lakshadweep	38%	37%	35%	34%	32%	29%	27%	28%
32	Kerala	87%	86%	84%	83%	81%	79%	75%	73%
33	Tamil Nadu	79%	77%	76%	75%	74%	73%	71%	71%
34	Puducherry	81%	79%	77%	77%	75%	73%	70%	69%
35	Andaman & Nicobar Islands	57%	55%	52%	49%	47%	43%	37%	36%
36	Telangana	82%	80%	78%	77%	75%	73%	70%	70%
37	Andhra Pradesh	84%	82%	81%	80%	80%	79%	76%	74%
97	Other Territory	81%	80%	82%	82%	81%	79%	76%	77%

6. The revenue position for the months of October, November, December 2018 under GST is placed for information of the Council.

Agenda Item 8: Allowing ITGRC to consider non-technical issues (errors apparent on the face of record)

The GST Council, in its 26th meeting held on 10th March 2018, approved setting up of a Grievance Redressal Mechanism to address IT issues or IT glitches where owing to glitches of GSTN, relief was needed to be given to a section of taxpayers such as allowing filing of any Form or Return prescribed in law or amending any Form or Return that has already been filed.

2. The Council authorized the GIC (GST Implementation Committee) to act as ITGRC (IT Grievance Redressal Committee) with participation of CEO, GSTN and the DG(Systems), CBIC. As per Circular 39/13/2018 dated 03.04.2018, IT Grievance Redressal Mechanism was put in place. However, GSTN is receiving various references through nodal officers and Writs in High Courts where non-technical issues were involved. The ITGRC could not recommend such cases, as it was empowered to take decision only in the cases of technical glitches. Further, TRAN1/TRAN2 cases are unique in nature as no appeal mechanism is available under GST Act, hence more and more taxpayers are approaching the Hon'ble High Courts and obtaining favourable orders in view of the fact that Hon'ble Courts were sympathetic and were of the view that bona fide errors of taxpayer should be considered by the Government.

3. In some cases, Hon'ble High Courts have given specific directions to take up the cases as per grievance redressal mechanism due to the fact that taxpayer had made some clerical mistakes apparent from records while filing TRAN 1. The ITGRC was of the view that a Standard Operating Procedure for dealing with representation of taxpayers relating to non-IT issues needed to be evolved.

4. In its 3rd meeting held on 26th October 2018, the ITGRC recommended that the issue may be discussed by the Council and ITGRC may be empowered to consider and decide the cases for extending the benefit of allowing filing of any Form or Return prescribed in law or amending any Form or Return already filed for bona fide non-technical mistakes of the taxpayers.

5. Subsequently, a draft Agenda Item was prepared by the GST Council Secretariat. The draft agenda item was discussed in the Law Committee Meeting on 10.12.2018 which recommended that expanding the mandate of ITGRC would amount to allowing revision of TRAN 1 in specific cases for which there is no provision in law. Consequently, the agenda item was not placed before the GST Council in its 31st Meeting.

6. However, while reviewing the decisions of the ITGRC, the GST Council was apprised of the matter and the Council decided that the issue needs further examination in the next meeting of the Law Committee, with participation from other States which are not members of the Law Committee.

7. Accordingly, in the combined meeting of the Law Committee and Fitment Committee, along with participation of officers from the States of Andhra Pradesh, Chattisgarh, Haryana, Karnataka, Tamil Nadu and Telangana, in its meeting held on 04.01.2019 felt that the scope of the IT-GRC may be extended to consider TRAN-1 cases where the following conditions are satisfied: -

i. The Hon'ble High Court has ordered the case to be considered on merit;
ii. TRAN-1, including revision thereof, has been filed on or before 27th December, 2017 and there is an error apparent on the face of the record (such cases of error apparent on the face of the record will not cover instances where the there is a mistake like wrong entry of an amount e.g. Rs.10,000/- entered for Rs.1,00,000/-); and

iii. The case should be recommended to the IT-GRC through GSTN by the concerned jurisdictional Commissioner or an officer authorised by him in this behalf (in case of credit of central taxes/duties, by the Central authorities and in the case of credit of State taxes, the State authorities, notwithstanding the fact that the taxpayer is allotted to the Central or the State authority).

