Confidential



Agenda for

37th GST Council Meeting

20 September 2019

Volume – 1



File No: 434/37th GSTCM/GSTC/2019
GST Council Secretariat

Room No.275, North Block, New Delhi
Dated: 26th August 2019

Notice for the 37th Meeting of the GST Council scheduled on 20th September 2019

The undersigned is directed to refer to the subject cited above and to say that the 37th Meeting of the GST Council will be held on 20th September 2019 at Double Tree by Hilton Goa, Panaji, Goa. The schedule of the meeting is as follows:

- Friday, 20 September 2019 : 11:00 hours onwards

2. In addition, an Officers' Meeting will be held on 19th September 2019 at the same venue as per following schedule:

- Thursday, 19 September 2019 : 11:00 hours onwards

3. The agenda items for the 37th Meeting of the GST Council will be communicated in due course of time.

4. Keeping in view the logistics constraints, it is requested that participation from each State may be limited to 2 Officers in addition to the Hon'ble Member of the GST Council.

5. Please convey the invitation to the Hon'ble Members of the GST Council to attend the 37th GST Council 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. Chairman, CBIC, North Block, New Delhi, as a permanent invitee to the proceedings of the Council.

5. Chairman, GST Network

Agenda Items for the 37th Meeting of the GST Council on 20th September 2019

1. Address/Presentation by the Chairman, Finance Commission regarding need for a consultative mechanism between the GST Council and the XV Finance Commission
2. Confirmation of the Minutes of 36th GST Council Meeting held on 27th July 2019
3. Deemed ratification by the GST Council of Notifications, Circulars and Orders issued by the Central Government
4. Decisions of the GST Implementation Committee (GIC) for information of the Council
5. Decisions/Recommendations of the IT Grievance Redressal Committee for information of the Council
6. Review of Revenue position
7. Issues recommended by the Law Committee for the consideration of the GST Council
    i. Proposal for extension of last date for filing of appeals against orders of Appellate Authority before the GST Appellate Tribunal due to non-constitution of benches of the Appellate Tribunal
    ii. Exemption to small taxpayers from filing of Annual Return
    iii. Issues pertaining to interpretation of Section 10 of the IGST Act, 2017
    iv. Restrictions in availing input tax credit in respect of outward supplies not furnished under section 37 of the CGST Act, 2017
    v. Proposed clarifications on refund related issues
    vi. E-way bill for movement of Gold
    vii. Proposed amendment to sub-rule (5) of rule 61 of the CGST Rules, 2017 relating to FORM GSTR-3B
    viii. Specifying the due date for furnishing of return in FORM GSTR-3B and details of outward supplies in FORM GSTR-1 for the period October- December, 2019
    ix. Proposal for amendments to CGST Rules, 2017
8. Issues recommended by the Fitment Committee for the consideration of the GST Council
9. Developments regarding implementation of GST EWB System – FASTag Integration
10. Presentation on fake invoice menace, fraudulent refund, etc.
11. Status of Implementation of New Return System
12. Status of integrated refund system with disbursal by single authority
13. Status and progress in generation of electronic Invoice
14. Linking GST registration with Aadhar and proposed changes in the GST Law and GSTN System
15. Update on change of share capital/ownership structure of Goods and Services Tax Network (GSTN) and transfer of shares of GSTN from Empowered Committee of State Finance Ministers (EC) & Non- Government Institution to Centre, State Governments & Union Territories
16. Minutes of 11th Meeting of Group of Ministers (GoM) on IT Challenges in GST Implementation for information of the Council and discussion on GSTN issues
17. Quarterly Report of the NAA for the quarter April to June 2019 for the information of the GST Council
18. Creation of the State and Area Benches of the Goods and Services Tax Appellate Tribunal (GSTAT)
19. Amendments in GST Laws in view of creation of UTs of Jammu & Kashmir and Ladakh
20. Special Composition Scheme for Brick kilns, Menthol, Sand Mining Activities and Stone crushers
21. Status of payment of Advance User Charges by the States and CBIC and interest on delayed payment
22. Any other agenda item with the permission of the Chairperson
23. Date of the next meeting of the GST Council

TABLE OF CONTENTS

Agenda No.	Agenda Item	Page No.
1	Address/Presentation by the Chairman, Finance Commission regarding need for a consultative mechanism between the GST Council and the XV Finance Commission	7
2	Confirmation of the Minutes of 36th GST Council Meeting held on 27th July 2019	8
3	Deemed ratification by the GST Council of Notifications, Circulars and Orders issued by the Central Government	33
4	Decisions of the GST Implementation Committee (GIC) for information of the Council	35
5	Decisions/Recommendations of the IT Grievance Redressal Committee for information of the Council (circulated separately in Volume 2)	-
6	Review of Revenue Position	41
7	Issues recommended by the Law Committee for the consideration of the GST Council i. Proposal for extension of last date for filing of appeals against orders of Appellate Authority before the GST Appellate Tribunal due to non-constitution of benches of the Appellate Tribunal ii. Exemption to small taxpayers from filing of Annual Return iii. Issues pertaining to interpretation of Section 10 of the IGST Act, 2017 iv. Restrictions in availing input tax credit in respect of outward supplies not furnished under section 37 of the CGST Act, 2017 v. Proposed clarifications on refund related issues vi. E-way bill for movement of Gold vii. Proposed amendment to sub-rule (5) of rule 61 of the CGST Rules, 2017 relating to FORM GSTR-3B viii. Specifying the due date for furnishing of return in FORM GSTR-3B and details of outward supplies in FORM GSTR-1 for the period October- December, 2019 ix. Proposal for amendments to CGST Rules, 2017	49 51 53 56 59 62 63 68 70
8	Issues recommended by the Fitment Committee for the consideration of the GST Council (to be circulated separately)	-
9	Developments regarding implementation of GST EWB System – FASTag Integration (to be circulated separately)	-
10	Presentation on fake invoice menace, fraudulent refund, etc.	81
11	Status of Implementation of New Return System	82
12	Status of integrated refund system with disbursal by single authority	84
13	Status and progress in generation of electronic Invoice	87
14	Linking GST registration with Aadhar and proposed changes in the GST Law and GSTN System	105
15	Update on change of share capital/ownership structure of Goods and Services Tax Network (GSTN) and transfer of shares of GSTN from Empowered Committee of State Finance Ministers (EC) & Non- Government Institution to Centre, State Governments & Union Territories	108

Agenda No.	Agenda Item	Page No.
16	Minutes of 11th Meeting of Group of Ministers (GoM) on IT Challenges in GST Implementation for information of the Council and discussion on GSTN issues	130
17	Quarterly Report of the NAA for the quarter April to June 2019 for the information of the GST Council	140
18	Creation of the State and Area Benches of the Goods and Services Tax Appellate Tribunal (GSTAT)	144
19	Amendments in GST Laws in view of creation of UTs of Jammu & Kashmir and Ladakh	146
20	Special Composition Scheme for Brick kilns, Menthol, Sand Mining Activities and Stone crushers	156
21	Status of payment of Advance User Charges by the States and CBIC and interest on delayed payment (to be circulated separately)	-
22	Any other agenda item with the permission of the Chairperson	-
23	Date of the next meeting of the GST Council	-

Discussion on Agenda Items

Agenda Item 1: Address/Presentation by the Chairman, Finance Commission regarding need for a consultative mechanism between the GST Council and the XV Finance Commission

Agenda Item 2: Confirmation of the Minutes of the 36th GST Council Meeting held on 27th July 2019

The 36th Meeting of the GST Council (hereinafter referred to as 'the Council') was held on 27th July 2019 through video conference under the Chairpersonship of the Hon'ble Union Finance Minister, Ms. Nirmala Sitharaman (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 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 36th Meeting of the Council:

1. Confirmation of the Minutes of the 35th GST Council Meeting held on 21st June 2019.
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. Issues recommended by the Fitment Committee for the consideration of the GST Council.

   (i) Changes in GST rate on electric vehicles and related supplies.
5. Any other agenda item with the permission of the Chairperson.
6. Date of the next meeting of the GST Council.

Preliminary discussion

3. Shri Satpal Maharaj, Hon'ble Minister from Uttarakhand, Shri Niranjan Pujari, Hon'ble Minister from Odisha, Thiru D. Jayakumar, Hon'ble Minister from Tamil Nadu, Dr. Amit Mitra, Hon'ble Minister from West Bengal, Shri Mauvin Godinho, Hon'ble Minister from Goa, Shri T.S. Singh Deo, Hon'ble Minister from Chhattisgarh, Shri Manpreet Singh Badal, Hon'ble Minister from Punjab and Shri K.K. Sharma, Advisor to Governor, Jammu & Kashmir greeted the Chairperson and Shri Anurag Singh Thakur, Minister of State (Finance), Government of India. The Chairperson also reciprocated the same. Shri Sushil Kumar Modi, Hon'ble Deputy Chief Minister of Bihar also congratulated the Chairperson for presenting a good Budget and stated that due to an urgent meeting on floods in Bihar, he might be excused early. The Chairperson assured that she would try to conclude the meeting in time.

After the preliminary discussions, the Hon'ble Chairperson requested Dr. Ajay Bhushan Pandey, the Union Revenue Secretary and the Secretary to the Council (hereinafter referred to as the Secretary) to take up the individual agenda items for consideration of the Council.

Agenda Item 1: Confirmation of the Minutes of the 35th GST Council Meeting held on 21st June 2019

4. The Secretary informed that there were 6 agenda items for consideration of the Council out of which the 1st agenda item was the confirmation of the Minutes of the 35th GST Council Meeting held on 21st June 2019. He stated that the Minutes of the 35th GST Council Meeting (hereinafter referred to as the Minutes) were circulated to all the States in advance and two minor corrections, which were editorial in nature, had been received from the States of Gujarat and Goa. He stated that if the Council agreed, these suggestions could be taken on record. The Chairperson asked whether all the members of the Council were aware of the corrections and if not, then they be informed of these suggested changes. The Secretary then requested Shri Shashank Priya, Joint Secretary, (JS) GST Council to read out the proposed corrections. The JS, GST Council read out the proposed corrections suggested by Dr P.D.

Vaghela, Chief Commissioner State Taxes (CCST) Gujarat in respect of paragraph 23.4 and by Hon'ble Minister from Goa in respect of para 27.25 as below:

a. CCST, Gujarat in his mail had suggested that in place of first three sentences in para 23.4 of the Minutes, following might be read: 'The CCST, Gujarat, stated that the FORM GSTR-9C allowed reconciliation between differences in the various returns filed. If this Reconciliation Statement was not available, the tax officers would otherwise, also raise numerous queries during audit. Therefore, taking Reconciliation Statement was in the interest of taxpayers. Also, during audit by AG, the differences and discrepancies would be brought out by the AG Audit Team. It was better that the taxpayer himself reconciled such differences.' The Council agreed to the suggestion.

b. CST, Goa in mail dated 26.7.2019 had suggested that in para 27.25 in place of 11th sentence at page no 29 of agenda being read as" It would be fair if bet amount was taxed, whereas as on date, it was being taxed on face value", it might be read as " It would be fair if net amount or Gross Gaming Revenue (GGR) was taxed, whereas as on date it was being taxed on face value". He had also stated in the mail that at page 30, for the last line of the para 27.25 being read as " the only proposal was that this matter should be referred to the Fitment Committee or the Law Committee so that the methodology and the tax on the only bet amount could be decided"; might be read as " the only proposal was that this matter could be referred to the Fitment Committee or the Law Committee so that the methodology and the tax on net amount or Gross Gaming Revenue (GGR) could be decided.'' The Council agreed to the suggestion.

4.1. The Hon'ble Finance Minister from West Bengal stated that he was unable to attend the last meeting of the Council and hence apologised for the same. He congratulated the Chairperson since he had met her for the first time after she became Union Finance Minister, a very important position. He stated that as regards the Minutes of the last meetings, Shri H.K. Dwivedi ACS, Finance, Government of West Bengal had stated some contra views, which were recorded very accurately on both occasions. He thanked the Council Secretariat and the Secretary for the same. The Chairperson and the Secretary also thanked the Hon'ble minister for acknowledging the same.

5. For **Agenda item 1**, the Council decided to adopt the Minutes of the 35th Meeting of the GST Council with the following changes:

5.1. To replace the version of CCST Gujarat at first three sentences in para 23.4 with the followings: "The CCST, Gujarat, stated that the FORM GSTR-9C allowed reconciliation between differences in the various returns filed. If this Reconciliation Statement was not available, the tax officers would otherwise, also raise numerous queries during audit. Therefore, taking Reconciliation Statement was in the interest of taxpayers. Also, during audit by AG, the differences and discrepancies would be brought out by the AG Audit Team. It was better that the taxpayer himself reconciled such differences.''

5.2. To replace the version of Hon'ble Minister from Goa in paragraph 27.25 at 11th sentence with the followings: "it would be fair if Gross Gaming Revenue (GGR) was taxed, whereas as on date it was being taxed on face value". Further in the same paragraph, the last sentence to be replaced with the following: "the only proposal was that, the matter could be referred to the Fitment Committee or the Law Committee so that the methodology and the tax on net amount or Gross Gaming Revenue (GGR) could be decided.''

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

6. The Secretary informed that, it was decided that the notifications, Circulars and Orders which were being issued by the Central Government with the approval of the competent authority should be forwarded to the GST Council Secretariat, for information and subsequent deemed ratification by the GST Council. Accordingly, in the 35th meeting held on 21st June, 2019, the GST Council had ratified all the notifications, circulars, and orders issued before the 12th June, 2019. Thus, the notifications, Circulars and Orders issued during 12th June, 2019 and 19th July, 2019, under the GST laws by the Central Government, as available on *www.cbic.gov.in*, were placed before the Council for information and ratification. He then requested Shri Upender Gupta, Principal Commissioner, (GST Policy Wing), CBIC to brief the Council about the agenda items so that discussion could be initiated. The Principal Commissioner (GST Policy Wing), CBIC, stated that these circulars and notifications were *interalia* related to extension of dates of various returns, procedure for export of jewellery, manner of utilization of Input Tax Credit, Place of Supply Rules etc. He further added that on 22nd July 2019, after the agenda was circulated, another circular was issued which was 109 of 2019 on 22nd July 2019 regarding issues related to Resident Welfare Association (RWA), might also be added for ratification by the Council. A presentation (attached as **Annexure 3** to the Minutes of the meeting) on it was mailed to all the States. The Secretary proposed that the Council might grant deemed ratification to the Notifications, Circulars and Orders. The Council agreed to the proposal.

7. For **Agenda item 2,** the Council approved the deemed ratification of the following Notifications, Circulars and Orders issued after 12th June, 2019 and till 19th July, 2019, under the GST laws by the Central Government, which are available on *www.cbic.gov.in*.

Act/Rules	Type	Notification/Circular/Order Nos
CGST Act/CGST Rules	Central Tax	25 to 34 of 2019
	Central Tax (Rate)	11 of 2019
UTGST Act	Union Territory Tax (Rate)	11 of 2019
IGST Act	Integrated Tax (Rate)	10 to 11 of 2019
Goods and Services (Compensation to States) Act, 2017	Compensation Cess (Rate)	1 of 2019
Circulars	Under the CGST Act	102 to 108 of 2019
ROD Orders	Under the CGST Act	6 of 2019

7.1. The Notifications, Circulars and Orders issued by the 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 decisions of GIC taken between 11th May, 2019 and 19th July 2019 were placed before the Council for information. He then asked Principal Commissioner, (GST Policy Wing), CBIC to brief the Council on the agenda item. The Principal Commissioner, (GST Policy Wing), CBIC stated that a presentation (attached as **Annexure-3** to the Minutes) in this regard had already been circulated by the GST Council Secretariat to all the States and might be taken on record.

8.1. The Hon'ble Minister from Odisha stated that GIC had issued some clarifications which were contradictory to the express provisions of the Statute and the Rules. He observed that the provisions of the Acts and the Rules could not be overruled by a Circular (as mentioned at page 94 of the circulated Agenda note). He stated that Section 11 of the Act read with Entry 77 of the Table to Notification No. 12/2017-CT (Rate) contained different provision than the clarification issued with the approval of GIC in case of Resident Welfare Association (RWA). It was well settled that the provisions of a notification or circular could not override the Act. Hence, if the circular was challenged in the Court of Law then the position of the Council and the GSTN would be at stake. Thus, clarifications should be issued after amending the law otherwise it would be capricious and bad in law. The Chairperson stated that it was a valid point and asked Shri Manish Sinha, Joint Secretary, TRU-II (JS, TRU-II) to respond on the issue raised. JS, TRU-II stated that he would need a written brief on the issue raised by Odisha which would be examined and responded to.

8.2. The Secretary stated that the circular was issued only after the GIC had approved and at the moment, the same could not be stayed. However, a written communication might be sent to the Council's Secretariat on the issue which could be examined and if required, the circular would be suitably amended. At the moment, the Circular having already been issued, was placed before Council for information. The JS, TRU-II also stated that if a formal letter could be sent by Odisha, they would examine and respond on the issue. Shri Ashok Meena, Finance Secretary, Odisha stated that he would send a note indicating the difference between the Circular and the Statute, which might be discussed, and final view be taken thereafter.

9. For **Agenda item 3,** the Council took note of the decision taken by the GIC between 11th May, 2019 and 19th July, 2019.

Agenda Item 4: Issues recommended by the Fitment Committee for the consideration of the GST Council:

Agenda Item 4 (i): Changes in GST rate on electric vehicles and related supplies

10. The Secretary introduced the agenda and stated that the agenda note was earlier placed before the 35th GST Council containing proposal to reduce GST rates on the supply of electric vehicle, electric vehicle chargers and exemption from GST rate on hiring of electric buses by local authorities. Thereafter, as per the 35th GST Council meeting decision, it had been examined by the Fitment Committee also and the recommendations were now before the Council. The Secretary thereafter, asked Shri G.D. Lohani, Joint Secretary, TRU-I (JS TRU -I) to present the agenda item before the Council.

10.1. JS TRU-I stated that the agenda regarding reduction of rate of tax on electric vehicles, their chargers and exemption from GST to the hiring of electric buses by the local authorities was placed in the last Council meeting where it directed the Fitment Committee to examine the issue. Accordingly, the Fitment Committee met on 20th July, 2019. The issue was deliberated at length in the meeting. The Fitment Committee in general was in agreement that electric vehicles, being environment friendly as well as their extensive usage would reduce dependence on the fossil fuels and merited incentivization. Therefore, there was general agreement to the proposal. However, certain concerns were being raised, mainly on account of likely revenue loss in future, as the sales volume of electric vehicles increased. It was discussed that at present volumes of electric vehicles being miniscule, the revenue implication was only about Rs. 60 crore per year. However, in future, rate structure might require a review, once the volume of electric vehicles (and the revenue implication on account of concessional rate) reached a significant level. As covered in the agenda note that the concerns were also raised regarding inverted tax structures on account of reduction of GST rate on electric vehicles and lesser revenue collections from other kind of vehicles and fossil fuel, once the electric vehicles replaced the fossil fuel vehicles in

significant quantity. One of the views was that the tax incentive by way of reduction of GST rate to 5% on electric vehicles might be given up to 31.03.2022 as revenue sacrifice in future might be too high. However, in general, it was concluded that any such early review of rates might make the investment decision a non-starter, since incentives were required for fairly long period so as to bring certainty for investor. In any case, Council could review the rates at any time, if need so arose.

10.2. The Hon'ble Minister from Tamil Nadu stated that they supported the proposal for reduction of tax to 5% on electric vehicles with a sunset clause that the tax incentive by way of reduction of GST rate to 5% on electric vehicles might be given up to 31.03.2022. He also supported reduction of tax to 12% with regard to electric chargers from 18% and exemption from GST on hiring of electric buses by local authorities. He further stated that future incentive might be considered after taking into consideration the revenue implication and compensation issue.

10.3. Shri Manish Sisodia, Hon'ble Deputy Chief Minister of Delhi stated that all the three proposals were very progressive as well as much needed for Delhi in view of the pollution and supported all the three proposals. However, he suggested that electric chargers should be placed at the rate of 5% instead of 12% as it was an accessory of the electric vehicles. He further stated that although it was a progressive thought, but the reduction of tax rate on electric vehicle, electric chargers etc. would have an implication on the existing automobile sector which at present was in crisis. Further, increase in sale of electric vehicles would lead to reduction of sales in traditional fuel-based vehicles and this would lead to decrease in VAT revenue from diesel, petrol as well as GST from automobile industry. Delhi Government was promoting it with a target of having at least 25% of all vehicles as electric vehicles in next 5 years, hence it would impact its revenues much more than what had been estimated in Fitment Committee as VAT and GST both would be reduced significantly. Moreover, in the future if diesel and petrol vehicles in Delhi became zero, then not only the VAT revenue would be zero from petrol and diesel, but GST from automobile would also be significantly reduced. He, therefore suggested that the decision to reduce the rate should be considered for three years and be reviewed after 2022. He further stated that all the States along with Central Government had surrendered their rights *vis-a-vis* tax rates to the Council but he observed that certain announcements were made in the Budget without the issue being brought before the Council. Hence, it was expected from all that the dignity of the Council should be maintained and before announcing any rate reduction or exemption, the issue should be discussed in the Council and thereafter announced in the Parliament or State Legislatures.

10.4. The Hon'ble Deputy Chief Minister of Bihar stated that he also supported all the three proposals and also supported the view of the Hon'ble Deputy Chief Minister of Delhi regarding taxing electric chargers also at 5%. There was a need to address the issue of climate change on priority over the revenue losses as the cost of mitigating climate change was very high. He gave the example of floods in Bihar due to which State was facing huge losses. Further, giving incentive for only three years or so would not be conducive for investment as the issue of sunset of incentives could be decided by GST Council any time. He also informed the Council that in Bihar, Road Tax on electric vehicles had been reduced by 50%. He further stated that Chairperson in the Budget had only announced that a proposal for reduction of GST rate on electric vehicles was pending before GST Council, which the Council could reject. He requested the Council to re-think and recommend tax rate on electric-chargers as 5% only along with electric vehicles. Thereafter, he stated that Bihar was in favour of extending the due dates for CMP02 and CMP08 as proposed in the agenda.

10.5. The Secretary stated that since Deputy Chief Minister of Delhi and Deputy Chief Minister of Bihar had suggested that tax rate on electric vehicle chargers should also be 5%, he requested JS, TRU-I to apprise the Council as to why the Fitment Committee had not recommended to reduce the rate of electric vehicle chargers also to 5% in lieu of 12%. JS, TRU-I stated that the Fitment Committee

discussed it and proposed the rate of 12% on charger on two counts. One, electric vehicles as on date attracted GST at the rate of 12% while charger attracted GST at the rate of 18%. As such, charger was on a different footing than electric vehicle in as much as charger/charging station was not sold to consumers directly but were items of business to business sale. Taking these aspects into account, the Fitment Committee had recommended that chargers should be kept at 12%.

10.6. Shri Manu Srivastav, Principal Secretary, Finance, Madhya Pradesh stated that the State government had 6 electric vehicles, while the cost of electric-vehicle was Rs. 12 lakh, electric-charger was costing Rs. 1.5 lakh. Since chargers form a very small component of the electric-vehicles, there should not be any differential rates as it would lead to complication but would not have any major revenue impact. He therefore suggested that along with electric vehicles, electric vehicle chargers should also be taxed at 5%.