8. Accordingly, the GST Council may authorise ITGRC to look at those cases where it has already taken a decision based on the consideration that it is an issue of non-IT glitch, if it fulfils the conditions stated in Paragraph 7. The GST Council may also authorize the ITGRC to evolve a Standard Operating Procedure (SOP) to deal with non-technical issues that are referred to it within an appropriate time window.

Agenda Item 9: Use of Radio-frequency Identification (RFID) data for strengthening enforcement of e-Way bill system under GST

A. Background

In the 30th GST Council Officers' Meeting held on 28th Sep.2018, the Union Finance Secretary, tasked GSTN with studying the RFID based systems in use for vehicle tracking by various State Tax Departments and to make recommendations on an interoperable system across the country for smooth sharing of information of E-Way Bills with the State authorities on a real time or near real time basis. GSTN was further asked to evaluate various challenges and bottlenecks involved in integration of RFID based vehicle tracking systems with the E-way Bill system and recommend measures so as to move from current practice of physical verification of every vehicle to interception and verification based on risk assessment.

2. Another Committee headed by Dr John Joseph, Member CBIC was constituted earlier to come up with an operational plan for achieving the objective of harmonizing the track and trace efforts of the different stakeholders. The Committee co-opted NHAI (National Highways Authority of India), IHMCL (Indian Highways Management Company Limited), NPCI (National Payments Corporation of India), GSTN, NIC and DMIDC (Delhi–Mumbai Industrial Corridor Project) and has submitted its report on "Integration of FAST-ag program of NHAI with e-way bill mechanism and integration of LDB (Logistics Data Bank) program of DMIDC with customs E-seal program of CBIC & FAST-ag program". The said report covers in detail the National Electronic Toll Collection (NETC) programs and use of RFID technology for the same and how the FAST-ag infrastructure of NHAI/NCPI can be used for e-way bill tracking thus avoiding additional expenses on separate RFID tags and the readers. The Committee has recommended use of FASTag and sharing of data by NPCI with E-Way Bill system for which required technical details have also been worked out by the Committee.

3. Dr. John Joseph Committee studied the apparent mutual benefits to Central and State Governments and the FASTag program that could accrue on account of integration and recommended that it was logical to adopt the FASTag for the following reasons:

i. FASTag has already touched 25% penetration of toll collection (in value) in just 18 months of operation and it would be the most preferred way of paying toll in future, especially for the commercial vehicles.
ii. FASTag infrastructure was already existent at the National Highway toll plazas and soon State Highways would also be joining the program.
iii. By using FASTag infrastructure, GSTN/DMIDC/State VAT administrations can
    a. save the expenses of creating a parallel RFID infrastructure.
    b. FASTag data when merged with E-Way Bill data, can be intelligently analysed to generate alerts for probable violations of GST.
iv. Trade users and suppliers of FASTag programme, will get benefit of
    a. tracking the movement of goods, leading to its (FASTag) greater acceptability.
    b. Increased average speed of Commercial Vehicles leading to increased productivity.
    c. track and trace of the complete supply chain under one ambit which would bring in the much-required efficiencies in the supply chain.
v. The Central Government would benefit by way of:

a. Removal of the redundant infrastructure i.e. additional cost and operational inefficiencies.
b. The analytical reports provided by the LDB system to the customs would aid various related parties to take informed decisions related to diversions, idle time, etc.
c. Facilitating Government's ambitious project of integrating the entire supply chain and providing a holistic picture.
d. further aid in improvement of ease of doing business and improved Logistics Performance Index (LPI) to a large extent
e. The integration of LDB system with Custom's E-seal has high level of synergies, as both the systems are concerned with the movement of Container. Similarly, enhanced efficiency could be expected by resource sharing between LDB and FASTag programme.

4. **Recommendation of the Committee:** The Committee went on to further recommend that
a. It was logical to adopt the FASTag for the integration of the eWay Bill system with it
b. for greater efficiency across the Indian Logistics Industry apart from the DLD's LDB system, Custom's E-Seal System and NHAI's FASTag to be integrated on one platform, other players of the logistics ecosystem would also have to be brought on board, viz. the Port (including ICD, CFS, Air Cargo, etc.) community and FOIS programme of Indian Railways.
c. This proposed integration would have operational and technical challenges which are expected to be significantly more complex. An Inter-Ministerial Committee (IMC) duly aided by technical experts would be able to come up with a comprehensive implementable road map.

5. Thus, Dr Joseph Committee had dwelt upon the aspect of benefits of the integration of FASTag with various Data Bases concerned with tracking and tracing the consignments. Further, as per paragraph 4 (c) above, GSTN has prepared a report to apprise the GST Council of the technical methods to be adopted for the gainful use of integrated RFID and eWay bill Data, in view of existing attempts/ work in progress by some of the States of integrating the eWay Bill DB with the RFID systems; and to seek approval of the Council for the same.

B. Use of RFID Systems by State Tax Administration

6. A study was conducted on States that have already implemented some system of monitoring of vehicle movement using RFIDs. These States are Uttar Pradesh, Karanataka and Maharashtra. A brief overview of the systems adopted by them is given below and a summary of the same is enclosed as **Annexure – I** to this proposal.

Uttar Pradesh

7. UP GST Department have made it mandatory for all commercial vehicles moving through UP to sport the RFID tag from 1 Nov. 2018. The Government has mandated use of only those RFID tags and readers, which follow the prescribed standards of MoRTH, Govt of India. The readers installed by them is capable of reading details about vehicle from their own validated RFID tags as well as Fast-tags. However, the converse is not true. The fast-tag readers installed at toll plazas of NHAI cannot retain the captured details of RFID tags other than Fast-tag.

7.1. The near real time interception of vehicle by mobile squad takes place on the basis of red-flagged vehicle number in Mobile Management System (MMS) received through RFID readers. MMS maintains details of frequent defaulter details with respect to four main parameters viz Vehicle Number; Transporter Details; Supplier Details and Recipient Details. They maintain this database through direct input by field officers who intercept vehicles and take action against them. Accordingly, they have red-flagged vehicles, transporters, suppliers and recipient through their MMS functionality.

7.2. UP State has established a Monitoring Center at the State Commissioner's office. There are approx. 150 mobile vans that ply within the State and perform mobile checks on commercial vehicles. The monitoring center is able to view the location of these mobile patrols on a map that is displayed on a video wall. Some of the mobile patrol vehicles even have three cameras that are able to view the front, rear and within the mobile patrol activities, for transparency. The monitoring center can also directly converse with the mobile patrol.

7.3. When they get the e-way bill information (presently it takes around 4 to 5 days), they view the additional information with respect to supplier details, recipient details and transporter details corresponding to that particular vehicle number. Therefore, no real time interception of vehicles on the basis of red-flagged transporters, recipients and supplier derived from e-way bill system is done now. However, they are using this information in cross checking return details and accordingly planning raid on their premises if any anomalies found.

Maharashtra

8. In Maharashtra, 24 Border Check Posts were established in pre-GST era. Even though it was envisaged as an Integrated Project for Department of Transport, Department of Sales Tax (now, Department of GST) and Department of State Excise, joined the same. Maharashtra Border Check Posts Network Limited (MBCPNL), a Special Purpose Vehicle (SPV), was formed to Build, Operate and Transfer (BOT) 24 modernized and computerized Integrated Border Check Posts. Out of this, 18 Border Check Posts are functional as on today. RFID readers are installed at all these locations to track movement of vehicles. RFID tags are provided to all commercial vehicles crossing the Border Check Posts, free of cost.

8.1. As per the information obtained from MBCPNL, 60% of vehicles crossing the Border Check Posts are equipped with RFID tags installed on them. MBCPNL, through API, shares RFID data with E-Way Bill System, as part of the pilot project. As per DDG, NIC, the data is flowing smoothly from 18 Border Check Posts to EWB System from 10-09-2018. NIC integrates RFID data with e-way bill data. NIC has developed a separate dashboard https://dashboard.ewaybillgst.gov.in/ewb_rfid/ wherein Reports are currently available under three headings – Summary, RFID Reader and Vehicle.

8.2. In Maharashtra, the current policy is not to have permanent flying squads for interception of vehicles and inspection of goods, under the e-way bill rules. The emphasis of the State is to use technology in the most optimal way so that the risks of potential tax evasion can be averted through a prudent electronic monitoring system.