10.7. Shri Himanta Biswa Sarma, the Hon'ble Minister from Assam supported the proposal to bring down the GST rate on electric vehicles to 5%. He stated further that he would go with the consensus in the Council as regards rate of electric chargers being proposed as 12% or 5%. However, he was opposed to the suggestion of keeping a sunset clause of three or five years on tax rate incentives as he thought that to be a retrograde step. He also stated that the Council should not mention any specific period as suggested by the Hon'ble Chief Minister of Delhi. He concluded by saying that the Council was empowered enough to review its decision anytime and hence there was no need to specify sunset on this incentive at the moment.

10.8. The Hon'ble Minister from Chhattisgarh stated that he would support the proposal and suggested that, if the logic behind the proposal was to promote clean energy and prevent or reduce pollution from bio-fuel vehicles, encouragement and push should be given to all electric vehicles. If we were considering zero tax for larger vehicles at the moment, we should also consider exempting tax on other two categories also i.e. whether it was electric vehicles or battery charger. He further stated that if reduction in pollution was the reason why we were considering this proposal and keeping in mind that loss to the exchequer being Rs 60 crores only, that too at the national level; then collecting this nominal tax did not have any meaning. Further what Council was considering to decide, was not a populist measure as the Council wanted public transport or mass transport to be based on clean energy. He, therefore suggested for not taxing these items as loss of tax was very nominal. He also stated that, it was a very reasonable suggestion to link tax incentive on electric vehicle with sunset clause on 30th June, 2022 as at that time Council might be considering bringing bio-fuel like diesel, petrol etc in GST. Thus, in his opinion, the suggestion of Hon'ble Deputy Chief Minister of Delhi was not of putting time limit on incentives to electric vehicles, but that the incentive should be reviewed when Council decided about GST on bio fuels such as petrol/ diesel. Hence, the suggestion on time limit was aimed at linking both the aspects together in order to have a holistic decision i.e. whether to start levy of GST on diesel and petrol from 1st July 2022 or not or whether the Council would postpone the decision for another 5 years. Thus, it should not be misunderstood as a limitation being put to incentive. Further, the Council should go ahead instead of thinking of foregoing revenue of Rs. 60 crore as even if sales of electric vehicles increased five times in three years, it would only forgo annual tax of Rs. 300 crore from overall realization of GST revenue of Rs. one lakh crore a month. Hence, instead of the amount, the encouragement to the industry should be kept in mind.

10.9. The Hon'ble Deputy Chief Minister of Delhi clarified that he had stated that although it was a progressive step to increase the market of electric vehicles, but the Council should keep in mind the full revenue impact. The State of Delhi collected Rs. 1200 crore of revenue from the automobiles and Rs 6000 crore VAT on sale of petrol and diesel. He wanted to know that once people moved to substantial quantity of sale of electric vehicles, then how this amount would be compensated and this loss of huge

amount of VAT should also be thought of at the moment. He, therefore, suggested that after few years, when revenue from automobile sector and petrol products decreased, the Council might look back to the minutes of this meeting where he had cautioned the Council regarding this scenario.

10.10. The Hon'ble Minister from Assam stated that when everyone agreed that it was a progressive step to promote electric vehicles industry, the Council should not put a cap of 3 years or 5 years on the incentive. The Council should not take a retrograde step to counterbalance a progressive step. Hence, he requested the Council to accept the proposal without a cap of 3 or 5 years.

10.11. Shri Arvind Agarwal, ACS, Gujarat stated that as the Hon'ble Deputy Chief Minister of Gujarat was busy in the Assembly session till 4:00 AM in the morning, hence he had sent apology for not being present in the Council meeting. However, he had given concurrence on all the three proposals i.e. 5% for electric vehicles; 5% or 12% for electric vehicle chargers (as the Council might recommend) and exemption to hiring of electric buses used by local authorities. He further requested for one clarification from the Secretary, as he was unable to find in the Agenda note, that whether the tax rate on Lithium ion battery of power banks would remain at 28%.

10.12. The Hon'ble Minister from Uttarakhand stated that he supported all the three proposals including that the electric vehicle chargers should also be taxed at 5%. Hence, Council should encourage electric vehicle industry as had been done in the world over. He further stated that the Council should promote 'Swachh Bharat'.

10.13. The Hon'ble Finance Minister from West Bengal congratulated the Chairperson. He stated that he also felt proud for MoS, Finance, whom he knew for years, for assuming the post and helping the Chairperson on important issues. He stated that he had slightly different view, not on the fundamental proposition placed on the table, but on the associated issues related to it and had already written a letter to the Chairperson detailing the perspective. He stated that reducing GST rate for electric vehicles was a commendable decision but Council should also think of the main industry which was in serious doldrums at the moment. The automobile manufacturers were already showing a decrease in their production i.e. Mahindra's production had fallen by 15%, Tata's by 8%, Maruti's by 27% etc. Thus, the Council had also to see the internal combustion engine-based automobile industry which employed approximately 3.7 crore people with an investment of about Rs. 1.7 lakh crore. The Council, while deciding should make sure that the transition to electric vehicles happened in a steady, systematic and sustainable manner. The Hon'ble members of the Council might be aware that in USA only 2.1% sale of vehicles were electric today while in UK it was also close to that number. Thus, most of the developed countries were still not fully geared to shift to electric vehicles in terms of sale. India had 25-billion-dollars automobile industry, i.e. one of the largest; Hence, the Council had to address this issue holistically. He stated that the agenda had been brought before the Council at a short notice, which should have been discussed in a full-fledged meeting. Further, the Council should not neglect the existing industry which was also trying to become less polluting with BS V & BS VI compliant models which he had detailed in the letter addressed to the Chairperson.

10.14. The Chairperson mentioned that the Government move was intended to leap from BS IV to BS VI in order to combat pollution issue. The Hon'ble Minister from West Bengal lauded the proposal and requested that along with reduction of rate on electric vehicles, the Council should also think of reducing the GST on the BS VI vehicles as well, so as to give signal that existing industry was not bring neglected. He, thereafter stated that along with reduction in rate of tax on electric vehicles from 12% to 5%, the Council should also reduce GST on BS-VI compliant vehicles. He also suggested that hybrid vehicles were much less polluting. In Brazil, many of the petrol stations cater only to hybrid vehicles i.e. ethanol-based filling stations. Hence, he proposed that the traditional industry be also encouraged which were making hybrid or less polluting vehicles. Thus, he favoured clubbing of all the three types of vehicles

causing less pollution with the overall intention of reducing pollution as it would then provide a signal to the world that the existing industry was not being neglected. Hence, the Council should not throw away what it had in a sudden burst and reiterated his 3-pronged proposal as follows:

i) Reducing rate of GST on electric vehicles from 12% to 5%;
ii) Similar kind of reduction of GST for BS VI compliant vehicles, a standard, which the government was promoting, and
iii) Similar reduction of tax rate for hybrid vehicles.

10.15. The Hon'ble Minister from West Bengal stated that in his opinion, above kind of proposal would prove that India was interested to reduce pollution, not only from the traditional industry, but also from emerging industry in the form of electric vehicles and the transition should be in steps. He further stated that there had been an earlier announcement that the target date for transition was year 2040. However, NITI Aayog had recently announced that by 2025 everything would be electric, which meant the present business models would be obsolete in the next 5 years. The Council should give a signal that traditional industry, which accounted for 7% of GDP of India was not being neglected. However, a chance was also being given to the traditional industry to be compliant with the required environmental quality. Finally, he reiterated his proposal that the Council should -

i) reduce taxes on electric vehicles from 12% to 5% so that encouraged by this, there should be boost in investment;
ii) encourage the BS VI compliant vehicles by reducing the GST rate;
iii) encourage the hybrid vehicles with the intention to provide a package with an intention to reduce pollution.

He thereafter stated that as far as the electric chargers were concerned, Fitment Committee had examined it but did not propose steeper cut perhaps taking into account the ITC factor. However, he would be happy to go with the decision of the Council after due deliberation on ITC on it.

10.16. The Chairperson responded to the Hon'ble Minister from West Bengal that his point was well taken that the traditional industry contributed to the investment and National GDP significantly and should not be ignored. However, a fundamental question was, that would it not be sending a contradictory message if support was given simultaneously to the fossil fuel-based BS VI vehicles also, along with encouragement to futuristic non-polluting renewable energy-based vehicle. She further stated that if the Council agreed, she might refer the points raised by the Hon'ble Minister from West Bengal to the Fitment Committee to consider the proposal.

10.17. The Hon'ble Finance Minister from West Bengal stated that when Council encouraged electric vehicles, more electricity would be required which was mostly produced by thermal power plants and thus Council would also be encouraging pollution from carbon emission. Thus, even if the country took a big leap in electric vehicle production, which no country had done yet including China where it was 4.4%, this policy would be pushing coal consumption to a higher level since more electricity would be required and the grids would be overcrowded. Hence, it would be counterproductive to each other, as on one side there would be more carbon emission, i.e. pollution and on the other side there would be less pollution on vehicular traffic segment. Therefore, he was suggesting a middle path where the Council would encourage the traditional less polluting industry giving them a period of 10 to 15 years to shift steadily to electric mode. Thus, the Council should recognize that coal production vs electric production as a matrix had not come into discussion; where one polluted and the other saved. In the interim period, the country could not afford large scale unemployment and structural dis-junction of 7% GDP of economy.

10.18. The Hon'ble Minister from Punjab stated that ever since he had been attending these Council meetings, there had been an underlying factor, which had remained non-negotiable, that each proposal must be borne by some principle. In the recent times, he was getting worried about the way the agenda was being decided as what was going to be on the agenda in the Council meeting had itself become an agenda. He stated that he did not see any urgency of convening the Council meeting on a single agenda in view of the fact that in the last four months, the Council had not even discussed revenue management, compensation, arrears etc. However, the Council thought that the matter in agenda was of great urgency and hence it was before Members. He supported the Hon'ble Minister from West Bengal, as increased use of electric vehicles would lead to increased use of fossil fuel to produce electricity. He also concurred with the view of the Hon'ble Deputy Chief Minister of Delhi about VAT revenue losses on account of lesser sales of petrol products. Further, the choice of places for electric vehicle hub and charging infrastructure would actually favour the consuming States. He therefore, suggested that since there would be distortions, he requested the Chairperson to confine the concession to the electric vehicles till the year 2022 or to extend the compensation for another few years beyond 2022.

10.19. He further stated that as far as protection of environment was concerned, there would be similar demand from the competing industries. In addition, he drew attention of the Council to the fact that 12% GST rate was charged on daily basic needs such as pickle, drinking water, jam etc and it was not equitable to recommend a concessional rate of GST at 5% to electric vehicles where the electric cars would cost 20 lakh each. Further, as far as chargers were concerned, when their parts continued to be taxed at 18%, there would be no point to tax chargers at 5%. Hence Punjab was not in favour of the proposal as the means were as important as the end and the Council was expected to be highly responsible and transparent of any decision it took. He also asked about the fate of the existing automobile industry and the investment that had been made in these industries. He requested to the Chairperson that the Council should look at proposals in a holistic manner instead of knee jerk reaction. Further, the agenda of the Council should be decided very carefully keeping States in mind and the meetings should be physical as the Chairperson was hardly audible during the initial part of discussion. He further stated that if the concern of the Council was of industrialization of India, then the Council should consider and decide on taxing lease holds, tax on labour and tax on capital which were of much bigger concern. He concluded by stating that three issues should be kept in mind while the decision was taken on the agenda as follows: -

a. Fate of the existing automobile industry.
b. Impact on the destination States like Punjab where revenue losses would be there.
c. Demand for similar treatment from other competing interests which would come in terms of environmental concern.

10.20. Shri Jishnudev Verma, Hon'ble Deputy Chief Minister of Tripura supported all the three proposals as all the proposals were progressive steps especially for the North Eastern States which had a very fragile biosphere and associated environmental issues. He stated that there was no need of putting a cap of 3 years or 5 years and as suggested by the Hon'ble Minister of Assam, the Council was empowered enough to review its decision any time it was necessary. Shri Sudhir Mugantiwar, Hon'ble Minister from Maharashtra also supported the three proposals which he felt were progressive and environment friendly measures.

10.21. Shri Peeyush Kumar, Chief Commissioner, State Tax from Andhra Pradesh stated that Hon'ble Finance Minister of Andhra Pradesh could not attend the meeting and he conveyed his opinion that Andhra Pradesh supported all the three agenda items. Shri Manu Srivastav, Principal Secretary, Madhya Pradesh stated that since he had worked in the renewable energy sector for some years, he would like to present some facts before the Council. He recalled that Hon'ble Minister from West Bengal had

stated that demand for electricity would put pressure in the form of increased pollution from coal-based plants. In response, he drew attention of the Council to the fact that after 2015 Central Electricity Authority had not given permission to new thermal plants for operation and now significant electricity was being produced from renewable sources. Hence, the apprehension of the Hon'ble Minister from West Bengal did not seem to be true. Further, in response to the remarks of Hon'ble Chief Minister of Delhi, about future revenue losses on account of petrol and diesel and automobile industry, he suggested that first of all, it was far ahead in future and that 'Electricity Duty' might be imposed by the States to compensate the revenue losses in future.

10.22. Shri Somesh Kumar, Principal Secretary, Telangana stated that the Hon'ble Finance Minister of Telangana could not attend the meeting but the Government of Telangana favoured all the three proposals. However, he highlighted the concern before the Council that it might lead to inverted tax structure and care should be taken to avoid giving any refund on account of it. He also felt that incentive might be limited to a period of three years, after which matter could be reviewed, as the limited period incentive would create a feeling of urgency.

10.23. The Advisor from Jammu & Kashmir supported the proposal of reducing GST rates of all three items as apart from Delhi, Mumbai, Kolkata and Chennai even the smaller cities like Srinagar, Jammu and Chandigarh were suffering from pollution problem. Thus, policy interventions in the form of encouragement to electric vehicles should be given so that pollution free cities evolved and it would address the health issues. He informed that the State Government was spending huge amount of money in the health sector and even if Council members had to sacrifice GST revenue, the same might lead to savings in the health care cost. He also suggested that there should not be any cap of time period on incentive and stated that his State would go with consensus, i.e. the recommendation of the Council on electric chargers. Shri Alok Sinha, Additional Chief Secretary of Uttar Pradesh mentioned that Hon'ble Minister of Finance was not present in the meeting due to medical reason. The State Government supported all the three proposals and also that the electric chargers should be taxed at 5%.

10.24. The Hon'ble Minister from Goa congratulated the Chairperson for bringing the proposal as India was moving towards a new world and had taken the leadership in that direction. The world had been discussing about global warming and the steps that the Council took to contain pollution would be noted by the world. He also stated that the arguments of increased coal pollution versus electric vehicles seemed far-fetched. He welcomed the proposal in the Council of reducing the rate to 5% from 12% for electric vehicles and also felt that GST on electric chargers should also be 5%. He further, stated that in the last Council meeting when it was decided to send the proposal to the Fitment/Law Committee for examination, he had raised the point of unemployment on account of lakhs of workers being employed by the automobile industry, which should not be aggravated. However, this proposal was a futuristic step as big cities like Delhi and other cities were reeling under pollution and it was necessary to take this step. He stated that we should not take any retrograde decision to counter a progressive thought. We would like our country to be pollution free and once again thanked the Chairperson for the proposal.

10.25. Shri Shanti Kumar Dhariwal, Hon'ble Minister from Rajasthan also welcomed the decision and stated that when the State Government came to power in 2009 in Rajasthan, VAT on electric vehicles was exempted from 9th March 2010 which was earlier taxed at 12.5%, for which he was congratulated by the Chairperson. However, he raised apprehensions about the revenue of the State in future due to the Council's decision of lowering GST on many items in the past. Further, approximately 50% of the State's revenue was contributed by GST and continuous reduction of taxes due to exempting one or the other items affected it badly leading to alarming situation after 2022. Therefore, this should be discussed in the Council in the forthcoming meeting including the extension of compensation for few more years,

as was highlighted by the States of Punjab and Delhi. He also stated that he had written a letter regarding coaching centres to the Hon'ble Chairperson and requested that the rate of 18% on coaching services being very high should be brought down or exempted.

10.26. The Hon'ble Chairperson stated that his above statement seemed contradictory to his worries regarding revenue reduction. He was asking for reduction in tax rates on coaching centres which would have negative impact on revenues of the State on one hand while he was worried about compensation for revenue losses on the other hand due to lowering of taxes on many items. The Hon'ble Minister from Rajasthan responded that these coaching centres produced future in the form of Civil Servants, doctors and engineers due to which the country would ultimately benefit. Hence, the Government should consider reducing the tax rate, while for some items tax could be increased.

10.27. The Hon'ble Deputy Chief Minister of Delhi raised the issue that since he had been hearing that there would be huge investment in the electric vehicle sector, he therefore, would like to know the feedback given by the industry sources regarding the amount of investment expected from the industry and as to when it could come.

10.28. Shri Sanjeev Kaushal, ACS, Haryana stated that due to other engagement, the Hon'ble Minister could not join the meeting and Haryana supported all the three proposals. He stated further that Haryana had one suggestion that for some of the luxury vehicles like Tesla which were costing around Rs 55 lakh and above; and hence, tax rate incentive for vehicle costing more than Rs. 15 lakh along with other electric vehicles might be avoided. He also stated that tax rate should not be fixed only for three years as a lot of expenditure on Research and Development might be involved and the investment might not come at all in such a situation. The Secretary responded that the proposal before the Council was not based on the cost of the electric vehicle. Hence, if the rate was reduced, benefit would be available to all the electric vehicles.

10.29. The Hon'ble Chairperson then concluded the discussion and stated that all the States having stated their position on the agenda, she would summarise the sense of House. As regards electric vehicle, the members seemed to have arrived at the agreement that the rate should come down to 5%. Further, as regards electric chargers, many of the States had stated that the rate could be reduced to 5%. Hence, she asked if all the members of the Council would be together with her in deciding the rate of both electric-vehicle and electric chargers at 5% to which the Council agreed. She also stated that she would assure both the Hon'ble Ministers of West Bengal and Punjab that the Government's intention was to not only support jobs and investment but also to honour those who had invested in Bharat Stage VI vehicles. The Government was not dis-incentivising all of them, but that did not mean that the Government should not go ahead with a futuristic step, as had been rightfully pointed out during the discussion that the production of electricity in the country was gradually shifting from fossil fuel or coal-based plant to renewable energy-based plants. The Hon'ble Chairperson also stated that while the concerns of West Bengal and that of Punjab were understood, the Council was looking at promoting electric vehicles, which would be less polluting, than continuing without a thought for the future. She further stated that the concern raised about Bharat Stage VI vehicles, where lot of industries had invested, were well taken and she appealed to the Hon'ble Ministers from Punjab and West Bengal to understand that Council was not forgetful or unmindful of those who were still producing Bharat Stage VI vehicles and acknowledged their contribution such as investment made by them, jobs provided by them and their contribution to the GDP. However, as a futuristic step, the Council would like to promote electric vehicles and electric chargers by way of bringing tax on it down to 5%. The Council members agreed to the proposition

10.30. The Hon'ble Minister from West Bengal stated that he would request the Council Secretariat to record his views that, he had proposed for reducing rates for all three types of vehicles, i.e. electric vehicles, BS VI Compliant vehicle and hybrid vehicles. He appreciated what the Chairperson was indicating and also what the sense of the Council was, but still requested the Chairperson to direct the Council Secretariat to minute the proceedings in the manner where the overall sense of balance that he had sought was appropriately reflected. The Chairperson assured him that the minutes would be prepared meticulously.

10.31. The Hon'ble Minister from Punjab stated on a lighter note that there was a principle in tax which stated that when somebody was taxed, he was actually exempted and when somebody was exempted, actually he was taxed. Further, Punjab was opposed to the proposal and was of the view that the reduction in the rates and electric vehicles would affect the revenues of the destination States and also affect the existing automobile industry.

10.32. The Chairperson stated that a progressive State like Punjab should understand that the Council was looking at something which would help to promote environment friendly electric vehicles, being a futuristic step. She requested Punjab also to support the Council in its effort to promote pollution free India rather than oppose it and requested the Minister to take her views in right spirit. The Hon'ble Minister from Punjab stated that his views should be understood in the background of principle about which the argument was taking place and be recorded accordingly.

10.33. The Hon'ble Minister from Odisha stated that the proposal on electric vehicles was to be supported not only from the point of view of the environment but from the point of view of economics also as when the new industries were born, the old industries had to give way.

10.34. The Secretary stated that the Council had decided on the tax rate of 5% on electric vehicles and electric chargers; and in addition, an effective date was required to be mentioned. He proposed the effective date to be 1st August, 2019, if the Council agreed. The Council agreed that the rate of electric vehicles and electric chargers at 5% and exemption of hiring of electric buses by local authorities to be effective from 1st August, 2019.

11. For **Agenda item 4**, the Council approved the following:

i. The GST rate on all electric vehicles be reduced from 12% to 5%.
ii. The GST rate on charger or charging stations for electric vehicles be reduced from 18% to 5%.
iii. Hiring of electric buses (of carrying capacity of more than 12 passengers) by local authorities be exempted from GST.
iv. These changes shall become effective from 1st August, 2019.

Agenda Item 5: Any other agenda item with the permission of the Chairperson.

Agenda Item 5(i): Extension of the last date for filing of FORM GST CMP-02 and FORM GST CMP-08

12. The Secretary introduced the agenda item and requested Principal Commissioner, (GST Policy Wing), CBIC to appraise the Council about the same. The Principal Commissioner, (GST Policy Wing), CBIC mentioned that the additional agenda note for extending the dates for filing FORM GST CMP-02 and FORM GST CMP-08 was circulated to the States. In view of details stated in the agenda note and in order to provide sufficient time to the taxpayers, it was proposed that the last date for filing of FORM GST CMP-02 might be extended to 30th September 2019, and that for FORM GST CMP-08 to 31st August, 2019. He also stated that as the forms were not available on the common portal, the due

date of filing FORM GST CMP-02 would be extended by issuing a corrigendum to Circular No. 97/19/2019-GST dated 05.04.2019. Further, the last date of filing of FORM GST CMP-08 would be extended by amending the proviso inserted vide notification No. 34/2019 –Central Tax dated 18.07.2019. It was also mentioned that States were also required to issue the corresponding notification and corrigendum to the Circular. The agenda was placed before the GST Council for consideration and approval. The Council approved the proposal.

13. For **Agenda item 5**, the Council approved the proposal for extending the dates for filing of the FORM GST CMP 02 and FORM GST CMP 08 till 30th September, 2019 and 31st August, 2019 respectively.

14. The Secretary also stated that 3 senior officers, Dr P.D. Vaghela, CCST, Gujarat, Shri Shashank Priya, Joint Secretary, GST Council and Shri Upender Gupta, Principal Commissioner (GST Policy Wing), CBIC, from Government of India, who had worked tirelessly for GST had been transferred and it was their last Council meeting. The Council might record appreciation for their contribution both for pre-GST and Post-GST regime. The Hon'ble Minister from West Bengal, Goa and other ministers along with the Principal Secretary, Odisha thanked them for their immense contribution, commendable work done by them and all the Council members acknowledged the same. CCST Gujarat also thanked all the members of Council along with CBIC officers and also the officers of States for their support and thanked the Council for recognising their contribution.