Karnataka

9. Commercial Taxes Department, Karnataka with the association of National Informatics Centre, Bangalore started working on the RFiD technology usage in the road vigilance activities. The aim of the project was to explore to use the unmanned RFiD readers on the roads to monitor the movement of the vehicles.

9.1. One year back, the Proof of Concept (PoC) was done for the same by installing the RFiD readers and antennas at one of the national highways, and capturing the RFID tag details and storing the data at the central server. This experiment has been done, as there could be some roads where there cannot be tollbooths or check posts, but still the vehicles movement could be there. This PoC has been done to find out the challenges in installing and managing the unmanned RFiD readers and antennas.

9.2. Reports being generated or planned for use by tax officers

i. Summary of RFiD data received from different locations for given data range
ii. Details of RFiD received from (vehicles passed at) the selected location for given time period
iii. Details of the Vehicle passed (RFiD received) at different locations for given dates.

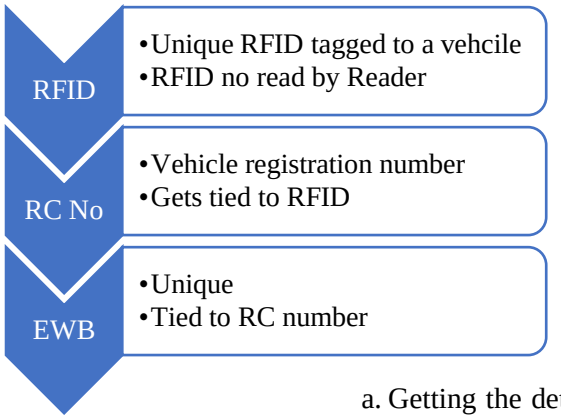
9.3. They also know the directions based on the RFiD installation location.

C. How RFID data could be used by E-Way Bill System

10. Radio Frequency Identification Technology (RFID) based highway toll collection system is closest example of how RFID data could be used by e-way bill system. RFID based Electronic Toll Collection (ETC) system has the following components: -

i. RFID tag is mounted on the vehicle's windscreen.
ii. As the vehicle reaches the toll plaza, a unique identification number that is embedded on the tag is read by roadside RFID reader.
iii. In one type of system, the amount pre-fed in the tag gets deducted and the boom barrier opens.
iv. In another case, the unique number of tag is sent to a central computer (RFID Server).
v. Applicable toll amount is deducted from a prepaid account that is linked to that particular Tag.

10.1. The RFID tag is attached to one vehicle, which has a unique registration number granted by transport authorities. The e-way bill generated on EWB System has one-to-one relationship with the Vehicle Registration Number. Thus, there is unique one-to-one relationship between RFID tag, RC number and EWB number.



10.2. Thus, getting the unique RFID number from RFID reader, one can get RC number and EWB number if RFID number tagged to the vehicle is in the database of EWB/Consolidated EWB.

10.3. Once RFID number is read at a location, the details of location, date and time can be tagged with the reading and the combined data can be used in two ways:

a. Getting the details of EWB (whether it is valid, invoices attached to EWB and commodity details of invoice) in near real time and use the same to decide whether to stop the vehicle for inspection.
b. Take the data and analyse to find out discrepancies/misuse etc.

11. This presents two options for using this data.

Option 1: Offline Operation

12. In this option, the RFID read data would be transferred to e-way bill system, which will consume this data and generate various reports for the officers of the tax department. The RFID data is received by NPCI from all toll plazas at frequent intervals. The EWB System can then generate reports, few indicative ones are given below:

12.1. EWB generated against vehicle but no inter-state movement takes place during the life of the EWB;

i. EWB generated but while crossing the border, e-way bill validity expired or e -way bill was cancelled or e-way bill was rejected by Consignees;
ii. Commercial Vehicles crossing the Toll Plaza (border) without EWB;
iii. Vehicle having EWB but crossing border more than once before expiry of validity period on same EWB.
iv. The EWB rules 138(9) provides that an e-way bill cannot be cancelled if it has been verified in transit in accordance with the provisions of rule 138B. RFID data may also be considered as verification of the movement of goods and disallow the cancellation of EWBs whose movement is ascertained from RFID data received by EWB System.
v. A report of all ODC EWBs which do not register significant weight in the weigh-in-motion systems, may be generated as many cases of misuse of ODC facility which allows long travel time.