Agenda Item 6: Date of the next meeting of the GST Council

15. This agenda item was not taken by for discussion.

16. The meeting ended with the thanks to the Chair.

Annexure I

List of Hon'ble Ministers who have attended the 36th GST Council Meeting on 27th July 2019

Sl No	State/Centre	Name of Hon'ble Minister	Charge
1	Govt of India	Ms. Nirmala Sitharaman	Union Finance Minister
2	Govt of India	Shri Anurag Singh Thakur	Minister of State (Finance)
3	Assam	Dr. Himanta Biswa Sarma	Finance Minister
4	Bihar	Shri Sushil Kumar Modi	Deputy Chief Minister
5	Chattisgarh	Shri T.S. Singh Deo	Minister for Commercial Taxes
6	Delhi	Shri Manish Sisodia	Deputy Chief Minister
7	Goa	Shri Mauvin Godinho	Minister for Panchayat
8	Jammu and Kashmir	Shri K. K. Sharma	Advisor to Governor (I/c Finance)
9	Jharkhand	Shri C.P. Singh	Minister - Department of Urban Development, Housing and Transport
10	Maharashtra	Shri Sudhir Mungantiwar	Finance Minister
11	Odisha	Shri Niranjan Pujari	Finance Minister
12	Punjab	Shri Manpreet Singh Badal	Finance Minister
13	Rajasthan	Shri Shanti Kumar Dhariwal	Minister for Local Self Government, Urban Development and Housing, Law and Legal affairs, Parliamentary affairs
14	Tamil Nadu	Shri D. Jayakumar	Minister for Fisheries and Personnel & Administrative Reforms
15	Tripura	Shri Jishnu Dev Varma	Deputy Chief Minister
16	Uttarakhand	Shri Satpal Maharaj	Minister for Irrigation, Flood Control, Rain Water Harvesting and Water Management
17	West Bengal	Dr. Amit Mitra	Finance Minister

Annexure II

Officials who attended the 36th GST Council Meeting on 27th July 2019			
Sl No	**State/Centre**	**Name of the Officer**	**Charge**
1	Govt. of India	Dr. A B Pandey	Revenue Secretary
2	Govt. of India	Shri Pranab Kumar Das	Chairman, CBIC
3	Govt. of India	Shri Sandeep M Bhatnagar	Member (GST & Inv.), CBIC
4	Govt. of India	Dr. Rajeev Ranjan	Special Secretary, GST Council
5	Govt. of India	Ms Sonali Singh	Pr. CCA
6	Govt of India	Shri Manoj Sethi	CCA
7	Govt. of India	Shri Anil Kumar Jha	Additional Secretary, DoR
8	Govt of India	Shri Ritvik Pandey	Joint Secretary, DoR
9	Govt. of India	Shri G.D. Lohani	Joint Secretary, TRU I, DoR
10	Govt. of India	Shri Manish Kumar Sinha	Joint Secretary, TRU II, DoR
11	Govt. of India	Shri Reyaz Ahmad	Director (TRU)
12	Govt of India	Shri Gaurav Singh	Deputy Secretary (TRU)
13	Govt. of India	Shri Pramod Kumar	Deputy Secretary, TRU-II, DoR
14	Govt. of India	Dr Ajay K Chikara	Technical Officer, TRU-II, DoR
15	Govt. of India	Shri Upender Gupta	Pr. Commissioner (GST), CBIC
16	Govt. of India	Shri S.K. Rehman	ADG, GST, CBIC
17	Govt. of India	Shri D.S. Malik	DG (M&C)
18	Govt. of India	Shri Rajesh Malhotra	ADG (M&C)
19	Govt. of India	Shri N Gandhi Kumar	Deputy Secretary, DoR
20	Govt. of India	Shri Amaresh Kumar	Joint Comm., GST Policy Wing
21	Govt. of India	Ms. Nisha Gupta	Dy. Comm., GST Policy Wing
22	Govt. of India	Shri Vikash Kumar	Dy. Comm., GST Policy Wing
23	Govt. of India	Shri Satvik Dev	Dy. Comm., GST Policy Wing
24	Govt. of India	Shri Vipul Bansal	PS to Union Finance Minister
25	Govt. of India	Shri Vivek Singh	APS to Union Finance Minister
26	Govt. of India	Shri Nikhil Varma	OSD to MoS (Finance)
27	Govt. of India	Shri Debashis Chakraborty	OSD to Finance Secretary
28	Govt. of India	Dr. Abhishek Chandra Gupta	OSD to Chairman, CBIC
29	GST Council	Shri Shashank Priya	Joint Secretary
30	GST Council	Shri Amitabh Kumar	Joint Secretary
31	GST Council	Shri Dheeraj Rastogi	Joint Secretary
32	GST Council	Shri Rajesh Agarwal	Director
33	GST Council	Shri G.S. Sinha	Director
34	GST Council	Shri Jagmohan	Director
35	GST Council	Ms. Ujjaini Datta	Director
36	GST Council	Shri Arjun Meena	Dy. Commissioner
37	GST Council	Shri Rakesh Agarwal	Dy. Commissioner
38	GST Council	Shri Mahesh Singarapu	Under Secretary
39	GST Council	Shri Krishna Koundinya	Under Secretary

40	GST Council	Shri Sarib Sahran	Superintendent
41	GST Council	Shri Adesh Nayak	Superintendent
42	GST Council	Shri Krishan Kumar Verma	Superintendent
43	GST Council	Ms Chanchal Soni	Superintendent
44	GST Council	Shri Maneesh Nemiwal	Superintendent
45	GSTN	Shri Prakash Kumar	CEO
46	GSTN	Ms Kajal Singh	EVP, GSTN
47	GSTN	Shri Sarthak Saxena	OSD to CEO
48	Govt. of India	Shri Sanjay Mahendru	Commissioner, Mumbai Zone, CBIC
49	Govt. of India	Shri Anuj Gogia	Commissioner, Meerut Zone
50	Govt. of India	Shri Amit Gupta	Joint Commissioner, Meerut Zone
51	Andhra Pradesh	Shri Peeyush Kumar	Chief Commissioner, State Tax
52	Andhra Pradesh	Shri T Ramesh Babu	Commissioner, State Tax
53	Andhra Pradesh	Shri D. Venkateswar Rao	OSD to Spl. CS, Revenue
54	Andhra Pradesh	Shri JVM Sarma	Joint Commissioner, State Tax
55	Arunachal Pradesh	Shri Nakut Padung	Superintendent (Tax & Excise)
56	Arunachal Pradesh	Shri Debi Ete	Inspector (Tax & Excise)
57	Arunachal Pradesh	Ms Tadu Lily	Dealing Assistant (Tax & Excise)
58	Assam	Shri Sameer Kumar Sinha	Pr. Secretary
59	Assam	Shri Anurag Goel	Commissioner, State Tax
60	Assam	Md. Shakeel Saadullah	Joint Commissioner, State Tax
61	Assam	Shri Gautam Dasgupta	Joint Commissioner, State Tax
62	Bihar	Shri Sanjay Kumar Mawandia	Special Secretary, State Tax
63	Bihar	Shri Binod Kumar Jha	Joint Commissioner, State Tax
64	Bihar	Ms Seema Bharti	Joint Commissioner, State Tax
65	Bihar	Shri Abhinav Kumar Jha	Assistant Commissioner, State Tax
66	Chhattisgarh	Ms Reena Babasaheb Kangale	Secretary and Commissioner, State Tax
67	Delhi	Ms. Renu Sharma	Additional Chief Secretary (Finance)
68	Delhi	Shri H. Rajesh Prasad	Commissioner, State Tax
69	Delhi	Shri Rajesh Goyal	Additional Commissioner, State Tax
70	Delhi	Shri L.S. Yadav	Asst. Commissioner, State Tax
71	Delhi	Shri Ajay Kumar	Desk Officer
72	Goa	Shri Dipak Bandekar	Commissioner, State Tax
73	Goa	Shri Ashok Rane	Additional Commissioner, State Tax
74	Gujarat	Shri Arvind Agarwal	Additional Chief Secretary, Finance Dept.
75	Gujarat	Dr. P D Vaghela	Chief Commissioner, State Tax
76	Gujarat	Shri Sanjeev Kumar	Secretary (Economic Affairs), Finance Dept

77	Haryana	Shri Sanjeev Kaushal	Additional Chief Secretary, E & T Dept
78	Haryana	Shri Amit Agarwal	Commissioner, E & T Dept
79	Haryana	Shri Vijay Kumar Singh	Addl. Commissioner, E & T Dept
80	Himachal Pradesh	Shri Sanjay Kundu	Pr. Secretary, State Taxes and Excise
81	Himachal Pradesh	Dr. Ajay Sharma	Commissioner of State Tax and Excise
82	Himachal Pradesh	Shri Rakesh Sharma	Joint Commissioner., State Tax & Excise
83	Jammu & Kashmir	Shri P K Bhatt	Commissioner, State Tax
84	Jammu & Kashmir	Shri Panjak Gupta	OSD to Advisor, J&K
85	Jharkhand	Shri Prashant Kumar	Secretary & Commissioner, State Tax
86	Jharkhand	Shri Santosh Kumar Vats	Special Secretary
87	Jharkhand	Shri Brajesh Kumar	State Tax officer
88	Karnataka	Shri Srikar M.S	Commissioner, State Tax
89	Kerala	Ms. Tinku Biswal	Commissioner, State Tax
90	Madhya Pradesh	Shri Manu Shrivastava	PS, Commercial Taxes, Registration and Excise
91	Madhya Pradesh	Shri Sudip Gupta	Joint Commissioner, State Tax
92	Maharashtra	Shri Rajiv Jalota	Commissioner, State Tax
93	Maharashtra	Shri Dhananjay Akhade	Joint Commissioner, State Tax
94	Manipur	Ms. Jaspreet Kaur	Commissioner, State Tax
95	Manipur	Shri Y Indrakumar Singh	Asst. Commissioner, State Tax
96	Meghalaya	Shri L Khongsit	Joint Commissioner, State Tax
97	Meghalaya	Shri Kitbokson War	Assistant Commissioner, State Tax
98	Meghalaya	Shri. B. Wahlang	Assistant Commissioner, State Tax
99	Meghalaya	Ms S M Sutnga	Superintendent, State Tax
100	Meghalaya	Shri N L Sohilya	Superintendent, State Tax
101	Meghalaya	Shri J Kharwanlang	Superintendent, State Tax
102	Odisha	Shri Ashok K K Meena	Principal Secretary, Finance
103	Odisha	Shri Bishnupada Sethi	Commissioner, State Tax
104	Odisha	Shri Ananda Satpathy	Special Commissioner, State Tax
105	Odisha	Shri Nidhi Kumar Ruatray	Additional Secretary, Finance
106	Puducherry	Shri L Kumar	Commissioner, State Tax
107	Puducherry	Shri K Sridhar	Deputy Commissioner, State Tax
108	Punjab	Shri Ravneet S Khurana	Additional Commissioner, State Tax
109	Rajasthan	Dr. Prithvi Raj	Secretary Finance (Revenue)
110	Rajasthan	Dr. Preetam B Yashwant	Commissioner, State Tax
111	Rajasthan	Shri Ketan Sharma	Addl. Commissioner, GST, State Tax Dept
112	Rajasthan	Ms Meenal Bhonsale	OSD, Finance
113	Rajasthan	Shri Arvind Mishra	Joint Commissioner, State Tax

114	Rajasthan	Shri Vibhu Gautam	State Tax Officer
115	Sikkim	Shri. Manoj Rai	Addl. Commissioner, State Tax
116	Tamil Nadu	Dr. T.V Somanathan	Commissioner, State Tax
117	Tamil Nadu	Shri K Balachandran	Pr. Secretary, CT & Registration
118	Tamil Nadu	Shri K. Gnanasekaran	Addl. Commissioner (Policy & Planning)
119	Tamil Nadu	Shri C. Palani	Joint Commissioner (Policy & Planning)
120	Telangana	Shri Somesh Kumar	Special Chief Secretary
121	Telangana	Shri V Anil Kumar	Commissioner, State Tax
122	Telangana	Shri Laxminarayan Jannu	Addl. Commissioner, State Tax
123	Tripura	Shri Nagesh Kumar B	Commissioner, State Tax
124	Tripura	Shri Sudip Bhowmik	Deputy Commissioner, State Tax
125	Uttarakhand	Shri Piyush Kumar	Addl. Commissioner, State Tax
126	Uttarakhand	Shri Rakesh Verma	Joint Commissioner, State Tax
127	Uttar Pradesh	Shri Alok Sinha	Additional Chief Secretary, State Tax
128	Uttar Pradesh	Ms. Amrita Soni	Commissioner, State Tax
129	Uttar Pradesh	Shri Sanjay Kumar Pathak	Joint Commissioner, State Tax
130	Uttar Pradesh	Ms Nidhi Shrivastav	Assistant Commissioner, State Tax
131	Uttar Pradesh	Shri Rajesh Rai	Assistant Commissioner, State Tax
132	West Bengal	Shri H.K. Dwivedi	Addl Chief Secretary, Finance
133	West Bengal	Ms. Smaraki Mahapatra	Commissioner, State Tax
134	West Bengal	Shri Khalid A Anwar	Joint Secretary, Finance

Annexure III

36th Meeting of GST Council



Deemed ratification & GIC decisions
25.07.2019

Agenda

- **Agenda No. 2 :** Deemed Ratification of Notification / Circulars / Orders issued post 35th Meeting of GST Council
- **Agenda No. 3 :** Decisions taken by the GIC post 35th Meeting of GST Council

1

Agenda No. 2
Deemed Ratification

- Ratification of following notifications, Circulars & Orders issued post 35th GST Council meeting (held on 21st June, 2019):

Act/Rules	Type	Notification/Circular/Order Nos.
CGST Act/CGST Rules	Central Tax	25 to 34 of 2019
	Central Tax (Rate)	11 of 2019
UTGST Act	Union territory Tax (Rate)	11 of 2019
IGST Act	Integrated Tax (Rate)	10 to 11 of 2019
Compensation Cess	Compensation Cess (Rate)	1 of 2019
Circulars	Under the CGST Act	102 to 109 of 2019
RoD Orders	Under the CGST Act	6 of 2019

1

Agenda No. 3
GIC decisions post 35th GST Council Meeting (1/11)

Decisions of 28th GIC meeting (27.05.19)

- Proposed Time lines for New Return System
  - ✓ Press Release dated 11.06.19 issued
- Clarification regarding GST liability on levy of additional / penal interest
  - ✓ Circular No. 102/21/2019-GST dated 28.06.19 issued
- Proposal for extension of due date for filing returns in **FORM GSTR-7**
  - ✓ NN 26/2019 – CT dated 28.06.19 issued
- Issues regarding e-way bill in case of bulk cargo movement
  - ✓ FAQ updated on 28.06.19

1

Agenda No. 3
GIC decisions post 35th GST Council Meeting (2/11)

Decisions of 28th GIC meeting (27.05.19)

- Clarifications on issues relating to Place of Supply of certain services
  - ✓Circular No. 103/22/2019-GST dated 28.06.19 issued
- Changes in the CGST Rules, 2017
  - Insertion of rule 10A
  - Insertion of new clause in rule 21
  - Amendment to rule 66, rule 67 and rule 87
  - Amendment to rule 91, rule 92 (4), insertion of new sub-rule (4A) in rule 92 and amendment to rule 94
  - Amendment to rule 138(10)

5

Agenda No. 3
GIC decisions post 35th GST Council Meeting (3/11)

Decisions of 28th GIC meeting (27.05.19)

- Changes in the CGST Rules, 2017 (contd..)
  - Amendment to rule 138E
  - Changes in **FORM GST REG-01**
  - Amendment in **FORM GST REG-07**
  - Amendment in **FORM GST-REG-12**
  - Amendment to Annual Return **FORM GSTR-9**
  - Amendment to **FORM GST DRC-03**
  - ✓NN 31/19 – CT dated 28.06.19 issued

6

Agenda No. 3
GIC decisions post 35th GST Council Meeting (4/11)

Decisions of 29th GIC meeting (11.06.19)

- Specifying the due date for furnishing of return in **FORM GSTR-3B** and details of outward supplies in **FORM GSTR-1** for the period July, 19 to September, 19
  - ✓NN 27/19 – CT dated 28.06.19 issued
  - ✓NN 28/19 – CT dated 28.06.19 issued
  - ✓NN 29/19 – CT dated 28.06.19 issued
- Exemption from submission of Annual Return / Reconciliation Statement by suppliers of OIDAR services
  - ✓NN 30/19 – CT dated 28.06.19 issued

7

Agenda No. 3
GIC decisions post 35th GST Council Meeting (5/11)

Decisions of 29th GIC meeting (11.06.19)

- Geo-tagging of registered persons under GST – To make relevant fields compulsory in FORM GST REG-01
  - ✓GSTN has been requested, vide mail dated 08.07.19, to take necessary action
- Clarification on processing of refund applications in **FORM GST RFD-01A** submitted by taxpayers wrongly mapped on the common portal
  - ✓Circular No. 104/23/2019-GST dated 28.06.19 issued
- Clarification on various doubts related to treatment of secondary or post-sales discounts under GST
  - ✓Circular No. 105/24/2019-GST dated 28.06.19 issued

8

Agenda No. 3
GIC decisions post 35th GST Council Meeting (6/11)

Decisions of 29th GIC meeting (11.06.19)

- Refund of taxes paid on inward supply of indigenous goods by Duty Free Shop (DFS) and Duty Paid Shop (DPS) established at departure area of international airport beyond immigration counters making supply of such goods to outgoing international tourist against foreign exchange
  - ✓Circular No. 106/25/2019-GST dated 29.06.19 issued
  - ✓NN 11/19-CT (R) dated 29.06.19 issued
  - ✓NN 10/19-IT (R) & 11/19- IT (R) dated 29.06.19 issued
  - ✓NN 11/19- UT (R) dated 29.06.19 issued
  - ✓NN 01/19-CC (R) dated 29.06.19 issued

9

Agenda No. 3
GIC decisions post 35th GST Council Meeting (7/11)

Decisions of 29th GIC meeting (11.06.19)

- Changes in the CGST Rules, 2017
  - Insertion of rule 32A
  - Amendment to rule 46 and rule 49
  - Deletion of second proviso to sub-rule (2) and insertion of sub-rule (13) in rule 87
  - Insertion of rule 92(4A)
  - Insertion of rule 95A
  - Amendment to Chapter XV of CGST Rules including to Rule 128, 129, 132(1), 133 and insertion of sub-rule (2A) & sub-rule (5) in Rule 133

10

Agenda No. 3
GIC decisions post 35th GST Council Meeting (8/11)

Decisions of 29th GIC meeting (11.06.19)

- Changes in the CGST Rules, 2017 (contd..)
  - Amendment to **FORM GSTR-4**
  - Amendment to **FORM GST RFD-05**
  - Insertion of **FORM GST PMT-09**
  - Insertion of **FORM GST RFD-10B**

✓NN 31/19 – CT dated 28.06.19 issued

11

Agenda No. 3
GIC decisions post 35th GST Council Meeting (9/11)

Decisions of 30th GIC meeting (09.07.19)

- Corrigendum to Circular No. 45/19/2018-GST dated 30.05.18 issued vide F. No. CBEC/20/16/4/2018-GST so as to take total of values given in Table 3.1(a) to 3.1(c) of **FORM GSTR-3B** till 30.06.2019

  ✓Corrigendum dated 18.07.19 issued

- Clarification on doubts related to supply of Information Technology enabled Services (ITeS services)

  ✓Circular No. 107/26/2019-GST dated 18.07.19 issued

- Clarification in respect of goods sent out of India for exhibition or on consignment basis for export promotion

  ✓Circular No. 108/27/2019-GST dated 18.07.19 issued

12

Agenda No. 3
GIC decisions post 35th GST Council Meeting (10/11)

Decisions of 30th GIC meeting (09.07.19)

- Changes in the CGST Rules, 2017
  - Amendment to rule 12(1A)
  - Insertion of rule 83B
  - Amendment to rule 138E
  - Insertion of **FORM GST PCT-06** & **FORM GST PCT-07**
  - Amendment to Statement-5B in **FORM GST RFD-01A** & **FORM GST RFD-01**
  - Insertion of **FORM GST EWB-05** & **FORM GST EWB-06**

✓NN 33/19 – CT dated 18.07.19 issued

13

Agenda No. 3
GIC decisions post 35th GST Council Meeting (11/11)

Decisions of 30th GIC meeting (09.07.19)

- Extension of last date for furnishing **FORM CMP-08**

✓NN 34/19 – CT dated 18.07.19 issued

Decision by circulation (10.07.19)

- Settlement of an additional amount of Rs. 15,000 crore on adhoc basis

✓Order No. F. No. S–34011/21/2018-ST-I DoR dated 18.07.19 issued

Decision by circulation (17.07.19)

- Issues faced by Resident Welfare Associations relating to GST on monthly subscription/contribution charged by a RWAs from its members

✓Circular No. 109/28/2019-GST dated 22.07.19 issued

14

Agenda Item 3: 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 36th meeting held on 27th July, 2019, the GST Council had ratified all the notifications, circulars, and orders issued before the 27th July, 2019.

2. In this respect, the following notifications, Circulars and Orders issued after 27th July, 2019 till 11th September, 2019, under the GST laws by the Central Government, as available on www.cbic.gov.in, are placed before the Council for information and deemed ratification: -

Act/Rules	Type	Notification/Circular/Order Nos.	Description/Remarks
CGST Act/CGST Rules	Central Tax	1. Notification No. 35/2019 - Central Tax dated 29.07.2019	Seeks to extend the last date for furnishing **FORM GST CMP-08** for the quarter April -June 2019 till 31.08.2019.
		2. Notification No. 36/2019 - Central Tax dated 20.08.2019	Seeks to extend the date from which the facility of blocking and unblocking of e-way bill facility as per the provision of rule 138E of CGST Rules, 2017 shall be brought into force to 21.11.2019.
		3. Notification No. 37/2019 - Central Tax dated 21.08.2019	Seeks to extend the due date for furnishing **FORM GSTR-3B** for the month of July, 2019.
		4. Notification No. 38/2019 - Central Tax dated 31.08.2019	Seeks to waive filing of **FORM ITC-04** for F.Y. 2017-18 & 2018-19.
		5. Notification No. 39/2019 - Central Tax dated 31.08.2019	Seeks to bring Section 103 of the Finance (No. 2) Act, 2019 in to force.
		6. Notification No. 40/2019 - Central Tax dated 31.08.2019	Seeks to extend the last date in certain cases for furnishing **FORM GSTR-7** for the month of July, 2019.
		7. Notification No. 41/2019 - Central Tax dated 31.08.2019	Seeks to waive the late fees in certain cases for the month of July, 2019 for **FORM GSTR-1** and **FORM GSTR-6** provided the said returns are furnished by 20.09.2019.

Act/Rules	Type	Notification/Circular/Order Nos.	Description/Remarks
	Central Tax (Rate)	1. Notification No. 12/2019-Central Tax (Rate) dated 31.07.2019	Seeks to reduce the GST rate on Electric Vehicles, and charger or charging stations for Electric vehicles.
		2. Notification No. 13/2019-Central Tax (Rate) dated 31.07.2019	Seeks to exempt the hiring of Electric buses by local authorities from GST.
UTGST Act	Union Territory Tax (Rate)	1. Notification No. 12/2019- Union Territory Tax (Rate) dated 31.07.2019	Seeks to reduce the GST rate on Electric Vehicles, and charger or charging stations for Electric vehicles.
		2. Notification No. 13/2019- Union Territory Tax (Rate) dated 31.07.2019	Seeks to exempt the hiring of Electric buses by local authorities from GST.
IGST Act	Integrated Tax (Rate)	1. Notification No. 12/2019- Integrated Tax (Rate) dated 31.07.2019	Seeks to reduce the GST rate on Electric Vehicles, and charger or charging stations for Electric vehicles.
		2. Notification No. 13/2019- Integrated Tax (Rate) dated 31.07.2019	Seeks to exempt the hiring of Electric buses by local authorities from GST.
Removal of Difficulty Order	Under CGST Act	1. Order No. 7/2019 - Central Tax dated 26.08.2019	Seeks to remove difficulties regarding filing of Annual returns by extending the due date for filing of Annual return / Reconciliation Statement for the Financial year 2017-18 in **FORMs GSTR-9, GSTR-9A** and **GSTR-9C** to 30th November, 2019.

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

Agenda Item 4: Decisions of the GST Implementation Committee (GIC) for information of the Council

GST Implementation Committee (GIC) took certain decisions between 20th July 2019 and 6th September 2019. Due to the urgency involved, some decisions were taken after obtaining approval by circulation amongst GIC members. The details of the decisions taken are given below:

31st GIC Meeting - 13th August 2019

2. The 31st Meeting of the GIC was held in Kalpvriksha in North Block, New Delhi on 13th August 2019 from 11:00 hrs onwards. The following agenda items were discussed and decided:

Agenda item 1: Waiver of recording of UIN for Foreign Diplomatic Missions / UN Organizations

3. The proposal before the GIC was regarding waiver of non-recording of UINs on invoices for purposes of refunds to be extended for a period from 31st March 2019 to 31st March 2020. It was reported that the many of the suppliers / vendors to Foreign Diplomatic Missions / UN Organizations have been declining supply of goods or services to Foreign Diplomatic Missions / UN Organizations on the premise that such UIN was not a valid GSTIN and therefore cannot be recorded in their invoices. Due to such non-compliance of recording of UIN, Foreign Diplomatic Missions / UN Organizations would not be eligible for refund.

3.1. The GIC approved the proposal of waiver of non-recording of UINs on invoices for purposes of refunds from 31st March 2019 to 31st March 2020. Accordingly, Corrigendum to Circular No. 63/37/2018-GST was issued on 6th September, 2019.

Agenda item 2: Extension of time for receiving back raw materials sent for job work related issue under Section 143, CGST Act, 2017

4. The proposal before the GIC was regarding approval of issuance of Removal of Difficulties Order based on recommendation by the Law Committee for extension of time to bring back raw materials sent for job work under section 143 (1) of the Central Goods & Service Tax Act, 2017 based on reference from field formations. The proposed order would give effect to the provisions of Section 143 of the CGST Act as amended w.e.f. 01.02.2019 so as to empower jurisdictional Commissioner to exercise powers conferred under second proviso to Section 143(1) of the CGST Act.

4.2. The GIC approved the proposal to empower the jurisdictional Commissioner to extend the time for receiving back raw materials sent for job work. The Removal of Difficulties Order in this regard is yet to be issued.

Agenda item 3: Proposal to waive the requirement of filing declaration in FORM ITC-04 for the Financial Year (2017-18 and 2018-19

5. The proposal before the GIC was regarding waiver of filing declaration in **FORM ITC-04** for the Financial Years (2017-18 and 2018-19). The proposal for extension of due date for furnishing of declaration in **FORM ITC-04** for the period July, 2017 to June, 2019 was placed as an agenda [agenda item 6(vii)] before the GST Council in its 35th meeting held on 21st June 2019. On perusal of rule 45 of the CGST Rules read with Section 143 of the CGST Act, it appeared that the power given to Commissioner was to extend the time limit for filing the declaration in **FORM ITC 04** but not to waive off filing **FORM ITC-04.** Law Committee recommended waiver of furnishing of declaration in **FORM ITC-04** for the period July, 2017 to March, 2019. The Law Committee also recommended

that the same may be done exercising the powers under Section 148 (Special procedure for certain processes) as similar notification was issued earlier in case of OIDAR *vide* notification No. 30/2019-Central Tax, dated 28.06.19.

5.1. The GIC approved the proposal to waive the requirement of filing declaration in **FORM ITC-04** for the Financial Year (2017-18 and 2018-19). Accordingly, the implementing Notification No. 38/2019 dated 31st August 2019 was issued.

Agenda item 4: Extension of date for filing of TRAN-1

6. The proposal before the GIC was regarding extension of the date for filing of TRAN-1/TRAN-2 up to 31st December 2019. As per Rule 117 (1A) of CGST Rules, 2017 inserted *vide* Notification No. 48 of 2018 – Central Tax dated 10.09.2018, the last date for filing of GST TRAN-1 was extended up to 31st March, 2019 in respect of the registered persons who couldn't submit the said declaration by the due date on account of technical difficulties on common portal and in respect of whom the Council had made recommendation for such extension. In the 32nd GST Council Meeting it was decided to extend the scope of ITGRC to include cases having non-technical issues also. Almost 273 cases of TRAN-1 and TRAN-2 were still pending for examination and several approved cases of 6th, 7th and proposed 8th ITGRC were pending for filing at taxpayers' end.

6.1. The GIC deferred the agenda and decided that GST Policy Wing in consultation with GSTN could examine this issue and suitable time frames could be chalked out by the Law Committee for decision by GIC/GST Council.

Decision by Circulation - 17th August 2019

7. A proposal for approval of the GIC was received from Pr. Commissioner, GST Policy Wing, CBIC, relating to blocking and unblocking of e-way bill facility as per the provision of Rule 138E of CGST Rules, 2017.

7.1. It was mentioned that the GST Council in its 35th Meeting held on 21.06.2019 approved the extension of last date for introducing the provisions of rule 138E of the Central Goods and Services Tax Rules. The said provisions were initially made operational with effect from 21st June, 2019 *vide* notification No. 22/2019-Central Tax dated 23rd April, 2019. It provided that e-way bill cannot be generated by a registered person, whether as a supplier or a recipient, if he has not furnished his return for two consecutive tax periods. The facility to generate e-way bill would become available to such registered person as soon as he furnishes his returns for both the tax periods or at least for one tax period. The proviso to Rule 138E of the CGST Rules, however, also provided that the Commissioner can allow generation of e-way bill even if the returns for consecutive period of two tax periods have not been furnished subject to such conditions and restrictions as may be specified by him.

7.2. It was stated that GSTN/NIC had developed **FORM GST EWB-05** and **FORM GST EWB-06** to operationalize the facility provided in proviso to rule 138E. It had been learnt that the API integration related to said forms with Model -1 States / CBIC was facing challenges in respect of operationalization of the facility of unblocking of e-way bills by the Commissioner. Consequently, it was expected that the operationalization of the said forms in the system may get delayed by another three months.

7.3. In the light of the above, it was proposed that the provision of rule 138E for blocking of e-way Bills on account of non-filing of returns for two consecutive tax periods may be introduced after another

three months, i.e. with effect from 21st November 2019. Accordingly, it was proposed to amend notification No. 22/2019-Central Tax dated 23rd April, 2019, as amended vide notification No. 25/2019-Central tax dated 21.06.2019 so as to make the provisions of rule 138E effective from 21.11.2019.

7.4. It may be noted that the date from which this facility was supposed to be operationalized was 21st August 2018. However, due to challenges faced in operationalization, GSTN had requested the date to be extended till 21st November 2019. In view of urgency of the matter, the notification was proposed to be issued on 20th August, 2019.

7.5. The GIC approved the proposal. Accordingly, the implementing Notification No. 36/2019 dated 20th August, 2019 was issued.

Decision by Circulation – 21st August 2019

8. A proposal for approval of the GIC was received from Pr. Commissioner, GST Policy Wing, CBIC, relating to extension of due date for filing of Annual Return for Financial Year 2017-18 from 31st August 2019 to 30th November, 2019.

8.1. It was mentioned that the filing of Annual Return in **FORM GSTR-9** and **FORM GSTR-9A** and reconciliation statement in **FORM GSTR-9C** as a percentage of the number of taxpayers who are eligible to file such returns for the Financial Year 2017-18 was far below expectation.

GSTR 9	Eligibility	92,58,899
	Returns Filed	18,89,316
	Return Filing %	**20.41%**
GSTR 9A	Eligibility	19,04,629
	Returns Filed	5,29,596
	Return Filing %	**27.81%**
GSTR-9C	Eligibility	1,24,1764
	Returns Filed	28,358
	Return Filing %	**2.28%**

8.2. As per section 44 of the CGST Act, 2017,

> "*44. (1) Every registered person, other than an Input Service Distributor, a person paying tax under section 51 or section 52, a casual taxable person and a non-resident taxable person, shall furnish an annual return for every financial year electronically in such form and manner as may be prescribed on or* ***before the thirty-first day of December*** *following the end of such financial year.*"

8.3. The due date for filing annual return for Financial Year 2017-18 were extended *vide* Removal of Difficulties Orders, as detailed below:

(i) Removal of Difficulties Order No. 1/2018-Central Tax dated the 11.12.2018 to 31st March, 2018;

(ii) Removal of Difficulties Order No. 3/2018-Central Tax dated the 31.13.2018 to 30th June, 2019; and

(iii) Removal of Difficulties Order No. 6/2019-Central Tax dated the 28th June, 2019 to 31st August, 2019.

8.4. It was stated that various representations had been received asking for further extension of the due dates of filing of the said returns. The matter had been considered and the following had been observed:

(i) The relevant FORMs for annual return were made available to the taxpayer on the common portal only from May 2019 onwards. Consequently, the taxpayers had very little time to align their systems with the GST system and compliance requirements.
(ii) Some of the data required to be filled in the Annual Return was envisaged to flow from **FORM GSTR-2** and **FORM GSTR-3.** However, the filing of the same has been suspended and therefore the taxpayers were not maintaining their data in these formats.
(iii) In some cases, differences have been observed between auto-populated figures in FORM GSTR-9 vis-à-vis figures declared by the taxpayers in **FORM GSTR-1/FORM GSTR-3B**;
(iv) Various issues were raised by taxpayers in relation to annual returns and reconciliation statement and to address the same, two comprehensive press releases have been issued on 04.06.2019 and 03.07.2019.

8.5. Attention had been drawn to the fact that the last day to file the returns for Corporate tax along with audited financial statement under the Income Tax Act is 30th September 2019. Further, October being festive season it was viewed that it would be prudent that the last date for filing the return for the Financial Year 2017-18 in **FORM GSTR-9 / 9A** and **9C** may be extended for three months i.e. till 30th November 2019.

8.6. The GIC approved the proposal. Accordingly, the Removal of Difficulties Order No. 7/2019-Central Tax dated 26th August, 2019 was issued.

Decision by Circulation – 21st August 2019

9. A proposal for approval of the GIC was received from Pr. Commissioner, GST Policy Wing, CBIC, relating to extension of due date for filing **FORM GSTR-3B** for the month of July, 2019.

9.1. It was mentioned that the last date for filing **FORM GSTR-3B** for month of July, 2019 was 20th August, 2019. It had been informed that the economic activity including **FORM GSTR-3B** filing had got impacted in several states on account of heavy rains and floods and that many taxpayers were facing hardships in filing such returns. The Additional Chief Secretary, Finance Department, Government of Karnataka, vide letter dated 20th August, 2019 had requested extension of due date for **FORM GSTR-3B** for the month of July 2019 in 22 flood affected districts of Karnataka. From press report it was learnt that states of Madhya Pradesh, Gujarat, Kerala, Odisha, Bihar and West Bengal etc. were also affected by heavy rains and floods. Accordingly, recommendation from other flood affected States for any such requests of extension had been sought. The response was awaited.

9.2. It had also been informed vide an email dated 20th August, 2019 from Additional Resident Commissioner, Jammu and Kashmir that under the current circumstances it was not possible for taxpayers in Jammu & Kashmir to file their online GST returns, in the wake of suspension of internet services there and thereby the due date for filing **FORM GSTR-3B** for month of July, 2019 be extended.

9.3. Further, CEO, GSTN, Shri Prakash Kumar, vide email dated 20th August, 2019 had communicated the approval of the Revenue Secretary for extension of due date for filing **FORM**

GSTR-3B for the month of July 2019 by two days on account of technical glitches in the portal leading to disruption in filing of **FORM GSTR-3B** between 1900 hrs. to 2100 hrs. on 20.08.2019.

9.4. Based on various representations as detailed in paragraphs 9.1, 9.2 and 9.3 above it was proposed to extend the due date for filing return in **FORM GSTR-3B** for the month of **July, 2019** as follows:

a) For all taxpayers, the due date be extended to 22nd August, 2019.
b) For taxpayers having principal place of business in the flood affected districts, the due date be extended to 20th September, 2019.
c) For taxpayers having principal place of business in the State of Jammu and Kashmir, the due date be also extended to 20th September, 2019

9.5. The GIC approved the proposal. Accordingly, the implementing Notification No. 37/2019 dated 21st August, 2019 was issued.

Decision by Circulation – 29th August 2019

10. A proposal for approval of the GIC was received from Pr. Commissioner, GST Policy Wing, CBIC, relating to extension of due date for filing various FORMs under GST for the month of July, 2019.

10.1. It has been mentioned that various representations have been received from many States informing that economic activity including filing of various FORMs under GST has been impacted in several States on account of heavy rains and floods and that many taxpayers were facing hardships in filing such returns. Moreover, under the current circumstances it was not possible for taxpayers in Jammu & Kashmir to fulfil their online GST related compliances, in the wake of suspension of internet services. List of flood affected districts, as received from States is enclosed as Flag '**A**'. In this regard, *vide* notification No. 37/2019-Central Tax dated 21.08.2019, the due date for filing return in **FORM GSTR-3B** for the month of July, 2019 has already been extended for all taxpayers by two days and for taxpayers whose principal place of business is in flood affected district or in the State of Jammu and Kashmir, by 1 month. The details of other FORMs whose filing have been impacted, as per the received representations is as below:

Sl. No.	FORM	Description	Due Date for filing
1.	**FORM GSTR-1**	Monthly statement containing details of outward supplies (for taxpayers with turnover > Rs. 1.5 cr)	**11.08.2019** (*Section 37(1) & Notification No. 28/2019 – Central Tax dt. 28.06.2019*)
2.	**FORM GSTR-6**	Return for taxpayers registered as Input Service Distributors	**13.08.2019** (*Section 39(4)*)
3.	**FORM GSTR-7**	Return for taxpayers registered as Tax Deductors at Source	**31.08.2019** (*Section 39(3) & Notification No. 26/2019 – Central Tax dt. 28.06.2019*)

10.2. It may be noted that the due dates for filing of **FORM GSTR-1** for taxpayers with turnover > Rs. 1.5 crore and **FORM GSTR-6** has already crossed and any filing done now would be liable for late fees. Further, the due date for filing of **FORM GSTR-7** for the month of July, 2019 is 31.08.2019. Since the due dates for filing of **FORM GSTR-1** and **FORM GSTR-6** has already passed, in order to provide relief to the taxpayers, it has been proposed that the waiver of late fees for the said FORMs in the specified districts, in line with notification No. 37/ 2019-central tax, dated 21.08.2019, may be done. Further, the due date for filing of **FORM GSTR-7** may also be extended in the specified districts. The said benefits may be extended till 20.09.2019.

10.3. Accordingly, it was proposed to carry out the following:

a) In respect of **FORM GSTR-1**:

   i. Waiver of late fees for late filing of **FORM GSTR-1** by taxpayers with turnover > Rs. 1.5 crore having principal place of business in the specified flood affected districts for the month of July, 2019 if the statement gets filed before 20.09.2019.

   ii. Waiver of late fees for late filing of **FORM GSTR-1** by taxpayers with turnover > Rs. 1.5 crore having principal place of business in the State of Jammu and Kashmir for the month of July, 2019 if the statement gets filed before 20.09.2019.

b) In respect of **FORM GSTR-6**:

   i. Waiver of late fees for late filing of **FORM GSTR-6** by taxpayers registered as Input Service Distributors having principal place of business in the specified flood effected districts of specified States for the month of July, 2019 if the statement gets filed before 20.09.2019.

   ii. Waiver of late fees for late filing of **FORM GSTR-6** by taxpayers registered as Input Service Distributors having principal place of business in the State of Jammu and Kashmir for the month of July, 2019 if the statement gets filed before 20.09.2019.

c) In respect of **FORM GSTR-7**:

   i. Extension of due date for filing of **FORM GSTR-7** taxpayers having principal place of business in the specified districts of specified States till 20.09.2019

   ii. Extension of due date for filing of **FORM GSTR-7** taxpayers having principal place of business in the State of Jammu and Kashmir till 20.09.2019.

10.4. The GIC approved the proposal. Accordingly, the implementing Notification No. 40/2019 dated 31st August, 2019 and Notification No. 41/2019 dated 31st August 2019 were issued.

11. The decisions of the GIC are placed for information of the Council.

Agenda Item 6: Review of Revenue position

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 from April, 2019 to August, 2019.

Table 1*: GST revenue for April to August, 2019

(Figures in ₹ Crore)

	Apr-19	**May-19**	**June'19**	**July'19**	**Aug'19**
CGST	21,163	17,811	18,366	17,912	17,733
SGST	28,801	24,462	25,343	25,008	24,239
IGST	54,733	49,891	47,772	50,612	48,958
Domestic	*31,444*	*25,015*	25,792	26,366	24,140
Imports	*23,289*	*24,875*	21,980	24,246	24,818
Comp Cess	9,168	8,125	8,457	8,551	7,273
Domestic	*8,115*	*7,172*	7,582	7,754	6,432
Imports	*1,053*	*953*	876	797	841
Total	**1,13,866**	**1,00,289**	**99,939**	**102,083**	**98,202**

*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 from April'19-Aug'19

(Figures in Rs. Crore)

Month	**April'19**	**May'19**	**June'19**	**July'19**	**August'19**	**Total**
Collections	54,733	49,891	47,772	50,612	48,958	251966
Recovery from IGST Ad-hoc apportionment	0	0	0	8000(+)	6000(+)	14000
Refunds	5,353(-)	6,500(-)	10,723(-)	8,700(-)	6,025(-)	37,301(-)
Settlement	36,345(-)	32,536(-)	31,782(-)	57,426(-)	45788(-)	203877(-)
CGST	20,370	18,098	18,169	33,027	26,165	115829
SGST	15,975	14,438	13,613	24,399	19,623	88048
CGST ad hoc	6,000			7,500		13,500
SGST ad hoc	6,000			7,500		13,500
Net	**13,035**	**10,855**	**5,267**	**-22,514**	**3,145**	**(-)2212**

Figures rounded to nearest whole number

3. The residual IGST accumulated till Feb'2019 was apportioned periodically on ad-hoc basis in the FY 2018-19 itself. Since, details of IGST balance for March'19 is available only in the month of April'19 and accordingly, residual IGST of Rs. 12,000 cr accumulated in the month of March'2019 was apportioned on ad-hoc basis in the month of April'19. From 2019-20 onwards, every year, 12 months' cycle of ad-hoc apportionment will be maintained.

4. During the month of July, ad-hoc settlement of ₹15,000 crore was done. Since, the amount required for effecting IGST regular settlement for the month of July'19 and August'19 was more than the amount available in the IGST Account, to meet this gap, Rs. 8000 cr and Rs. 6000 cr had been

recovered from the IGST ad-hoc apportionment done in the past in the ratio of 50:50 from the Centre and States from July'19 and August'19 respectively.

Compensation Fund

5. The Compensation Cess collected during last two years and in the current year till end of August and the compensation released is shown in the table below:

Table 3: Compensation Cess collected and compensation released

(Figures in Rs. Crore)

	2017-18	**2018-19**	**2019-20**
1. Opening balance	0	21,466	47,272
2. Compensation Cess Collected	62,612	95,081	41,574
3.a. Compensation required for the year	48,650	81,177	45,745
b. of (a) compensation released in later years	7,504	18,934	0
c. Compensation of previous years released	0	7,032	19,406
d. Compensation released (a-b+c)	41,146	69,275	65,151
4. Closing Balance	**21,466**	**47,272**	**23,695**

6. In the current financial year, three more bi-monthly installments of compensation need to be released. Rs.27,956 Cr. was released as compensation for the period June-July, 2019 and if the remaining three installments are also of the same order, the compensation required for the remaining period would be Rs. 83,868 Crore. Further, in last five months Rs. 41,574 Crore of cess has been collected based on which it can be assumed that Rs. 49,889 Crore shall be collected by end of February. Taking into account the unutilized cess amount of Rs. 23,695 Crore as at the end of August, the total amount available by end of February, when last instalment of compensation during the current year shall be released, will be Rs. 73,584 Crore. Therefore, as at the end of February, 2020, the amount of cess available in the Fund shall fall short for payment of compensation for loss of revenue till the bimonthly period Dec-Jan.

Trends in Monthly Revenue

7. Figure 1 shows the trends in the gross total GST revenues since introduction of GST. Figure 2 shows the month-on-month growth rate for each month since September, 2018 till August, 2019. As may be seen, the monthly growth increased from September, 2018 onwards and peaked during November, 2018 at 17% and then remained at around 13% between December, 2018 to February, 2019. It again peaked to 16% during March, 2019 but has fallen to 5% in August, 2019 respectively.