Option-2: Real Time Operation

13. Under this option, following steps will be taken where a separate team will be located downstream at a distance of 200 to 300 meters to stop a vehicle, if red flagged by the System:

A. RFID data will be passed on to a Computer system of GST department kept at the check post/toll plaza (GSTN/NIC will have to develop a software to take the data from RFID reader and take following steps. NPCI/NHAI will have to pass on this data to GST's PC kept at Toll Plaza. (It will make sense to pay some amount to NPCI to have this software installed on their computer rather than putting a new computer. The modalities can be worked out if Government decided to go for this option).

B. The GST Computer will make a call to the EWB Server and ask for validity of EWB and details of invoices linked to the EWB. (Internet will be required for this purpose).

C. In case EWB is invalid/expired/cancelled, information will be passed on to a team located 200 to 300 meters behind to enable them to stop that vehicle.

D. In case EWB is valid but tagged to sensitive commodity for which decision has been taken by department to check the vehicle, the information will go to the downstream team.

14. Comparison of both the Options are as follows:

Parameters	**Option -1**	**Option -2**
Whether vehicle can be stopped and checked in real time near the toll plaza where RFID reader is located	No	Yes
Availability of checking team at Toll Plaza to stop the vehicle	Not Required. Analysis will be done at the backend and action initiated based on report.	Required, 200 to 300 mts downstream as done in case of over-speed checking by traffic police.
Retrieval of EWB data from EWB System based on Vehicle RC number tagged to RFID in real time	No	Yes
Internet connectivity at Toll Plaza	Yes	Yes
Computer system and software for retrieving the EWB data from EWB System	No	Yes
Availability of parking space downstream the toll plaza for stopping the vehicles for checking	No	Yes
Separate IT Infrastructure at EWB System to handle lakhs of queries coming to it with vehicle number from toll plaza to retrieve EWB data	No	Yes

D. Recommendation:

15. Upon examination of two options given above, it is recommended that till sufficient infrastructure is put in place at Toll Plaza and IT infrastructure is installed at EWB system for real time retrieval of E-Way Bill for Vehicle Movement tracking and monitoring, first option of offline mode of using data for preparation of various analytical reports for use by the tax official may be adopted. More analytical reports will be prepared based on requirement of Tax Departments. The readiness of States to adopt Option-2 may be reviewed from time to time.

16. **Mandatory provisioning of RFID on all Commercial Vehicles**: As per Ministry of Highways and Road Transport Department, all commercial vehicles are supposed to be affixed with an RFID that conforms to the specifications notified by GoI Gazette notifications dated 02/11/17 and 08/11/17. These specifications have been termed as FAS-Tag. Government has mandated fitment of FAST-Tag to the new vehicles sold after 1st December 2017 – GSR 1361 (E).

16.1. It has also been mandated that FAST-Tag is mandatory for obtaining National Permit and proof of fitment – GSR643 (E). To ensure that commercial vehicles manufactured before 1/12/2017 have RFID Tags, GST Council may consider making it mandatory under GST Laws.

17. **Making FAST-Tag of NHAI/NCPI as the RFID Tag under GST**: National Payments Corporation of India manages retail payments and settlement systems in India and is responsible for running the National Electronic Toll Collection system in coordination with IHMCL. More than 35 lakh RFID tags have already been issued and thousands of FASTags are being issued every day. EWB System may ride on this infrastructure rather than creating new one, which will be expensive and time taking. FAST-Tag is presently operational at 440 + toll plazas across National Highways, and eventually would cover all Toll Plazas. These steps will lead to huge jump in the number of vehicles taking FASTag and thus NPCI should be directed to re-examine the cost of Tags and revise it downwards.

17.1. Use of FASTag will also ensure that all States adopt the same standard and methodology to ensure complete interoperability. This will ensure that States do not adopt a closed system leading to disparate systems in the country as then the information flow to a single system for enforcement (e.g. E Way bill system) would become complex and difficult. (The system adopted by UP is not reverse compatible with FASTag system).

17.2. Under the proposed system, data will be available centrally, which NIC can push to respective State/UT/ CBIC officials as per requirement. It would be easier to build and evolve necessary risk management parameters on common platform as per requirement of respective department of States and Centre.