Figure 1: Trends in total gross GST Revenues (₹ crore)

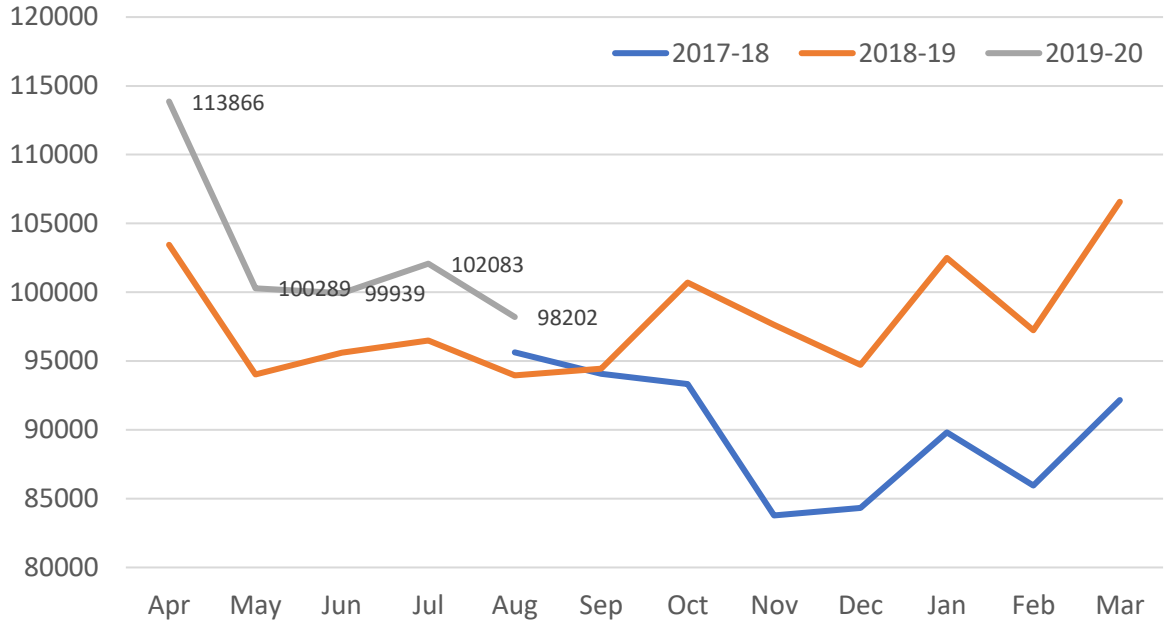
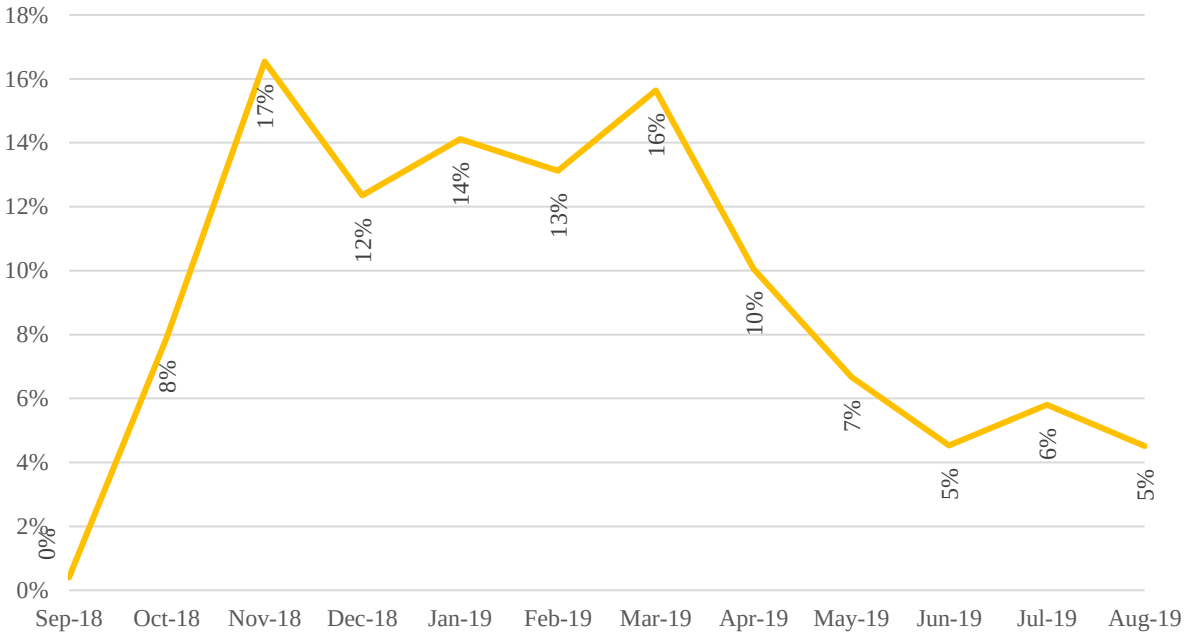


Figure 2: Month-on-Month growth in total gross GST Revenues



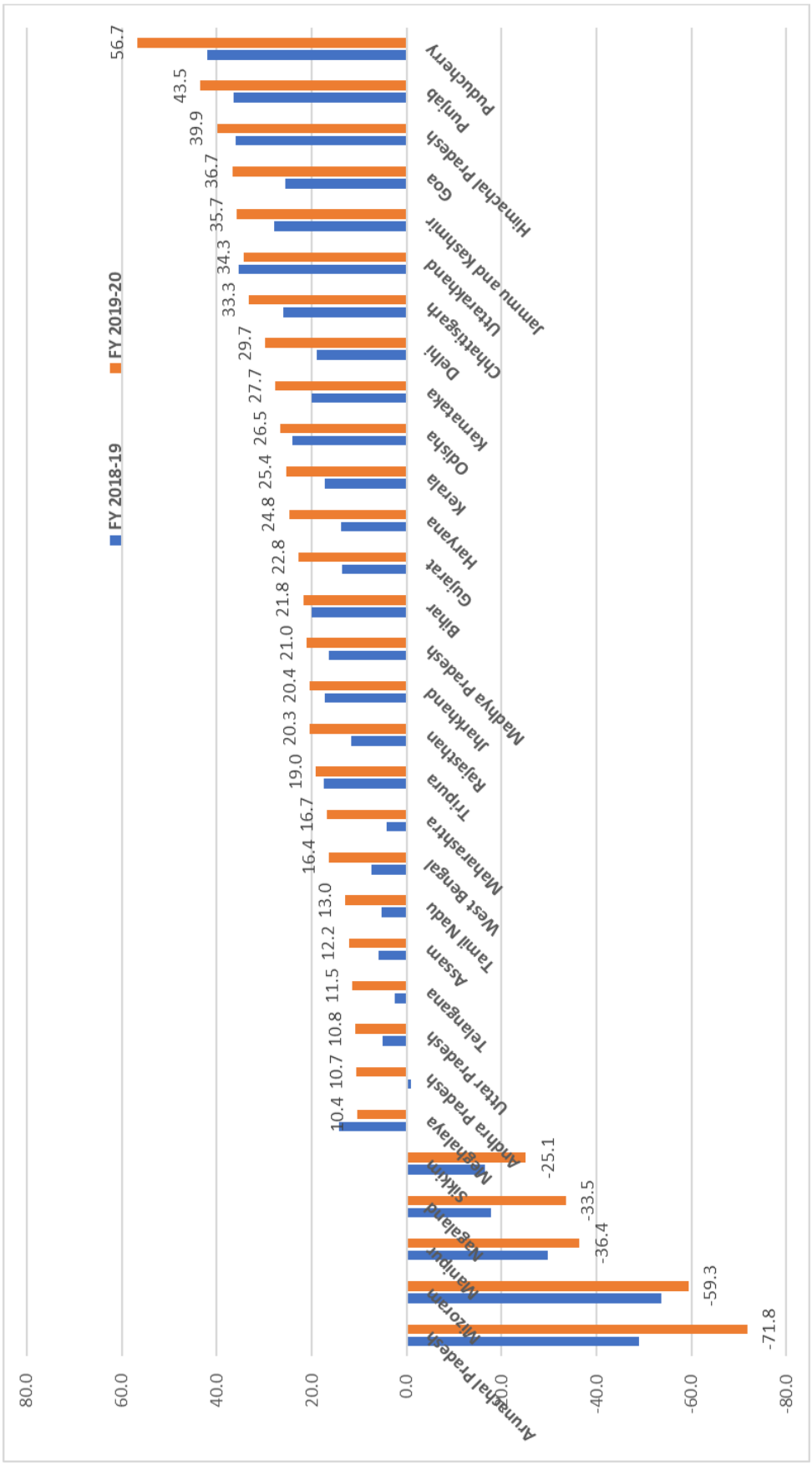
Gap with respect to base Revenue

8. The State-wise details of gap between the revenue protected and gross SGST revenue (post-settlement) for the April-August period in the current year as compared to the same period in the previous year may be seen in the Table 4. This information is also depicted in the graph placed at Figure 3.

Table 4: Revenue Gap during the period April-August (%)

State/UT	2018-19	2019-20
Arunachal Pradesh	-49.0	-71.8
Mizoram	-53.7	-59.3
Manipur	-29.7	-36.4
Nagaland	-17.9	-33.5
Sikkim	-16.6	-25.1
Meghalaya	14.2	10.4
Andhra Pradesh	-0.8	10.7
Uttar Pradesh	5.0	10.8
Telangana	2.5	11.5
Assam	5.8	12.2
Tamil Nadu	5.2	13.0
West Bengal	7.4	16.4
Maharashtra	4.1	16.7
Tripura	17.4	19.0
Rajasthan	11.8	20.3
Jharkhand	17.2	20.4
Madhya Pradesh	16.3	21.0
Bihar	20.0	21.8
Gujarat	13.5	22.8
Haryana	13.8	24.8
Kerala	17.2	25.4
Odisha	24.0	26.5
Karnataka	20.0	27.7
Delhi	18.9	29.7
Chhattisgarh	25.9	33.3
Uttarakhand	35.4	34.3
Jammu and Kashmir	28.0	35.7
Goa	25.5	36.7
Himachal Pradesh	36.1	39.9
Punjab	36.5	43.5
Puducherry	41.9	56.7
Average	**12.7**	**20.9**

Figure 3: Revenue Gap during the period April-Aug



Trends in Return filing

9. The table below shows the trend in returns in FORM GSTR-3B till due date and till date for return periods upto April, 2019.

Table 5

Return Period	Due Date	Required to file	Till due date		Till 8th September	
			Returns	%	Returns	%
April'19	20thMay'19	10233313	6061978	59.24%	8324486	81.35%
May'19	20th June'19	10286063	6518408	63.37%	8277220	80.47%
June'19	20th July'19	10358399	6688664	64.57%	8153056	78.71%
July'19	22nd Aug'19	10426762	7080475	67.91%	7736519	74.20%

Figure:4

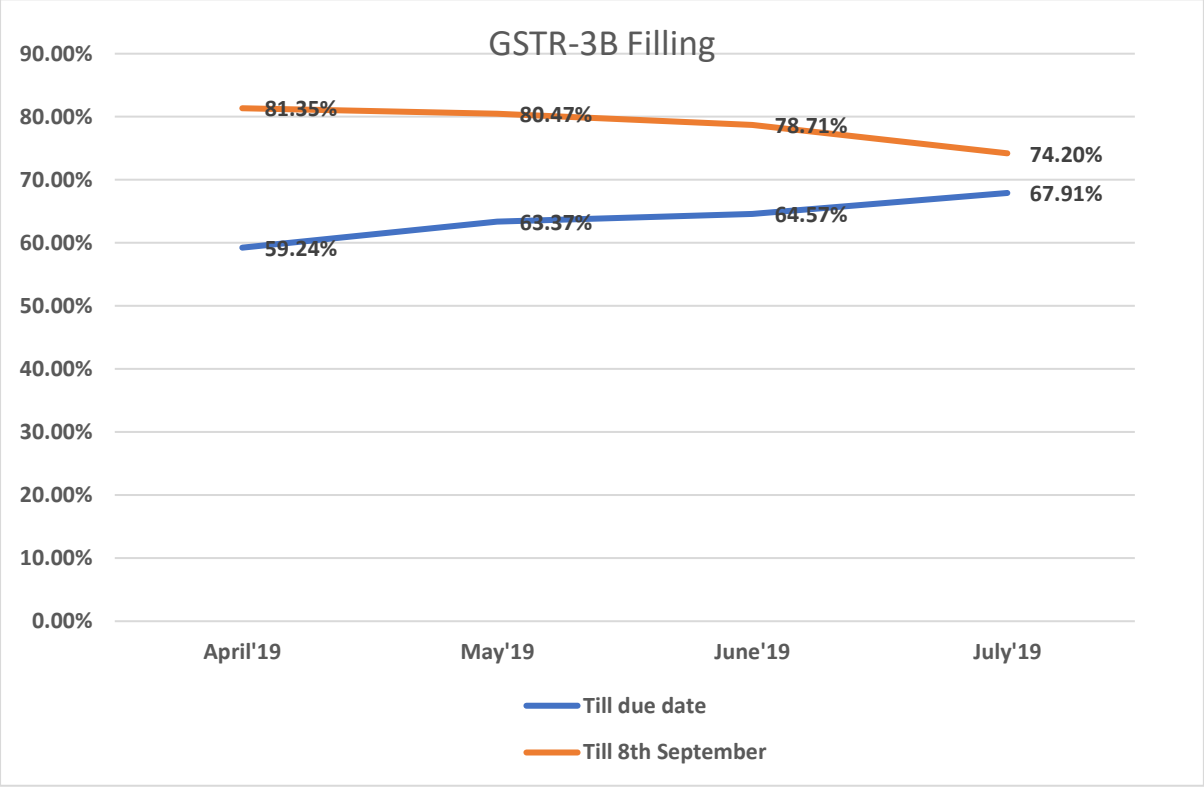


Table 6: State-wise Return filing (GSTR-3B) till due date

Code	State/UT Name	Apr	May	June	July
1	Jammu and Kashmir	60%	62%	64%	26%
2	Himachal Pradesh	63%	67%	67%	71%
3	Punjab	73%	76%	76%	80%
4	Chandigarh	72%	74%	75%	79%
5	Uttarakhand	58%	62%	63%	66%
6	Haryana	64%	68%	68%	72%
7	Delhi	57%	60%	61%	64%
8	Rajasthan	63%	67%	68%	72%
9	Uttar Pradesh	64%	68%	69%	73%
10	Bihar	51%	54%	56%	60%
11	Sikkim	50%	52%	54%	58%
12	Arunachal Pradesh	27%	30%	33%	37%
13	Nagaland	36%	40%	42%	46%
14	Manipur	33%	34%	37%	43%
15	Mizoram	45%	46%	46%	51%
16	Tripura	55%	59%	61%	65%
17	Meghalaya	51%	55%	55%	59%
18	Assam	38%	43%	44%	47%
19	West Bengal	61%	65%	66%	69%
20	Jharkhand	53%	56%	58%	63%
21	Odisha	29%	58%	61%	67%
22	Chhattisgarh	48%	55%	57%	62%
23	Madhya Pradesh	58%	64%	65%	69%
24	Gujarat	69%	73%	74%	77%
25	Daman and Diu	59%	63%	65%	69%
26	Dadra and Nagar Haveli	58%	61%	63%	66%
27	Maharashtra	58%	60%	62%	65%
29	Karnataka	62%	66%	67%	71%
30	Goa	52%	55%	55%	58%
31	Lakshadweep	37%	36%	40%	41%
32	Kerala	54%	58%	60%	63%
33	Tamil Nadu	59%	62%	63%	68%
34	Puducherry	54%	57%	58%	62%
35	Andaman and Nicobar Islands	34%	33%	34%	36%
36	Telangana	52%	56%	57%	61%
37	Andhra Pradesh	56%	61%	63%	67%
97	Other Territory	69%	71%	68%	68%
	Total	**59%**	**63%**	**65%**	**68%**

Table 7: State-wise Return filing (GSTR-3B) till 08/09/19

Code	State/UT Name	Apr	May	June	July
1	Jammu and Kashmir	80%	79%	76%	31%
2	Himachal Pradesh	82%	81%	80%	77%
3	Punjab	89%	88%	87%	84%
4	Chandigarh	91%	90%	89%	85%
5	Uttarakhand	79%	79%	77%	73%
6	Haryana	84%	84%	82%	79%
7	Delhi	78%	76%	75%	70%
8	Rajasthan	82%	81%	80%	77%
9	Uttar Pradesh	83%	83%	82%	79%
10	Bihar	74%	73%	71%	67%
11	Sikkim	75%	73%	70%	66%
12	Arunachal Pradesh	55%	53%	50%	45%
13	Nagaland	62%	61%	59%	54%
14	Manipur	57%	55%	54%	51%
15	Mizoram	69%	67%	64%	59%
16	Tripura	76%	74%	73%	70%
17	Meghalaya	71%	70%	69%	65%
18	Assam	62%	60%	58%	54%
19	West Bengal	81%	80%	78%	74%
20	Jharkhand	78%	76%	74%	70%
21	Odisha	80%	79%	78%	74%
22	Chhattisgarh	83%	82%	79%	72%
23	Madhya Pradesh	86%	85%	83%	78%
24	Gujarat	88%	88%	86%	82%
25	Daman and Diu	83%	83%	83%	77%
26	Dadra and Nagar Haveli	83%	81%	79%	72%
27	Maharashtra	79%	77%	75%	70%
29	Karnataka	83%	83%	81%	77%
30	Goa	73%	72%	69%	63%
31	Lakshadweep	51%	50%	48%	43%
32	Kerala	82%	81%	79%	73%
33	Tamil Nadu	82%	80%	78%	74%
34	Puducherry	77%	76%	74%	70%
35	Andaman and Nicobar Islands	64%	60%	54%	45%
36	Telangana	77%	76%	74%	69%
37	Andhra Pradesh	82%	81%	80%	75%
97	Other Territory	79%	78%	79%	72%
	Total	81%	80%	79%	74%

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

Agenda Item 7(i): Proposal for extension of last date for filing of appeals against orders of Appellate Authority before the GST Appellate Tribunal due to non-constitution of benches of the Appellate Tribunal

Chapter XVIII of the CGST Act provides for "Appeals and Revision" mechanism for dispute mechanism under GST. According to section 112 (1) of the CGST Act, any person aggrieved by an order passed against him by the Appellate Authority under section 107 or by the Revisional Authority under section 108 of this Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act may appeal to the Appellate Tribunal against such order within **three months** from the date on which the order sought to be appealed against is communicated to the person preferring the appeal.

2. Section 109 of the CGST Act provides for the constitution of GST Appellate Tribunal and its benches. According to sub-section (2) of section 109 of the CGST Act, the powers of the Appellate Tribunal shall be exercisable by the National Bench and Benches thereof (known as "Regional Benches"), State Bench and Benches thereof (known as "Area Benches"). The National Bench of the Appellate Tribunal shall be situated at New Delhi which shall be presided over by the President and shall consist of one Technical Member (Centre) and one Technical Member (State). The Government shall, on the recommendations of the GST Council, by notification, constitute such number of Regional Benches as may be required and such Regional Benches shall consist of a Judicial Member, one Technical Member (Centre) and one Technical Member (State). The National Bench or Regional Benches of the Appellate Tribunal shall have jurisdiction to hear appeals against the orders passed by the Appellate Authority or the Revisional Authority in the cases where one of the issues involved relates to the place of supply. The Government shall, by notification, specify for each State or Union territory, a Bench of the Appellate Tribunal for exercising the powers of the Appellate Tribunal within the concerned State or Union territory. The State Bench or Area Benches shall have jurisdiction to hear appeals against the orders passed by the Appellate Authority or the Revisional Authority in the cases involving matters other than those pertaining to the jurisdiction of National Bench or Regional Benches.

3. However, it may be noted that the Tribunal and its benches have not been constituted in many States/UTs. As a result, there are various cases where the time limit of three months for appeal has elapsed after the passing of order by the Appellate Authority under section 107 of the CGST Act or by the Revisional Authority under section 108 of the CGST Act, 2017. '

4. In this regard, a proposal was placed before the Law Committee to extend the last date for filing of appeal before the GST Appellate Tribunal and its benches by issuance of an Order under section 172 of the CGST Act ("Removal of Difficulties"). The Law Committee, in its meeting held on 29.08.2019, had deliberated on the issue and recommended issuance of Removal of Difficulty Order. The draft RoD, as approved by the Law Committee, is enclosed as **Annexure 1**.

5. Accordingly, the issue is placed before the GST Council for deliberation and approval of the proposal.

Annexure 1

[To be published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii)]

Government of India

Ministry of Finance

(Department of Revenue)

Central Board of Indirect Taxes and Customs

Order No. /2019-Central Tax

New Delhi, the September, 2019

S.O.(E).—WHEREAS, sub-section (1) of section 112 of the Central Goods and Services Tax Act, 2017 (12 of 2017) (hereafter in this Order referred to as the said Act) provides that any person aggrieved by an order passed against him under section 107 or section 108 of this Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act may appeal to the Appellate Tribunal against such order within three months from the date on which the order sought to be appealed against is communicated to the person preferring the appeal;

AND WHEREAS, section 109 of the said Act provides for the constitution of Goods and Services Tax Appellate Tribunal and Benches thereof;

AND WHEREAS, for the purpose of filing appeal as referred to in sub-section (1) of section 112 of the said Act, the Appellate Tribunal and its Benches are yet to be constituted in many States and Union Territories under section 109 of the said Act as a result whereof, the appeal could not been filed within the prescribed time limit of three months, and because of that, certain difficulties have arisen in giving effect to the provisions of the said section;

NOW, THEREFORE, in exercise of the powers conferred by section 172 of the Central Goods and Services Tax Act, 2017, the Central Government, on recommendations of the Council, hereby makes the following Order, to remove the difficulties, namely: —

1. Short title.—This Order may be called the Central Goods and Services Tax (_____ Removal of Difficulties) Order, 2019.

2. In sub-section (1) of section 112 of the Central Goods and Services Tax Act, 2017, after the words, “three months from the date on which the order sought to be appealed against is communicated to the person preferring the appeal”, the words “or three months from the date on which the President or the State President, as the case may be, of the Appellate Tribunal after its constitution under section 109, enters office, whichever is later.” shall be inserted.

3. In sub-section (3) of section 112 of the Central Goods and Services Tax Act, 2017, after the words, “six months from the date on which the said order has been passed”, the words “or six months from the date on which the President or the State President, as the case may be, of the Appellate Tribunal after its constitution under section 109, enters office, whichever is later,” shall be inserted.

[CBIC-20/01/05/2019 - GST]

(XXXX)

Under Secretary to the Government of India

Agenda Item 7(ii): Exemption to small taxpayers from filing of Annual Return

It was observed that the filing of Annual Return in **FORM GSTR-9 and FORM GSTR-9A** as a percentage of the number of taxpayers who are eligible to file such returns for the Financial Year 2017-18 was far below expectation as on 31.08.2019. The Annual Return filing percentage as on 18th August 2019 is as below:

GSTR 9	Eligibility	92,58,899
	Returns Filed	18,89,316
	Return Filing %	**20.41%**
GSTR 9A	Eligibility	19,04,629
	Returns Filed	5,29,596
	Return Filing %	**27.81%**
GSTR-9C	Eligibility	12,41,764
	Returns Filed	28,358
	Return Filing %	**2.28%**

Accordingly, the due date for filing of Annual Return for FY 2017-18 in **FORM GSTR-9 and FORM GSTR-9A** and the Reconciliation Statement in **FORM GSTR-9C** was again extended (*vide* Removal of Difficulties Order No. 7/2019-Central Tax dated the 26th August, 2019) beyond 31st August, 2019 for another three months to 30th November, 2019.

2. It may be noted that the due date for furnishing the said return / reconciliation statement is mandated as per section 44 of the CGST Act, 2017, as detailed below:

> "*44. (1) Every registered person, other than an Input Service Distributor, a person paying tax under section 51 or section 52, a casual taxable person and a non-resident taxable person, shall furnish an annual return for every financial year electronically in such form and manner as may be prescribed on or* ***before the thirty-first day of December*** *following the end of such financial year.*"

Further, the manner of filing the annual return is prescribed as per the provisions of sub-rule (1) of Rule 80 of the CGST Rules is as below,

> "*80. Annual return.- (1) Every registered person other than those referred to in the proviso to sub-section (5) of section 35, other than an Input Service Distributor, a person paying tax under section 51 or section 52, a casual taxable person and a non-resident taxable person, shall furnish an annual return as specified under sub-section (1) of section 44 electronically in* ***FORM GSTR-9*** *through the common portal either directly or through a Facilitation Centre notified by the Commissioner:*
>
> *Provided that a person paying tax under section 10 shall furnish the annual return in* ***FORM GSTR-9A.***"

In addition to the above, as per provisions of sub-rule (3) of Rule 80 of the CGST Rules provides for,

> "*(3)Every registered person* ***whose aggregate turnover during a financial year exceeds two crore rupees*** *shall get his accounts audited as specified under sub-section (5) of section 35 and he shall furnish a copy of audited annual accounts and a reconciliation statement,*

*duly certified, in **FORM GSTR-9C**, electronically through the common portal either directly or through a Facilitation Centre notified by the Commissioner*."

3. Representations have been received on multiple occasions from trade and industry enlisting technical and other difficulties in respect of filing the said return / reconciliation statement. Accordingly, the due date for filing annual return for FY 2017-18 has already been extended multiple times *vide* Removal of Difficulties Orders, as detailed below:

(i) Removal of Difficulties Order No. 1/2018-Central Tax dated the 11.12.2018 to 31st March, 2018;

(ii) Removal of Difficulties Order No. 3/2018-Central Tax dated the 31.13.2018 to 30th June, 2019;

(iii) Removal of Difficulties Order No. 6/2019-Central Tax dated the 28th June, 2019 to 31st August, 2019; and

(iv) Removal of Difficulties Order No. 7/2019-Central Tax dated the 26th August, 2019 to 30th November, 2019.

4. In addition to the above, it was felt that the said compliance requirement is more challenging for the small taxpayers compared to the large taxpayers, as the cost of compliance could be high in proportion to tax payable by them. Therefore, it was felt that some relief may be provided to the small taxpayers in this regard, at least for the initial period so that they get ample time to prepare and familiarize themselves with the said requirement.

5. Accordingly, the matter was deliberated in the Law Committee in its meeting held on 28th and 29th August, 2019 and LC has recommended that the small taxpayers may be exempted from the said compliance requirement, at least initially for FY 2017-18 and FY 2018-19 as per the following details:

(i) complete waiver of the requirement of filing **FORM GSTR-9A** for Composition Taxpayers for the said tax periods.

(ii) waiver of requirement of filing of **FORM GSTR-9** for those taxpayers who are required to file the said return but have an aggregate turnover up to Rs. 2 crores for the said tax periods.

6. The proposal is placed before the GST Council for further deliberation. It may be noted that carrying out the said waiver would require issuance of notifications under section 148 of the CGST Act. The wordings of the notifications shall be finalized in consultation with the Union Ministry of Law and Justice. States would also be required to issue similar notifications.

Agenda Item 7(iii): Issues pertaining to interpretation of Section 10 of the IGST Act, 2017

An issue was raised by Commissioner of State Tax (Punjab) vide letter dated 28.05.19 seeking clarification on the issue related to place of supply in case where Goods are purchased over the counter (on OTC basis) in one State and thereafter transported to another State by the recipient. States like Punjab & Himachal Pradesh have noticed that in case of OTC supply to recipient outside the State, some suppliers are levying CGST and SGST instead of IGST. Further, one of the Tax authorities has issued direction to do the same i.e. in case of OTC supply, the supplier has been directed to charge CGST and SGST instead of IGST even in case of inter-State supply.

2. The matter was put before the Law Committee for deliberation. The Law Committee deliberated the issue in its meeting held on 30th May / 1st June, 2019 and requested DG.GST to bring the draft circular on the issue in next Law Committee meeting. The matter was again deliberated in its meeting held from 27th -28th June, 2019 and the Law Committee recommended issuance of Circular **(Annexure A).**

3. The issue was placed before the GST Implementation committee (GIC) in its 30th Meeting held on 9th July, 2019 for approval of the Circular. The GIC opined that it was a sensitive policy issue and should not be taken up by the GIC.

4. Accordingly, the agenda is placed before the GST Council for further deliberation and approval of the draft circular.

Annexure A

F.No. CBEC – XXXX – GST
Government of India
Ministry of Finance
Department of Revenue
Central Board of Indirect Taxes and Customs
GST Policy Wing
******

New Delhi, the ____ September, 2019

To

The Pr. Chief Commissioners / Chief Commissioners / Principal Commissioners / Commissioners of Central Tax (All)

The Principal Director Generals / Director Generals (All)

Madam / Sir,

Subject: - Issues pertaining to interpretation of Section 10 of the IGST Act, 2017 – reg.

Representations have been received from the trade and industry seeking clarification on issues with respect to place of supply in case where goods are purchased over the counter (on OTC basis) in one State and thereafter transported to another State by the recipient.

2. The matter has been examined. In view of the difficulties being faced by the trade and industry and to ensure uniformity in the implementation of the provisions of the law across the field formations, the Board, in exercise of its powers conferred under section 168(1) of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the "CGST Act") hereby clarifies various issues in succeeding paragraphs.

2.1 It has been reported that in case where the recipient goes to a State other than the State where such recipient is registered or where the recipient is not registered and the address of the recipient is required to be declared in the tax invoice under rule 46(e) or rule 46(f) of the CGST Rules and purchases goods over the counter (OTC) which are then transported by such recipient to the State wherein he is registered or to the address that has been declared in the tax invoice, as the case may be, practice of treating the same as intra-State supply by treating the place of delivery by the supplier as the place of supply is prevalent.

2.2 It is seen that this situation is squarely covered under the provisions contained in clause (a) of sub-section (1) of Section 10 of the Integrated Goods and Services Tax Act, 2017 (hereinafter referred to as the "IGST Act") which provides that the place of supply of goods, where the supply involves movement of goods, whether by the supplier or the recipient or by any other person, shall be the location of the goods at the time at which the movement of goods **terminates** for delivery to the recipient.

2.3 It has been informed that even though the goods are supplied on OTC basis but the supply involves further movement of goods **which is arranged by the recipient, the expression "movement of goods terminates" would mean the place where the movement of goods**

terminates when the goods reach the place of registration of the recipient or to the address that has been declared in the tax invoice, as the case may be. It is, accordingly, clarified that the place of supply in case of such supplies, i.e. where the recipient is registered or the address declared in the tax invoice (in case such recipient is not registered) in a State other than the State in which the supplier is located, shall be determined in accordance with the provisions contained in clause (a) of sub-section (1) of section 10 of the IGST Act. Accordingly, such supplies would be treated as inter-State supplies in accordance with the provisions contained in sub-section (1) of section 7 of the IGST Act. It is further clarified that the supplier would be liable to pay integrated tax in such cases.

2.4 However, where the supply is to an unregistered person and where the recipient's address is not available on record, the place of supply would be determined in accordance with the provisions contained in clause (c) of sub-section (1) of section 10 of the IGST Act. The place of supply in such cases would be the location of goods at the time of delivery to the recipient. Accordingly, such supplies would be treated as intra-State supplies in accordance with the provisions contained in sub-section (1) of section 8 of the IGST Act. It is further clarified that the supplier would be liable to pay Central tax and State tax / Union territory tax in such cases.

3. It is requested that suitable trade notices may be issued to publicise the contents of this Circular.

4. Difficulty, if any, in the implementation of this Circular may be brought to the notice of Board. Hindi version will follow.

(Yogendra Garg)
Principal Commissioner (GST)

Agenda Item 7(iv): Restrictions in availing input tax credit in respect of outward supplies not furnished under section 37 of the CGST Act, 2017

One of the key objectives of the enacted GSTR-1/2/3 model of return filing and the new return model is to provide for matching of invoices between the supplier and the recipient to ensure that the credit availment is possible only on such supplies which have been mutually accepted by the supplier and the recipient. The underlying objective is also to ensure that the tax on all invoices (and its credit) that has been mutually accepted by the supplier and the recipient is deposited by the registered taxpayer.

1. In the current scheme, **FORM GSTR-2** and **FORM GSTR-3** could not be operationalized because of technical glitches and accordingly currently there is no matching of credit in the system. Therefore, there is strong possibility that without any checks / validations in this regard the taxpayers could avail any amount of credit in their **FORM GSTR-3B** which is then utilized or passed on or encashed through the refund process. Coupled with the fact that there is a provision of deemed registration within three days of their application of registration, such a position is likely to have adverse impact on the revenue. Number of cases booked by various enforcement agencies unearthing huge amount of credit fraudulently availed show that such apprehensions are based on evidence, though some of the cases detected involve supplies where the actual supplies and tax invoices have been delivered to different entities.

2. Available data suggests that the percentage of filing of return in **FORM GSTR-1** (details of outward supplies) is far lesser as compared to filing of return in **FORM GSTR-3B**, through which input tax credit is availed. The month wise summary of return filing status of **FORM GSTR-1** and **FORM GSTR-3B**, as on 08.09.2019, is enclosed as **ANNEXURE**. Further, due to poor filing of **FORM GSTR-1**, there are large gaps between credit available under **FORM GSTR-2A** and self-assessed credit under **FORM GSTR-3B**.

3. Even though most of these issues will get addressed in the new return system, considering the concerns regarding declining revenue collection from GST, it is felt necessary to put in place a mechanism to curb such wrongful availment of credit Accordingly, it is proposed that reasonable restriction may be imposed on self-assessed input tax credit availed in **FORM GSTR-3B** in respect of those invoices, the details of which have not been uploaded by the supplier as required under sub-section (1) of section 37 of the CGST Act i.e. which is not reflected in **FORM GSTR-2A**. This will also encourage filing of **FORM GSTR-1** by suppliers thus bridging the gap in the tax payable as per supplier declaration in **FORM GSTR-1** and the credit availed by the recipient in **FORM GSTR-3B**. The proposed restriction will affect only the B2B credit that a taxpayer can avail. Other credit, such as credit on reverse charge, input credit on import of service, input credit on import of goods etc. will be on self-assessment basis through **FORM GSTR-3B.**

4. Sub-section (1) of section 16 of the CGST Act provides for conditions and restrictions subject to which the input tax credit shall be credited to the electronic credit ledger. The issue was deliberated by the Law Committee in its meeting held on 29th and 30th August, 2019. The Law Committee recommended that necessary restriction may be prescribed through amendment of rule 36 of the CGST Rules, 2017. The draft rule, as recommended by the Law Committee (shown in red and underlined), is as below:

36. Documentary requirements and conditions for claiming input tax credit.-(1)The input tax credit shall be availed by a registered person, including the Input Service Distributor, on the basis of any of the following documents, namely:-

(a) an invoice issued by the supplier of goods or services or both in accordance with the provisions of section 31;

(b) an invoice issued in accordance with the provisions of clause (f) of sub-section (3) of section 31, subject to the payment of tax;

(c) a debit note issued by a supplier in accordance with the provisions of section 34;

(d) a bill of entry or any similar document prescribed under the Customs Act, 1962 or rules made thereunder for the assessment of integrated tax on imports;

(e) an Input Service Distributor invoice or Input Service Distributor credit note or any document issued by an Input Service Distributor in accordance with the provisions of sub-rule (1) of rule 54.

(1) Input tax credit shall be availed by a registered person only if all the applicable particulars as specified in the provisions of Chapter VI are contained in the said document, and the relevant information, as contained in the said document, is furnished in **FORM GSTR-2** by such person:

[Provided that if the said document does not contain all the specified particulars but contains the details of the amount of tax charged, description of goods or services, total value of supply of goods or services or both, GSTIN of the supplier and recipient and place of supply in case of inter-State supply, input tax credit may be availed by such registered person.]

(3) No input tax credit shall be availed by a registered person in respect of any tax that has been paid in pursuance of any order where any demand has been confirmed on account of any fraud, willful misstatement or suppression of facts.

(4) Input tax credit to be availed by a registered taxpayer in respect of invoices or debit notes the details of which have not been uploaded by the supplier under sub-section (1) of section 37 shall not exceed 20% of the eligible credit available in respect of invoices or debit notes the details of which have been uploaded by the supplier under sub-section (1) of section 37.

1. The proposal is placed before the GST Council for further deliberation. On approved, the rule 36 of the CGST Rules shall be amended and *pari-materia* changes would also be required in the corresponding SGST Rules.

ANNEXURE (data as on 08.09.2019)

Return Filing Summary (Financial Year: 2018-19, 2019-20)

Return Type	Particulars	Apr'18	May'18	Jun'18	Jul'18	Aug'18	Sep'18	Oct'18	Nov'18	Dec'18	Jan'19	Feb'19	Mar'19	Apr'19	May'19	Jun'19	Jul'19	Aug'19
GSTR 1	Eligibility	44,96,316	46,82,345	93,16,710	47,75,626	47,26,891	96,57,239	46,09,444	45,72,118	99,01,997	44,22,359	43,61,644	1,01,74,978	57,58,955	55,64,504	1,03,58,399	51,33,194	49,85,666
	Returns Filed	28,88,198	29,18,074	75,72,955	29,57,863	29,64,859	77,43,157	29,75,822	29,61,701	77,06,452	29,39,427	28,98,307	72,26,112	27,91,052	27,01,021	61,38,878	22,30,815	2,76,875
	Return Filing %	64.23%	62.32%	81.28%	61.94%	62.72%	80.18%	64.56%	64.78%	77.83%	66.47%	66.45%	71.02%	48.46%	48.54%	59.26%	43.46%	5.55%
GSTR 3B	Eligibility	88,17,798	91,22,309	93,16,710	94,70,282	96,15,273	96,57,239	97,57,664	98,46,645	99,01,997	99,72,639	1,00,54,283	1,01,74,978	1,02,33,313	1,02,86,063	1,03,58,399	1,04,26,762	1,04,55,891
	Returns Filed	79,24,380	80,70,908	81,79,113	82,78,565	83,77,195	84,56,728	85,19,141	84,48,802	85,09,248	85,38,266	85,66,796	85,27,329	83,24,486	82,77,220	81,53,056	77,36,519	4,49,936
	Return Filing %	89.87%	88.47%	87.79%	87.42%	87.12%	87.57%	87.31%	85.80%	85.93%	85.62%	85.21%	83.81%	81.35%	80.47%	78.71%	74.20%	4.30%

Agenda Item 7(v): Proposed clarifications on refund related issues

Currently, appeals against rejection of refund claims in **FORM GST RFD-06** are being disposed offline as the electronic module for the same is yet to be made operational. As per rule 93 of the CGST Rules, where an appeal is filed against the rejection of a refund claim, re-crediting of the amount debited from the electronic credit ledger, if any, is not done till the appeal is finally rejected. Therefore, such rejected amount remains debited in respect of the particular refund claim filed in **FORM GST RFD-01A**.

2. However, in cases where the appeal is decided in favour of the registered person, doubts are being raised as to the process to be followed to avail the amount of the rejected refund which has now been allowed by the appellate authority/tribunal/court. Law Committee deliberated on this issue in the meeting held on 29th – 30th July 2019 and it was decided that in such cases the registered person has to file a fresh refund application in **FORM GST RFD-01A** under the category "Refund on account of assessment/provisional assessment/appeal/any other order". West Bengal was asked to prepare a draft circular on the same which was discussed in the meeting of the Law Committee held on 29th-30th August 2019. The Law Committee approved the draft Circular prepared by West Bengal subject to the following conditions:

a. GSTN may confirm that the functionality to file a refund claim in **FORM GST RFD-01A** under the category "Refund on account of assessment/provisional assessment/appeal/any other order" is available on the common portal; and
b. Suitable validations are placed on the common portal for processing of the said refund applications.

3. The draft Circular, as approved by the Law Committee, is enclosed as **Annexure-A** for the consideration and approval of the Council.

Annexure-A

Circular No. --/--/2019-GST **(DRAFT)**

F. No. CBEC- …/…../…./2019-GST

Government of India

Ministry of Finance

Department of Revenue

Central Board of Indirect Taxes and Customs

GST Policy Wing

***

New Delhi, Dated the ……, 2019

To,

The Principal Chief Commissioners / Chief Commissioners / Principal Commissioners / Commissioners of Central Tax (All)

The Principal Director Generals / Director Generals (All)

Madam/Sir,

Subject: Procedure to claim refund in FORM GST RFD-01A subsequent to favourable order in appeal or any other forum – regarding

Doubts have been raised on the procedure to be followed by a registered person to claim refund subsequent to a favourable order in appeal or any other forum against rejection of a refund claim in **FORM GST RFD-06**. The matter has been examined and in order to clarify this issue and to ensure uniformity in the implementation of the provisions of the law across field formations, the Board, in exercise of its powers conferred by section 168 (1) of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as "CGST Act"), hereby clarifies the issues raised as below:

2. Appeals against rejection of refund claims are being disposed offline as the electronic module for the same is yet to be made operational. As per rule 93 of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as "CGST Rules"), where an appeal is filed against the rejection of a refund claim, re-crediting of the amount debited from the electronic credit ledger, if any, is not done till the appeal is finally rejected. Therefore, such rejected amount remains debited in respect of the particular refund claim filed in **FORM GST RFD-01A**.

3. In case a favourable order is received by a registered person in appeal or in any other forum in respect of a refund claim rejected through issuance of an order in **FORM GST RFD-06,** the registered person would file a fresh refund application under the category "Refund on account of assessment/provisional assessment/appeal/any other order" claiming refund of the amount allowed in appeal or any other forum. Since the amount debited, if any, at the time of filing of the refund application was not re-credited, the registered person shall not be required to debit the said amount again from his electronic credit ledger at the time of filing of the fresh refund application under the category "Refund on account of assessment/provisional assessment/appeal/any other order". The registered person shall be required to give details of the type of the Order (appeal/any other order), Order No., Order date and the Order Issuing Authority. The registered person would also be required to upload a copy of the order of the Appellate or other authority, copy of the refund rejection order in FORM GST RFD 06 issued by

the proper officer or such other order against which appeal has been preferred and other related documents.

4. Upon receipt of the application for refund under the category "Refund on account of assessment/provisional assessment/appeal/any other order" the proper officer would sanction the amount of refund as allowed in appeal or in subsequent forum which was originally rejected and shall make an order in FORM GST RFD 06 and issue payment advice in FORM GST RFD 05 accordingly. The proper officer disposing the application for refund under the category "Refund on account of assessment/provisional assessment/appeal/any other order" shall also ensure re-credit of any amount which remains rejected in the order of the appellate (or any other authority) . However, such re-credit shall be made following the guideline as laid down in para 4.2 of Circular no. 59/33/2018 – GST dated 04/09/2018.

5. The above clarifications can be illustrated with the help of an example. Consider a registered person who makes an application for refund of unutilized ITC on account of export to the extent of Rs.100/- and debits the said amount from his electronic credit ledger. The proper officer disposes the application by allowing refund of Rs.70/- and rejecting the refund of Rs. 30/-. However, he does not re-credit Rs.30/- since appeal is preferred by the claimant and accordingly **FORM GST RFD 01B** is not uploaded. Assume that the appellate authority allows refund of only Rs.10/- out of the Rs. 30/- for which the registered person went in appeal. This Rs.10/- shall be claimed afresh under the category "Refund on account of assessment/provisional assessment/appeal/any other order" and processed accordingly. However, subsequent to processing of this claim of Rs.10/- the proper officer shall re-credit Rs.20/- to the electronic credit ledger of the claimant, provided that the registered person is not challenging the order in a higher forum. For this purpose, FORM GST RFD 01B under the original ARN which has so far not been uploaded will be uploaded with refund sanctioned amount as Rs.80/- and the amount to be re-credited as Rs. 20/-. In case, the proper officer who rejected the refund claim is not the one who is disposing the application under the category "Refund on account of assessment/provisional assessment/appeal/any other order", the latter shall communicate to the proper officer who rejected the refund claim to close the ARN as above only after obtaining the undertaking as referred in para 4.2 of Circular no. 59/33/2018 – GST dated 04/09/2018.

6. It is requested that suitable trade notices may be issued to publicize the contents of this circular.

7. Difficulty, if any, in implementation of the above instructions may please be brought to the notice of the Board. Hindi version would follow.

(Yogendra Garg)
Principal Commissioner (GST)

Agenda Item 7(vi): E-way bill for movement of Gold

The GST Council in its 25th meeting held on 18.01.2018 had recommended that proposal of Kerala regarding introducing e-Way bill for movement of gold shall be examined by the Law Committee. Therefore, issue was deliberated upon by the Law Committee in its meeting held on 30th May, 2019 and 01st June, 2019 wherein the Committee had recommended that the present exclusion of movement of gold from e-Way bill system may continue due to security reasons.

2. The issue was again raised by Kerala in the 35th Council meeting held on 21st June 2019, wherein, it was decided that Law Committee could look into this issue again and also invite officers from Kerala during this meeting. Further, Haryana stated that on the proposal of having encrypted e-Way bill, GSTN should also come up with some suggestions/guidelines and time frame for its implementation.

3. Further, the issue got discussed in presence of officer from Kerala in the Law Committee meeting held on 29th July, 2019. The recommendation of the Law Committee has been reproduced hereunder:

There were the following two views of Law Committee:

(i). The e-way bill system may be implemented in case of gold, Precious stones, etc. (Chapter 71) since the data about such e-way bills is stored in the server and only authorised officials have access to this data. Generation of e-way bills will improve compliance in such cases as there will be a legally mandated document which is to be declared in advance before the commencement of movement; this will ensure accountal. Further, to avoid compliance complications the value in case of such items may be raised. Accordingly, serial numbers 4, 5 and 8 of Annexure to rule 138(14) may be omitted.

(ii). The alternative view was that these items may be exempted from the requirement of e-way bills since these goods are generally not transported through regular transports; rather they are transported personally or privately through a system of trusted couriers, e.g. angadia, who is not aware of the contents and the value of the consignment. Further, the value determined for e-way bills is Rs.50,000/- which will necessitate generating e-way bills for virtually every consignment. Furthermore, e-way bills will be required for movement for job-works (in this case many small and petty karigaars), insistence on e-way bills on these items will increase the compliance burden. It was also observed that the post-interception action required in case of a consignment not carrying e-ways bills would also entail further complications in terms of the impoundment/storage of the detained consignment. Accordingly, the issue may be placed before the Council.

4. Accordingly, the recommendation of the Law Committee is placed before the GST Council for further deliberation.

Agenda Item 7(vii): Proposed amendment to sub-rule (5) of rule 61 of the CGST Rules, 2017 relating to FORM GSTR-3B

The Hon'ble High Court of Gujarat in its order dated 24.06.2019, in the case of AAP & India Vs Union of India, has quashed Para 3 of the press release dated 18th October, 2018 **(Annexure A)** which purports to clarify that the last date for availing input tax credit in relation to the invoices issued by the corresponding supplier(s) during the period from July 2017 to March 2018 is the last date for the filing of return in **FORM GSTR-3B** for the month of September, 2018. The relevant operative part of the judgement is as follows: -

> ***29****. Section 39(1) of the CGST/GGST Act provides that every taxpayer, except a few special categories of persons, shall furnish a monthly return in such form and manner as may be prescribed. Rule 61 of the CGST Rules/GGST Rules prescribes the form and manner of submission of monthly return. Sub-rule 1 of Rule 61 of the CGST Rules/GGST Rules provides that the return required to be filed in terms of Section 39(1) of the CGST/GGST Act is to be furnished in Form GSTR-3.*
>
> ***30****. It would be apposite to state that initially it was decided to have three returns in a month, i.e. return for outward supplies i.e. GSTR-1 in terms of Section 37, return for inward supplies in terms of Section 38, i.e. GSTR-2 and a combined return in Form GSTR-3. However, considering technical glitches in the GSTN portal as well as difficulty faced by the taxpayers, it was decided to keep filing of FORM GSTR-2 and FORM GSTR-3 in abeyance. Therefore, in order to ease the burden of the taxpayer for some time, it was decided in the 18th GST Council meeting to allow filing of a shorter return in Form GSTR-3B for initial period. It was not introduced as a return in lieu of return required to be filed in Form GSTR-3. The return in Form GSTR-3B is only a temporary stop gap arrangement till due date of filing the return in Form GSTR-3 is notified. Notifications are being issued from time to time extending the due date of filing of the return in Form GSTR-3, i.e. return required to be filed under Section 39 of the CGST Act/GGST Act. It was notified vide Notification No.44/2018 Central Tax dated 10th September 2018 that the due date of filing the return under Section 39 of the Act, for the months of July 2017 to March 2019 shall be subsequently notified in the Official Gazette.*
>
> ***31****. It would also be apposite to point out that the Notification No.10/2017 Central Tax dated 28th June 2017 which introduced mandatory filing of the return in Form GSTR-3B stated that it is a return in lieu of Form GSTR-3. However, the Government, on realising its mistake that the return in Form GSTR-3B is not intended to be in lieu of Form GSTR-3, rectified its mistake retrospectively vide Notification No.17/2017 Central Tax dated 27th July 2017 and omitted the reference to return in Form GSTR-3B being return in lieu of Form GSTR-3*
>
> ***32****. Thus, in view of the above, the impugned press release dated 18th October 2018 could be said to be illegal to the extent that its para-3 purports to clarify that the last date for availing input tax credit relating to the invoices issued during the period from July 2017 to March 2018 is the last date for the filing of return in Form GSTR-3B.*

***33**. The said clarification could be said to be contrary to Section 16(4) of the CGST Act/GGST Act read with Section 39(1) of the CGST Act/GGST Act read with Rule 61 of the CGST Rules/GGST Rules.*

2.1 On analysis of the judgment, it is observed that the Hon'ble High Court has ruled that **FORM GSTR-3B** is not a return under sub-section (1) of section 39 of the CGST Act and that **FORM GSTR-3** is the return under the said section. Accordingly, the return under section 39 referred to in section 16(4) of the CGST Act is **FORM GSTR-3.**

2.2. A similar writ has been admitted in the Hon'ble High Court of Telangana wherein the petitioner is contesting that there can be no levy of interest under Section 50 of the CGST Act since GSTR-3B is not a return under Section 39(1) of the CGST Act.