18. To check movement of overloaded/oversized vehicles, system of weigh-in-motion is being gradually adopted instead of weighing vehicle on weigh bridges. NHAI is in the process of setting up weigh in motion devices at all toll plazas. The information could also be exchanged with NIC/GST System, as and when it becomes operational as the weight of vehicle could be used as one of the risk parameters. NHAI/NPCI may be mandated to share this information to enable EWB system to cross check data entered by taxpayers claiming to be moving over-size vehicle which is given much longer validity time.

19. It is recommended that at the time of reading at the tolls, the following details would be captured and provided by NPCI to the EWB system on near real time basis under Option-1:

a. State-code (to be managed at NIC end)
b. Toll-Id
c. FAST-Tag-Id
d. Vehicle no & Class
e. Date and time of reading of FAST-Tag

f. Direction of travel of the Vehicle
g. Weigh in Motion (WIM) data wherever available.

20. Considering the security aspect, since FASTag is primarily designed for toll collection, which is financial data and NPCI connects with Member Banks only through Secured Network (NPCINET), it is recommended that NPCI-NIC-GST System connectivity be established over MPLS leased lines. This would be provided by NPCI.

21. Accordingly, the recommendations of the report at **part D** above for Use of Radio-frequency Identification (RFID) data for strengthening enforcement of e-Way bill system under GST may be considered and approved before implementation.

Annexure 1

Uttar Pradesh.	Maharashtra	Karnataka
a. 41 RFID readers installed in the State can read FASTag data as well as their own RFID issued and implemented by TEKSON. b. So far 0.05 lakh RFIDs @ Rs.100/- per RFID have been distributed across the State. c. RFID reader captures mainly three details – vehicle number, time, location and integrates the data in the Mobile Management System of U.P. Government. d. The Mobile Management System contains details of frequent defaulters based on vehicle number, transporter details, supplier details and recipient details. e. RFID and MMS data are proposed to be used to throw up the instances where intervention would be required by the Mobile Squad. f. As many as 150 mobile vans have been put on the road which are monitoring centrally and have necessary equipment fitted into it. **Current Status:** There is a time gap of 4-5 days in getting eWB data and hence using it for risk profiling of entities based on RFID and eWB data comparison. **Limitation: Inter-operability-** RFID readers installed can read and retain FAST-ag data but not *vice-versa* **Advantage:** Real time enforcement intervention planned.	a. An integrated project for Department of Transport, Department of Sales Tax and Department of State Excise jointly known as Maharashtra Border Check Posts Network Limited (MBCPNL) had been envisaged through a Special Purpose Vehicle to build and operate 24 modernized and integrated border check posts. b. 18 out of 24 border check posts are functional which capture data out of RFIDs distributed free of cost. c. As per the data, 60% of the vehicles are equipped with RFID tags and MPCPNL shared data through API with EWB system run by NIC as part of pilot project. d. NIC has developed three reports – Summary, RFID reader and vehicle on the dash board ewbill.gst.gov.in/ewb_rfid. **Current Status:** The State has no permanent flying squads and emphasizes on use of technology in optimal way for risk profiling of entities. **Limitation:** Real time enforcement intervention not planned. **Advantage:** Data can be used for passive risk profiling of entities based on EWB data	a. Proof of Concept (PoC) was initiated a year back for capturing data on one national highway and storing the data at a central server with an aim to explore use of unmanned RFID reader to monitor movement of vehicles, b. Project focused on the roads where there were no toll booths or check posts, but still the vehicle movement was there. The focus of the first PoC was to find out the challenges in installing and managing unmanned RFID readers and antennae. The PoC has now been extended to four strategic locations as part of pilot project. c. Karnataka Tax Department is trying to explore all types of RFID data including FASTag. d. Reports are being generated for the use of the officers such as details of vehicles passed through reader, for a given data range. **Current Status:** Pilot project having been completed now, the API integration with the central server from these locations to central server is underway which would take three to four weeks' time. **Limitation:** Real time enforcement intervention not planned as of yet. **Advantage:** Data can be used for passive risk profiling of entities based on eWB data as well as the system can be upgraded for real time intervention

Agenda Item 10: Quarterly Report of the NAA (National Anti-profiteering Authority) for the quarter October to December 2018 for the information of the GST Council

The NAA (National Anti-profiteering Authority) had been constituted as per the provisions of Section 171 of the CGST Act 2017. Rule 127(iv) of the CGST Rules 2017 further mandates the NAA to furnish a performance report to the Council by the 10th day after the close of each quarter.