3. The issue was placed before the Law Committee in its meeting held on 29/30.07.2019 for deliberation as to whether any amendment in CGST Act / CGST Rules is required relating to the provisions of section 39 of the CGST Act and related rules. Some of the options along with rationale which were placed before the Law Committee are detailed as below:

<u>Option I:</u> No amendment to be done in the Act/Rules and judgment of Hon'ble Court to be appealed against:

4.1 The Hon'ble Court has erred in interpreting the provisions of section 39 of the CGST Act and rule 61 of the CGST Rules. Section 39(1) of the Act, as it stood, is as follows:

Every registered person, other than an Input Service Distributor or a non-resident taxable person or a person paying tax under the provisions of section 10 or section 51 or section 52 shall, for every calendar month or part thereof, <u>furnish</u>, in such form and manner as may be prescribed, <u>a return</u>, electronically, of inward and outward supplies of goods or services or both, input tax credit availed, tax payable, tax paid and such other particulars as may be prescribed, on or before the twentieth day of the month succeeding such calendar month or part thereof.

Further, Section 39(7) of the CGST Act reads as follows:

"(7) Every registered person, <u>who is required to furnish a return under sub-section (1)</u> or sub-section (2) or sub-section (3) or sub-section (5), <u>shall pay to the Government the tax due as per such return</u> not later than the last date on which he is required to furnish such return."

Harmonious reading of section 39(1) and section 39(7) read with rule 61(1) and 61(5) of the CGST Rules suggest that GSTR-3B is a return under section 39. The taxes are paid under section 39 through a return in **FORM GSTR-3B**. Accordingly, strong and detailed grounds of appeal may be prepared.

4.2 With the new return system being implemented from October 2019, there is no relevance or need to file **FORM GSTR-2** and **FORM GSTR-3**. After the introduction of the new return system, **FORM GSTR-1,2** and **3** shall be replaced by **FORM GST ANX-1** and **FORM GST ANX-2** and **FORM GST RET-1**. Necessary action to waive off filing of **FORM GSTR-2** and **FORM GSTR-3** for all the months from July 2017 onwards may be taken at that point of time. It is proposed that the issue be pursued / litigated in the Courts rather than bringing in a retrospective amendment.

<u>Option II:</u> Prescribe FORM GSTR-3B under Section 39(1) of the CGST Act with FORM GSTR-3 retrospectively and also replace the liability of furnishing FORM GSTR-3 with that of FORM GSTR-3B by amending the provisions of rule 61 of the CGST Rules.

5.1 Though the intention of the GST Council is clear that the **FORM GSTR-3B** is the return under Section 39(1) of the CGST Act, there appears to be scope of litigation on similar grounds as litigated in Gujarat and Telangana High Courts. Therefore, it would be prudent to make amendment in rule 61 with retrospective effect and give legitimacy to **FORM GSTR-3B** as return under section 39(1) upfront.

5.2 It is proposed that rule 61 be amended to prescribe **FORM GSTR-3B** under Section 39(1) of the CGST Act with **FORM GSTR-3** retrospectively and also to remove the requirement of filing **FORM GSTR-3** after the introduction of **FORM GSTR-3B**. In any case the issue would be pursued / litigated in the Courts even after bringing retrospective amendment.

Option III: Mix of option I and option II

6. It is proposed that rule 61 be amended to the extent that it removes the requirement of filing **FORM GSTR-3** wherever the requirement is for furnishing return in **FORM GSTR-3B**. Further, as provided in option 1 above, the issue be pursued / litigated in the Courts rather than bringing in a retrospective amendment.

7. Law Committee, in its meeting held on 29/30.07.2019 had recommended amendment to rule 61 as shown in red colour (and underlined) below. **Sub-rule (5) to rule 61 is to be amended with effect from 01.07.17 and sub-rule (6) to rule 61 to be omitted with effect from 01.07.17**:

Rule 61
61. Form and manner of submission of monthly return.-(1) Every registered person other than a person referred to in section 14 of the Integrated Goods and Services Tax Act, 2017 or an Input Service Distributor or a non-resident taxable person or a person paying tax under section 10 or section 51 or, as the case may be, under section 52 shall furnish a return specified under sub-section (1) of section 39 in **FORM GSTR-3** electronically through the common portal either directly or through a Facilitation Centre notified by the Commissioner. (2) Part A of the return under sub-rule (1) shall be electronically generated on the basis of information furnished through **FORM GSTR-1**, **FORM GSTR-2** and based on other liabilities of preceding tax periods. (3) Every registered person furnishing the return under sub-rule (1) shall, subject to the provisions of section 49, discharge his liability towards tax, interest, penalty, fees or any other amount payable under the Act or the provisions of this Chapter by debiting the electronic cash ledger or electronic credit ledger and include the details in **Part B** of the return in **FORM GSTR-3**. (4) A registered person, claiming refund of any balance in the electronic cash ledger in accordance with the provisions of sub-section (6) of section 49, may claim such refund in **Part B** of the return in **FORM GSTR-3** and such return shall be deemed to be an application filed under section 54. (5) Where the time limit for furnishing of details in **FORM GSTR-1** under section 37 ~~and~~ or in **FORM GSTR-2** under section 38 has been extended, the return specified in sub-section (1) of section 39 ~~and circumstances so warrant, the Commissioner may, by notification, specify the manner and conditions subject to which the return~~ shall, in such manner and subject to such conditions as the Commissioner may, by notification, specify, be furnished in **FORM GSTR-3B** electronically through the common portal, either directly or through a Facilitation Centre notified by the Commissioner:-

Provided that where a return in **FORM GSTR-3B** is required to be furnished by a person referred to in sub-rule (1) then such person shall not be required to furnish the return in **FORM GSTR-3**.

~~(6) Where a return in FORM GSTR-3B has been furnished, after the due date for furnishing of details in FORM GSTR-2~~

~~(a) Part A of the return in FORM GSTR-3 shall be electronically generated on the basis of information furnished through FORM GSTR-1, FORM GSTR-2 and based on other liabilities of preceding tax periods and PART B of the said return shall be electronically generated on the basis of the return in FORM GSTR-3B furnished in respect of the tax period; (b) the registered person shall modify Part B of the return in FORM GSTR-3 based on the discrepancies, if any, between the return in FORM GSTR-3B and the return in FORM GSTR-3 and discharge his tax and other liabilities, if any; (c) where the amount of input tax credit in FORM GSTR-3 exceeds the amount of input tax credit in terms of FORM GSTR-3B, the additional amount shall be credited to the electronic credit ledger of the registered person.~~

8. The issue is placed before the Council for further deliberation on the recommendation of the Law Committee for amendment in rule 61 of the CGST Rules. *Pari-materia* changes would also be required in the respective SGST Rules.

Annexure A

PRESS RELEASE 18.10.2018

Last date to avail input tax credit in respect of invoices or debit notes relating to such invoices pertaining to period from July, 2017 to March, 2018

There appears to be misgiving about the last date for taking input tax credit (ITC) in relation to **invoices or debit notes relating to such invoices pertaining to period from July, 2017 to March, 2018**. Such uncertainty seems to stem from the Government's decision to extend the last date for furnishing of details of outward supplies in **FORM GSTR-1** from time to time.

2. According to section 16 (4) of the CGST Act, 2017, a registered person shall not be entitled to take ITC in respect of any invoice or debit note for supply of goods or services or both after the due date of furnishing of the return under section 39 for the month of September following the end of financial year to which such invoice or invoice relating to such debit note pertains (hereinafter referred to as *"the said invoices"*) or furnishing of the relevant annual return, whichever is earlier.

3. With taxpayers self-assessing and availing ITC through return in **FORM GSTR-3B**, the last date for availing ITC in relation to the said invoices issued by the corresponding supplier(s) during the period from July, 2017 to March, 2018 is **the last date for the filing of such return for the month of September, 2018 i.e. 20th October, 2018.**

4. It is clarified that the furnishing of outward details in **FORM GSTR-1** by the corresponding supplier(s) and the facility to view the same in **FORM GSTR-2A** by the recipient is in the nature of taxpayer facilitation and does not impact the ability of the taxpayer to avail ITC on self-assessment basis in consonance with the provisions of section 16 of the Act. The apprehension that ITC can be availed only on the basis of reconciliation between **FORM GSTR-2A** and **FORM GSTR-3B** conducted before the due date for filing of return in **FORM GSTR-3B** for the month of September, 2018 is unfounded as the same exercise can be done thereafter also.

5. It may, however, be noted that the Government has extended the last date for furnishing of return in **FORM GSTR-3B for the month of September, 2018** for certain taxpayers who have been recently migrated from erstwhile tax regime to GST regime vide notification No. 47/2018- Central Tax dated 10th September, 2018. For such taxpayers, the extended date i.e. 31st December, 2018 or the date of filing of annual return whichever is earlier will be the last date for availing ITC in relation to the said invoices issued by the corresponding suppliers during the period from July, 2017 to March, 2018.

6. All the taxpayers are encouraged to take note of the legal requirements and be compliance savvy.

Agenda Item 7(viii): Specifying the due date for furnishing of return in FORM GSTR-3B and details of outward supplies in FORM GSTR-1 for the period October- December, 2019

A revised timeline for introduction of the new return system was discussed and approved in the 35th Meeting of the GST Council held on 21st June, 2019. As per the proposed road map, **FORM GSTR-1** containing the details of outward supplies will be phased out from October, 2019 for large taxpayers and by December, 2019 for small taxpayers and was proposed to be replaced by **FORM GST ANX-1**. Similarly, the return in **FORM GSTR-3B** will be completely phased out only by January, 2020 for large taxpayers. Small taxpayers would not be required to file the monthly return in **FORM GSTR-3B** from October, 2019 onwards and instead would be required to pay monthly in **FORM GST PMT-08**. However, in the absence of any confirmation by GSTN, it is informed that till now no notification has been issued for introduction of **FORM GST ANX-1** and phasing out of **FORM GSTR-1 or FORM GST PMT-08**.

2. In this regard, reference is invited to the following notifications which were issued earlier:

(i) Notification No. 27/2019- Central Tax dated the 28th June, 2019 regarding furnishing of the details of outward supplies under sub-section (1) of section 37 (**FORM GSTR-1**) on a quarterly basis for a specified class of registered persons (having aggregate turnover of up to 1.5 crore rupees in the preceding financial year or the current financial year). As per the said notification, they have been allowed to furnish the details of outward supplies in **FORM GSTR-1** for the quarter July-September, 2019 by 31st October, 2019.

(ii) Notification No. 28/2019- Central Tax dated the 28th June, 2019 regarding furnishing of the details of outward supplies under sub-section (1) of section 37 (**FORM GSTR-1**) on a monthly basis for a specified class of registered persons (having aggregate turnover of more than 1.5 crore rupees in the preceding financial year or the current financial year). As per the said notification, they have been allowed to furnish the details of outward supplies in **FORM GSTR-1** for the months from July, 2019 to September, 2019 till the eleventh day of the month succeeding such month.

(iii) Notification No. 29/2019- Central Tax dated the 28th June, 2019 regarding filing of the returns in **FORM GSTR-3B** for the months from July, 2019 to September, 2019. As per the said notification, the due date for furnishing the returns in **FORM GSTR-3B** for each of the months from July, 2019 to September, 2019 has been specified as the twentieth day of the month succeeding such month.

3. It is pertinent to mention here that sub-rule (5) of rule 61 states that "*Where the time limit for furnishing of details in **FORM GSTR-1** under section 37 and in **FORM GSTR-2** under section 38 has been extended and the circumstances so warrant, the Commissioner may, by notification, specify the manner and conditions subject to which the return shall be furnished in **FORM GSTR-3B** electronically through the common portal, either directly or through a Facilitation Centre notified by the Commissioner*".

4. Since, the new return system is expected to be introduced in a phased manner, the present system of filing return on monthly basis in **FORM GSTR-3B** and monthly / quarterly furnishing of details of outward supplies in **FORM GSTR-1** is required to be notified for the period beyond September, 2019.

5. Accordingly, the matter was deliberated in the Law Committee in its meeting held on 28th and 29th August, 2019 and LC has recommended that the present system of filing return on monthly basis in **FORM GSTR-3B** and monthly / quarterly furnishing of details of outward supplies in **FORM**

GSTR-1 may be extended till 31.12.2019. In this regard, the Law Committee has recommended the following:

- **FORM GSTR-3B** may continue to be filed monthly by all tax payers for the months October, November and December, 2019 on or before the 20th of the month succeeding such month;
- the class of registered persons (having aggregate turnover of more than 1.5 crore rupees in the preceding financial year or the current financial year) may be allowed to furnish the details of outward supplies in **FORM GSTR-1** for the months October, November and December, 2019, till the eleventh day of the month succeeding such month; and
- the class of registered person (having aggregate turnover of up to 1.5 crore rupees in the preceding financial year or the current financial year) may be allowed to furnish the details of outward supplies in **FORM GSTR-1** for the quarter Oct-Dec, 2019, till 31st January, 2020.

6. It may be noted that implementation of the said recommendations would require issuance of various notifications under the CGST Act. The wordings of the notifications shall be finalized in consultation with the Union Ministry of Law and Justice. States would also be required to issue similar notifications.

7. The agenda is placed before the GST Council for consideration and approval.

Agenda Item 7(ix): Proposal for amendments to CGST Rules, 2017

Law Committee, in its meeting held from 29.07.2019 to 30.07.2019 and 29.08.2019 to 30.08.2019, deliberated upon several issues and recommended changes in various provisions of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as "the CGST Rules"). In addition to the changes in the CGST Rules, changes in the FORMS have also been recommended by the Law Committee. These changes are discussed below:

I. Amendment to rule 21A:

a) **Explanation to be added to sub-rule (3) of rule 21A:**

As per rule 21A, a taxpayer's registration is treated as suspended from the date on which he/she applies for cancellation or from the date from which cancellation is sought, whichever is later till proceedings are finalized. The suspension is also effected from the date mentioned in the show cause notice issued for cancellation.

Sub-rule (3) of the said rules mandates that the person whose registration is suspended shall not make any taxable supply during the period of suspension. An explanation may be added to sub-rule (3) of rule 21A to clarify the meaning of the expression "shall not make any taxable supply". The proposed explanation is shown in red (and underlined) in the box below.

b) **Insertion of sub-rule (5) in rule 21A**

In case of revocation of suspension of registration, provisions of clause (a) of sub-section (3) of section 31 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as "the CGST Act") and section 40 of the CGST Act in respect of the supplies made during the period of suspension and the procedure specified in that behalf shall apply. It is proposed to insert sub-rule (5) in rule 21A (shown in red (and underlined) in the box below) to specify the same.

Rule 21A
Rule 21A. Suspension of registration. - (1) Where a registered person has applied for cancellation of registration under rule 20, the registration shall be deemed to be suspended from the date of submission of the application or the date from which the cancellation is sought, whichever is later, pending the completion of proceedings for cancellation of registration under rule 22. (2) Where the proper officer has reasons to believe that the registration of a person is liable to be cancelled under section 29 or under rule 21, he may, after affording the said person a reasonable opportunity of being heard, suspend the registration of such person with effect from a date to be determined by him, pending the completion of the proceedings for cancellation of registration under rule 22. (3) A registered person, whose registration has been suspended under sub-rule (1) or sub-rule (2), shall not make any taxable supply during the period of suspension and shall not be required to furnish any return under section 39. **Explanation.** -For the purposes of this sub-rule, the expression "shall not make any taxable supply" shall mean that the registered person shall not issue a tax invoice and, accordingly, not charge tax on supplies made by him during the period of suspension. (4) The suspension of registration under sub-rule (1) or sub-rule (2) shall be deemed to be revoked upon completion of the proceedings by the proper officer under

rule 22 and such revocation shall be effective from the date on which the suspension had come into effect.

(5) Where any order having the effect of revocation of suspension of registration has been passed, the provisions of clause (a) of sub-section (3) of section 31 and section 40 in respect of the supplies made during the period of suspension and the procedure specified in that behalf shall apply.

II. Amendment to rule 83A:

2.1 With respect to the examination to be conducted for GST Practitioners, sub-rule (3) of rule 83 of the CGST Rules reads as follows: -

"(3) The enrolment made under sub-rule (2) shall be valid until it is cancelled:

Provided that no person enrolled as a goods and services tax practitioner shall be eligible to remain enrolled unless he passes such examination conducted at such periods and by such authority as may be notified by the Commissioner on the recommendations of the Council:

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 thirty months from the appointed date."

2.2 Subsequently rule 83A was inserted in the CGST Rules vide notification no. 60/2018-Central Tax, dated 30.10.2018, clarifying the scope and modalities of the said examinations. Sub-rule (1) of rule 83A of the CGST Rules restricts the scope of examination, only to those GST Practitioners who are enrolled as per the eligibility criteria specified under rule 83 (1)(b) of the CGST Rules. Sub-rule (1) of rule 83A of the CGST Rules reads as follows:

"(1) Every person referred to in clause (b) of sub-rule (1) of rule 83 and who is enrolled as a goods and services tax practitioner under sub-rule (2) of the said rule, shall pass an examination as per sub-rule (3) of the said rule."

2.3. Further, Clause (i) of sub-rule (6) of rule 83A of the CGST Rules appears to suggest that the examination is required to be passed by all categories of GST Practitioners. Clause (i) of sub-rule (6) of rule 83A of the CGST Rules reads as follows: -

"(6) Period for passing the examination and number of attempts allowed. - (i) A person enrolled as a goods and services tax practitioner in terms of sub-rule (2) of rule 83 is required to pass the examination within two years of enrolment:

Provided that if a person is enrolled as a goods and services tax practitioner before 1st of July 2018, he shall get one more year to pass the examination:

Provided further that for a goods and services tax practitioner to whom the provisions of clause (b) of sub-rule (1) of rule 83 apply, the period to pass the examination will be as specified in the second proviso of sub-rule (3) of said rule."

2.4 It, therefore, appears that there is an ambiguity in the CGST Rules in respect of provisions of rule 83A (1) vis-à-vis rule 83A (6)(i) of the CGST Rules. Further, presently the examination is proposed to be conducted only for practitioners on whom clause (b) of sub-rule (1) of rule 83 of the CGST Rules apply. In view of the same, the clause (i) of sub-rule (6) of rule 83A may be amended as follows (shown in red and underlined): -

Rule 83A
83A. Examination of Goods and Services Tax Practitioners. - (1) … **(6) Period for passing the examination and number of attempts allowed. -** (i) Every person referred to in clause (b) of sub-rule (1) of rule 83 and who is enrolled as a goods and services tax practitioner under sub-rule (2) of the said rule is required to pass the examination within the period as specified in the second proviso of sub-rule (3) of the said rule. ~~(i) A person enrolled as a goods and services tax practitioner in terms of sub-rule (2) of rule 83 is required to pass the examination within two years of enrolment: Provided that if a person is enrolled as a goods and services tax practitioner before 1st of July 2018, he shall get one more year to pass the examination:~~ ~~Provided further that for a goods and services tax practitioner to whom the provisions of clause (b) of sub-rule (1) of rule 83 apply, the period to pass the examination will be as specified in the second proviso of sub-rule (3) of said rule.~~ (ii) A person required to pass the examination may avail of any number of attempts but these attempts shall be within the period as specified in clause (i). (iii) A person shall register and pay the requisite fee every time he intends to appear at the examination. (iv) In case the goods and services tax practitioner having applied for appearing in the examination is prevented from availing one or more attempts due to unforeseen circumstances such as critical illness, accident or natural calamity, he may make a request in writing to the jurisdictional Commissioner for granting him one additional attempt to pass the examination, within thirty days of conduct of the said examination. NACIN may consider such requests on merits based on recommendations of the jurisdictional Commissioner. (7) **…**

III. Amendment to rule 97:

3.1 Section 57 of CGST Act mandates that the Government shall constitute a Consumer Welfare Fund. Procedural aspects of regulation of the fund are governed by rule 97 of the CGST Rules. Sub-rule (4) of rule 97 prescribes that the Government shall constitute a Standing Committee which shall make recommendation for proper utilization of money credited to the Fund for welfare of consumers. Sub-rule (8) of rule 97 of CGST Rules provides the areas on which the committee shall make recommendation. Clause (e) of sub-rule (8) of rule 97 of CGST Rules, 2017 provides that the committee shall make recommendations, for making available **up to** 50% of the funds credited to the Fund each year, for publicity/ consumer awareness on GST, provided the availability of funds for consumer welfare activities of the Department of Consumer Affairs is not less than twenty five crore rupees per annum.

3.2 Initial understanding of Department of Revenue was that the Standing Committee would recommend 50% of the funds credited to the Fund each year, for publicity/ consumer awareness on GST after ensuring availability of minimum of Rupees twenty-five crore rupees per annum for consumer welfare activities of the Department of Consumer Affairs. However, in the relevant rule, the words "**up to 50%**" have got incorporated. In view of the above, there is an apprehension that Standing Committee may interpret 'up to 50%' as any amount between NIL and 50% and may recommend a very nominal amount or even NIL amount for publicity/ consumer awareness on GST.

3.3 The Law Committee has recommended that clause (e) of sub-rule (8) of rule 97 shall be deleted and a new sub-rule (7A) to rule 97 be inserted, **with effect from 1st July, 2017**, after sub-rule (7). The proposed amendment to rule 97 is shown in red color (and underlined) below:

Rule 97
97. Consumer Welfare Fund. - (1) … (7) **…** (7A) The Committee shall make available to the Board 50% of the amount credited to the Fund each year, for publicity or consumer awareness on GST, provided the availability of funds for consumer welfare activities of the Department of Consumer Affairs is not less than twenty five crore rupees per annum. (8) The Committee shall make recommendations: - (a) … ~~(e) for making available up to 50% of the funds credited to the Fund each year, for publicity/ consumer awareness on GST, provided the availability of funds for consumer welfare activities of the Department of Consumer Affairs is not less than twenty five crore rupees per annum.~~ (9) **…**

Similarly, the Law Committee recommended insertion of sub-rule (7A) to rule 97 of State Goods and Services Tax (SGST) Rules, 2017 (shown in red and underlined below):

(7A) The Committee shall make available to the Commissioner 50% of the amount credited to the Fund each year, for publicity or consumer awareness on GST, provided the availability of funds for consumer welfare activities of the Department of Consumer Affairs is not less than one crore rupees per annum.