2. The NAA has forwarded Performance Report for the quarter ending 31.12.2018. The salient features of the report are as under:

2.1 During the period from 01.10.2018 to 31.12.2018, 41 investigation reports were received by the NAA from the Directorate General of Anti-Profiteering (DGAP) while they already had 29 investigation reports pending as on 30.09.2018 forwarded by the DGAP (**Annexure 1**).

2.2. During this period, out of these 70 investigation reports, NAA has passed Orders in 20 cases which were all unanimous. The summary of orders is as follows:

(a) Profiteering was established in 6 cases involving anti-profiteering amount of Rs. 542.59 crore. Major among these were the cases of M/s Hindustan Unilever Limited and M/s Hardcastle Restaurants Private Limited involving profiteering amount of Rs. 534.89 crore and Rs. 7.59 crore respectively;

(b) Profiteering was not established in 14 cases.

2.3 Thus, as on 01.01.2019, 37 investigation reports were pending disposal with the NAA while 13 cases were referred back to the DGAP for further investigation.

2.4 In addition, NAA also organized 3 Zonal meetings on Anti-profiteering at Varanasi (23rd November, 2018), Cochin (21-22 December, 2018) and Mumbai (28th December, 2018) all headed by the Chairman wherein the Central and State GST officers were present.

2.4 Also interactive sessions on GST Anti-profiteering was organized at Mumbai by CII (Confederation of Indian Industry) on 4th October, 2018. Further, 15th Annual India Tax Workshop was organized by CII at Goa on 24 – 25 October, 2018 which was attended by the Chairman, NAA.

2.5 As regards receipt of complaints at NAA, a total of 156 complaints were received with details as under:

NAA Portal	83
Email	44
Physical (by post)	13
Local Circle (An online portal for complaints and other consumer issues)	16

2.6. These complaints were forwarded to the respective Screening Committee/ Standing Committee where allegation of profiteering was there. The complaints relating to enforcement issue and where allegation related to tax-evasion etc., were forwarded to the respective Chief Commissioners for necessary action.

3. The Quarterly Report of the NAA for the quarter October to December 2018 is placed before the Council for the information.

Annexure 1

QUARTERLY PERFORMANCE REPORT OF NATIONAL ANTI-PROFITEERING AUTHORITY							
					Quarter from: 1st October to 31st December 2018		
S. No.	**Opening Balance**	**No. of Investigation Reports received from DGAP during the quarter**	**Disposal of cases (During the quarter)**				**Closing Balance**
			Total Disposal during quarter	**No. of cases where profiteering established**	**No. of cases where profiteering not established**	**No. of cases referred back to DGAP**	
1	29	41	33	6	14	13	37

2. The details of the 20 Orders passed by the Authority during the quarter October to December 2018 are as under: -

Sr. No.	Notice	Date of order	Amount of Profiteering (Rs. in lakh)
1.	Hindustan Unilever Ltd	24.12.2018	53489.00
2.	Hardcastle Restaurants Pvt Ltd	16.11.2018	759.37
3.	JP & Sons	6.12.2018	5.01
4.	Theco India	30.11.2018	4.78
5.	Kunj Lub Marketing	08.10.2018	0.90
6.	Harish Bakers & Confectioners	07.12.2018	0.15
7.	Amway India	29.10.2018	NIL
8.	Yum Restaurants (KFC)	29.10.2018	NIL
9.	Fabindia Overseas	16.11.2018	NIL
10.	Landmark Auto	17.12.2018	NIL
11.	Zeba Industries	17.12.2018	NIL
12.	AGL Tiles	24.12.2018	NIL
13.	PEPS Industries	24.12.2018	NIL
14.	Panasonic	24.12.2018	NIL
15.	Impact Clothing	24.12.2018	NIL
16.	Jansons India	27.12.2018	NIL
17.	Raj & Co.,	27.12.2018	NIL
18.	Lorenzo Vitrified Tiles	27.12.2018	NIL
19.	Ahuja Radios	27.12.2018	NIL
20.	Asian Paints	27.12.2018	NIL

3. Total 37 investigation reports are pending disposal with the NAA.