IV. Amendment to rule 117:

4.1 As per Rule 117 (1A) of CGST Rules, 2017 inserted *vide* Notification No. 48 of 2018 – Central Tax dated 10.09.2018, the last date for filing of **GST TRAN-1** was extended up to 31st March, 2019 in respect of the registered persons who couldn't submit the said declaration by the due date **on account of technical difficulties** on common portal and in respect of whom the Council had made recommendation for such extension. Further, proviso to rule 117(4)(b)(iii) provide for extension of date for filing **GST TRAN-2** in respect of the registered persons filing **GST TRAN-1** in accordance with rule 117(1A).

4.2 In view of the inputs provided by GSTN, the date of filing **GST TRAN-1** need to be extended to 31st December 2019 in respect of cases, which were received upto 31.3.2019 and which have been approved by GST Council (through ITGRC) by making amendment in rule 117(1A) of CGST Act, 2017. Further, as **GST TRAN-2** can be filed only subsequent to filing of **GST TRAN-1**, date of filing of **GST TRAN-2** needs to extended to 31st January 2020 by amending proviso to rule 117(4)(b)(iii).

4.3 The Law Committee has recommended that rule 117 may be amended. The proposed amendment to rule 117 is shown in red color and underlined) below:

Rule 117
117. Tax or duty credit carried forward under any existing law or on goods held in stock on the appointed day. - (1) … (1A) Notwithstanding anything contained in sub-rule (1), the Commissioner may, on the recommendations of the Council, extend the date for submitting the declaration electronically in **FORM GST TRAN-1** by a further period not beyond ~~31st March, 2019~~ 31st December 2019, in respect of registered persons who could not submit the said declaration by the due date on account of technical difficulties on the common portal and in respect of whom the Council has made a recommendation for such extension. (4)… (b)… (iii) The registered person availing of this scheme and having furnished the details of stock held by him in accordance with the provisions of clause (b) of sub-rule (2), submits a statement in **FORM GST TRAN 2** by 31st March 2018, or within such period as extended by the Commissioner, on the recommendations of the Council, for each of the six tax periods during which the scheme is in operation indicating therein, the details of supplies of such goods effected during the tax period: Provided that the registered persons filing the declaration in **FORM GST TRAN-1** in accordance with sub-rule (1A), may submit the statement in **FORM GST TRAN-2** by ~~30th April, 2019~~31st January 2020; (iv)…

V. Amendment to rule 142:

5.1 Amendment of rule 142 of CGST Rules is proposed for intimating liability to the taxpayer in view of sub-rule (5) of Section 73 and sub-rule (5) of Section 74, before the issuance of Show Cause Notice and response thereto by the taxpayer.

5.2 The proposed amendment to rule 142 is shown in red color (and underlined) below:

Rule 142
142. Notice and order for demand of amounts payable under the Act. - (1) The proper officer shall serve, along with the (a) notice issued under section 52 or section 73 or section 74 or section 76 or section 122 or section 123 or section 124 or section 125 or section 127 or section 129 or section 130, a summary thereof electronically in **FORM GST DRC-01**,

(b) statement under sub-section (3) of section 73 or sub-section (3) of section 74, a summary thereof electronically in **FORM GST DRC-02**,
specifying therein the details of the amount payable.

(1A) The proper officer shall, before service of notice to the person chargeable with tax, interest and penalty, under sub-section (1) of Section 73 or sub-section (1) of Section 74, as the case may be, shall communicate the details of any tax, interest and penalty as ascertained by the said officer, in **Part A** of **FORM GST DRC-01A.**

(2) Where, before the service of notice or statement, the person chargeable with tax makes payment of the tax and interest in accordance with the provisions of sub-section (5) of section 73 or, as the case may be, tax, interest and penalty in accordance with the provisions of sub-section (5) of section 74, or where any person makes payment of tax, interest, penalty or any other amount due in accordance with the provisions of the Act, whether on his own ascertainment or, as communicated by the proper officer under sub-rule (1A), he shall inform the proper officer of such payment in **FORM GST DRC-03** and the proper officer shall issue an acknowledgement, accepting the payment made by the said person in **FORM GST DRC–04**.

(2A) Where the person referred to in sub-rule (1A) has made partial payment of the amount communicated to him or desires to file any submissions against the proposed liability, he can make such submission in **Part B** of **FORM GST DRC-01A**.

(3) …

VI. Amendment to FORM GST RFD-01:

The credit note has been de-linked with the invoice, therefore, it is proposed that suitable amendments in statement 4, 5, 5B (supplier), 5B (recipient) and 6 are made and a new statement 4A is inserted of **FORM GST RFD-01**. The proposed changes and insertion are as follows (shown in red and underlined) :

Statement 4 [rule 89(2)(d) and rule 89(2)(e)]

Refund Type: On account of supplies made to SEZ unit or SEZ Developer (on payment of tax)

GSTIN of recipient	Document Details				Shipping bill/ Bill of export/ Endorsed invoice by SEZ		Taxable Value	Integrated Tax	Cess
	Type of Document	No.	Date	Value	No.	Date			

1	2	3	4	5	6	7	8	9	10

Statement 4A

Refund By SEZ on account of supplies received from DTA – With payment of tax

GSTIN of Supplier	Document Details				Shipping bill/ Bill of export/ Endorsed invoice by SEZ		Taxable Value	Integrated Tax	Cess
	Type of Document	No.	Date	Value	No.	Date			
1	2	3	4	5	6	7	8	9	10

Statement 5 [rule 89(2)(d) and rule 89(2)(e)]

Refund Type: On account of supplies made to SEZ unit or SEZ Developer (without payment of tax)

Sr. No.	Document Details				Goods/ Services (G/S)	Shipping bill/ Bill of export/ Endorsed invoice no.	
	Type of Document	No.	Date	Value		No.	Date
1	2	3	4	5	6	7	8

Statement 5B [rule 89(2)(g)]

Refund Type: On account of deemed exports claimed by supplier

Sl. No.	Document details of inward supplies in case refund is claimed by Supplier				Tax paid			
-	Type of Document	No.	Date	Taxable Value	Integrated Tax	Central Tax	State/Union Territory Tax	Cess
1	2	3	4	5	6	7	8	9
-	-	-	-	-	-	-	-	-

Statement 5B [rule 89(2)(g)]

Refund Type: On account of deemed exports claimed by recipient

Sl. No.	-	Document details of inward supplies in case refund is claimed by recipient				Tax paid			
-	GSTIN of Supplier	Type of Document	No.	Date	Taxable Value	Integrated Tax	Central Tax	State/Union Territory Tax	Cess
1	2	3	4	5	6	7	8	9	10

Statement 6 [rule 89(2)(j)]

Refund Type: On account of change in POS (inter-state to intra-state and vice versa)

Order Details (issued in pursuance of sections 77 (1) and (2), if any: Order No: Order Date:

Document Type B2C/Registered	Recipeint GSTIN/UIN	Name (in case of B2C)	Document Details				
			Type of Document	No.	Date	Value	Taxable Value
1	2	3	4	5	6	7	8

Details of documents covering transaction considered as intra –State / inter-State transaction earlier					
Inter/Intra	Integrated Tax	Central tax	State/UT Tax	Cess	PoS
9	10	11	12	13	14

Transaction which were held inter State / intra-State supply subsequently					
Inter/Intra	Integrated Tax	Central tax	State/UT Tax	Cess	PoS
15	16	17	18	19	20

VII. Insertion of FORM GST DRC-01A:

As discussed at S.No. V above, the proposed amendment to rule 142 of the CGST Rules requires insertion of **FORM GST DRC-01A**, the proposed form is as below:

FORM GST DRC-01A

Intimation of tax ascertained as being payable under section 73(5)/74(5)

[See Rule 142 (1A)]

Part A

No.: Date:

Case ID No.

To

GSTIN……

……Name……

……

Address……

……

Sub.: Case Proceeding Reference No……- Intimation of liability under section 73(5)/section 74(5) – reg.

Please refer to the above proceedings. In this regard, the amount of tax/interest/penalty payable by you under Section 73(5) / 74(5) with reference to the said case as ascertained by the undersigned in terms of the available information, as is given below:

Act	Period	Tax			
CGST Act					
SGST/UTGST Act					
IGST Act					
Cess					
Total					

The grounds and quantification are attached / given below:

You are hereby advised to pay the amount of tax as ascertained above alongwith the amount of applicable interest in full by …….. , failing which Show Cause Notice will be issued under Section 73(1).

You are hereby advised to pay the amount of tax as ascertained above alongwith the amount of applicable interest and penalty under section 74(5) by …….. , failing which Show Cause Notice will be issued under Section 74(1).

In case you wish to file any submissions against the above ascertainment, the same may be furnished by…….. in Part B of this Form

Proper Officer

Signature……

……

Name……

……

Designation……

……

Upload Attachment

Part B

Reply to the communication for payment before issue of Show Cause Notice [See Rule 142 (2A)]

No.: Date:

To

Proper Officer,

Wing / Jurisdiction.

Sub.: Case Proceeding Reference No……- Payment/Submissions in response to liability intimated under Section 73(5)/74(5) – reg.

Please refer to Intimation ID…… in respect of Case ID…….vide which the liability of tax payable as ascertained under Section 73(5) / 74(5) was intimated.

In this regard,

A. this is to inform that the said liability is discharged partially to the extent of Rs. …… through ……..……and the submissions regarding remaining liability are attached / given below:

OR

B. the said liability is not acceptable and the submissions in this regard are attached / given below:

Authorised Signatory

Name……

GSTIN……

Address……

Upload Attachment

2. Accordingly, the agenda is placed before the GST Council for consideration and approval. *Pari-materia* changes would also be required in the respective SGST Rules.

Agenda Item 10: Presentation on fake invoice menace, fraudulent refund, etc.

Agenda Item 11: Status of Implementation of New Return System

The GST Council in its 35th meeting held on 21-06-2019 decided that the implementation of new return should be carried out in a phased manner. Trial version of annexures of supplies and inward supplies were to be made available for trial in July, 2019 with following implementation schedule:

a) ANX-1/2 to replace GSTR-1/2A effective Oct'19
b) Run GSTR-3B and ANX-1 in parallel for 2 months for Monthly Filers
c) GSTR-3B will be phased out from Jan'20 for Monthly Filers
d) New Return will become functional for all taxpayers from Jan 2020.

2. As per this plan, Annexure of supplies (ANX-1) was to be made operational for big taxpayers liable to file monthly return from October, 2019 and GSTR-1 was to be discontinued for these taxpayers. However, for tax payment, these taxpayers will continue to file GSTR-3B in the usual manner. Small taxpayers will continue to make payment through GST PMT-08 and all taxpayers shall start filing normal return from January, 2020. **The transition plan envisaging parallel run of old and new system has many challenges, as elaborated below:**

(A) Refund of exports made on payment of IGST

a) IGST refund on account of export with payment of tax needs business validation changes and integration of GST ANX-1 and GSTR-3B will also be required.
b) Unlike GSTR-1, ANX-1 is not filed and hence can be amended anytime. Thus, making it the base of refund without ANX-2 and RET is fraught with loopholes and prone to misuse and fraud.
c) Multiple time changes in refund application will be a challenge in itself.

(B) Facility to amend invoices/documents: Facility to amend invoices/documents through GST ANX-1A by exporters will also be required to be provided as the exporters may need to make amendment in the earlier reported documents details for the period of transition.

(C) ITC Refund: Currently ITC refund is processed on the basis of GSTR-2A which is auto-drafted from GSTR-1. If there is no GSTR-1, there would be no GSTR-2A. ITC refund would be impacted if GSTR-2A is phased out. In new regime, refund can be processed based on GST ANX-2 (data auto-drafted from GST ANX-1). GST ANX-1 is frozen on filing GST RET-1. Since, no GST RET-1 is filed during this period, GST ANX-1 will not be frozen till Jan, 2020. Thus, there will be scope of changes in GST ANX-1 after refund is processed in case GSTR-3B is not integrated with GST ANX-1. Integration of GSTR-3B with ANX-1 was not in the plan and this will be an additional work requiring substantial manpower and time.

(D) Reconciliation of Return Filing data across old and new regimes would be required alongwith changes in backend processing and linking of old and new return.

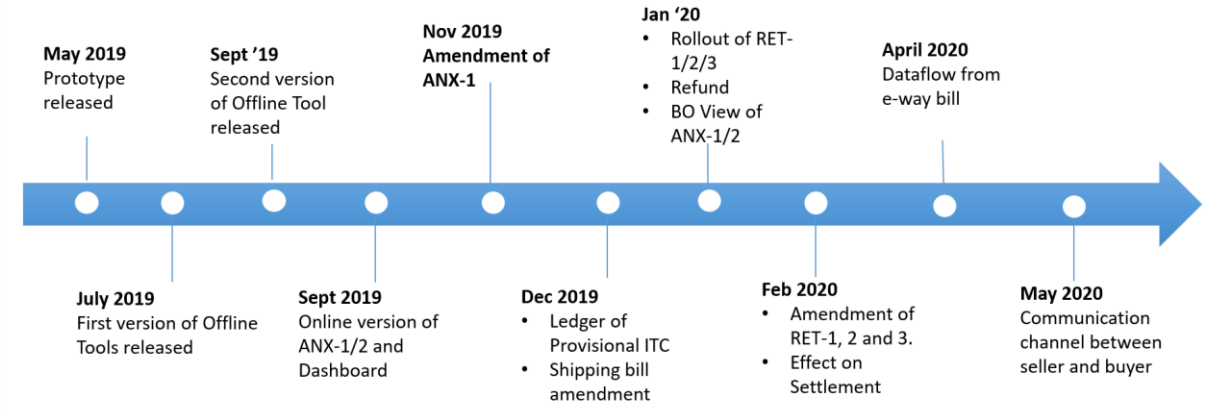
Keeping in view above mentioned difficulties, complete switchover is proposed from 1st January 2020.

Status of Development of New Return

Functionalities	**Beta Ready**	**Status**
Offline Prototype	May-19	Completed
GST ANX-1 Offline – Sahaj, Sugam, Normal	Jun-19 and Jul-19	In Beta

GST ANX-1 JSON upload GST ANX-2 JSON download GST ANX-2 JSON upload	Jul-19	In Beta
GST ANX-2 offline	Jul-19	In Beta
Purchase Register Matching tool	Jul-19	In Beta
GST ANX-1 online - Summary Generation and View	Jul-19	In Beta
Online version of ANX-1 and ANX-2	Sep 19	In Beta

RET module along with other modules impacted by New Returns are under development. The timeline for delivery of various components of New Return as well as other impacted modules is given below as per current estimates.



3. Going by past experience, huge filing is expected on 10th of following month, especially after end of Quarter when Monthly and Quarterly filers will upload ANX-1. Thus, like staggering of RET filing, staggering of ANX-1 upload is also recommended. Similarly accept/reject of invoices in system generated ANX-2 will be done for the first time under GST. To ensure smooth filing on last three days, facility of accept/reject may not be allowed in these three days and the same could be done by taxpayers by 17th of the next month.

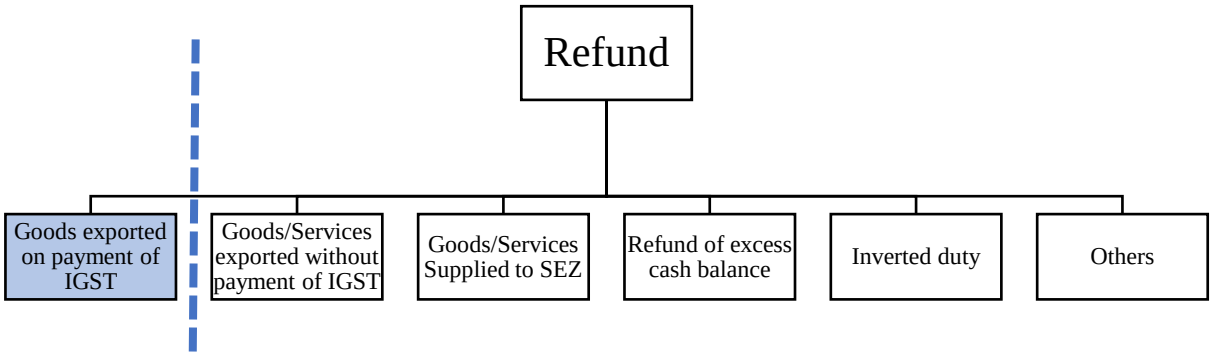
4. **Proposal for consideration of GST Council:**

- GST Council has approved staggered filing of RET (large taxpayers by 20th and others by 25th of next month). **Similarly, last date of upload of ANX-1 may be staggered as 10th and 13th of month following the tax period for monthly and quarterly filers respectively**.
- To ensure smooth filing on last three days, reject/pending action of invoices appearing in ANX-2 may be allowed upto 17th and **not on 18/19 and 20th of the next month.**
- Parallel run of existing and New Return may be replaced by deployment of new returns for all types of taxpayers with effect from 1st January 2020.

Agenda Item 12: Status of Integrated Refund System with disbursal by single authority

Present status of refund business process and disbursal:

1.1. **Goods exported on payment of IGST**: The refund under GST System is divided into two parts namely that relating to export of goods on payment of IGST and the other relating to export of goods on LUT, export of services, ITC refund etc. While the former is fully automated, the latter is semi-automated.



Refund for goods exported on payment of IGST is fully automated and no separate application is required to be filed. Returns (GSTR-1 and GSTR-3B) also work as refund application where refund amount gets within 6 to 7 days of filing of both returns and on fulfilling conditions like tax paid in GSTR-3B is more than or equal to refund amount as per GSTR-1, furnishing of correct invoice number, shipping bill number and port code. As on 1st Sept **Rs 96,456 Crores** was sent by GST Systems to ICEGATE system of Customs for processing refund under this category since inception and **Rs 93, 416 Crores** was sanctioned which comes to **97%.**

1.2. **Other Types of Refund**: For all other types of Refund, presently the refund business flow involves online/electronic as well as manual processing and transmission of information between the taxpayers and the tax officers. The taxpayer files refund application in Form GST RFD-01A online on GST common portal alongwith the notified statements relevant to the category of refund selected and other supporting documents. The details filled in the refund application and the statements are validated by the system. The system debits the ITC/ cash in the electronic credit/ cash ledger and generates the Application Reference Number (ARN). The refund application gets transmitted electronically to the dashboard of the tax officer in Model 2 States and to CBIC and Model 1 States through API. Thus, until this step, the refund business process is completely electronic i.e. the filing of the refund application alongwith notified statements and other supporting documents is electronic

1.2.1. After examining the refund application and uploaded statements and supporting documents, the tax officer can issue acknowledgement in Form-RFD-02 or a deficiency memo in Form-RFD-03 manually. All subsequent steps viz sanctioning of provisional refund in Form RFD-04 or complete refund in Form RFD-06, issuance of payment advice in Form RFD-05, show cause notice in Form RFD-08, reply to the show cause notice in form RFD-09 etc are manual.

1.2.2. After refund is sanctioned in Form RFD-04/06, the tax officer issues payment advice in Form RFD-05 manually and the same is forwarded to the Nodal Officers' of Centre and States for disbursal of refund through Central and State Accounting Authorities. Though the Refund Sanction order is by one tax authority but disbursement of refund amount sanctioned is done by Center for the CGST portion and by State/UT for SGST/UTGST portion.

1.2.3. The tax officer uploads the details of refund sanctioned/ rejected in Form RFD-01 B on GST portal. The inadmissible ITC gets credited by the system to the electronic credit ledger of the taxpayer. Report having the details of the refund applications filed (RFD01A) and processed (RFD01B) are made available to the States and CBIC.

1.2.4. The functionality of reporting RFD-01B was developed later than the main refund application filing. Manual processing of refund and its reporting to an MIS reporting website on gross basis has been in use since beginning. The data so reported by tax authorities is compiled and status of refund under these categories as on 1st Sept is given below:

Status as on 1st of September based on data uploaded by Tax Authorities						**(All amounts in Rs. Crores)**
Tax Auth	Application filed on the Portal		Applications for which provisional/ final order passed	Amount sanctioned	Amount rejected	% of amount Sanctioned or rejected
	Number	Amount	Number	Amount	Amount	
State	3,61,320	60,466.62	1,94,872	35,290.50	2,043.80	61.74%
Centre	2,24,051	55,024.30	1,29,694	46,848.94	1,975.44	88.73%
Total	5,85,371	1,15,490.92	3,24,566	**82,139.44**	4,019.24	74.60%

2. **Limitations of the present refund process:** Due to manual processing of the refund claims:

2.1. Tracking at various stages of the application by the taxpayers is not possible.

2.2. Due to manual processing, the system is not able to capture the information at various stages of refund processing. It has direct impact on reliable MIS report creation.

2.3. The complete audit trail of activities performed by the tax officer and the taxpayer is not available in the existing scheme.

2.4. The disbursal process is tedious as multiple stakeholders are involved viz central and state nodal officers, accounting authorities etc leading to delays in disbursal after sanction.

2.5. There is no validation of the bank account of the taxpayers claiming refund.

2.6. The percentage of upload of RFD-01 B on GST portal by tax officers is low and even though they may have sanctioned/rejected claims in manual form (Form RFD-06), the details are not available in the system.

3. **Online refund processing alongwith with disbursal by single authority:**

The aforementioned limitations are sought to be addressed by making processing of refunds online along with disbursal of refund by single authority. The end-to-end online processing is ready at GST System level but the same could not be deployed as all Model-1 States were not ready. All Model-1 States have since completed the development of processing of refund application at their end and the integration testing has been done. However, the same has not been deployed as another change was made in the system by making the entire disbursement through single authority as being done for export of goods on payment of IGST.

4. **Proposed single authority disbursement process:**

Under this system, the tax officer after processing the refund application will issue the payment order on GST System which will be available online to the disbursement authority for making payment of the refunds sanctioned by both the Central and the State tax authority through the Public Financial

Management System (PFMS) of the Controller General of Accounts (CGA),Government of India. The PFMS system shall ensure that the bank account details are validated before refund is sanctioned to the taxpayer. The Accounting authorities will do settlement at regular intervals.

The highlights of this system are given below:

4.1. The PFMS shall ensure that the bank account details are validated before refund is sanctioned to the taxpayer and there is only one authority with whom the taxpayer needs to communicate.

4.2. Under the single authority disbursal process, the tax officer shall be able to issue payment order (Form GST RFD 05) only after successful validation of bank account details of the taxpayer. This validation with the PFMS system is at two stages, i.e. at the the time of filing of refund application and also after the payment order is issued (Form RFD-05).

4.3. In case validation fails at the PFMS level, the taxpayer will be informed and he/ she can rectify the bank account details provided in the refund application through the process of non-core amendment available in registration in the system. Once the bank account details are rectified and validated successfully, the refund application shall get processed.

4.4. PFMS under the office of the Controller General of Accounts (CGA) has been mandated as the nodal agency to validate the bank account details. A draft MoU has been shared by GSTN with CGA office outlining the agreed process of disbursement for efficient and effective management of disbursement process and for handling of grievances of taxpayers.

4.5. The settlement of accounts between the Centre and the States shall happen through the office of the Pr. CCA

5. Status of refund functionalities relating to online processing:

5.1. The testing of refund functionalities and related APIs has been completed by GSTN, CBIC and Model 1 States. It shall be deployed in production by 24th September 2019 along with single disbursement system. After deployment, the entire refund business process shall be online.

6. Status of single authority disbursement:

6.1. The testing of PFMS integration is under process by GSTN, CBIC and Model 1 States. The details of the present status of testing is as follows:

- All important scenarios tested by GSTN by simulating the PFMS response.
- CBIC is the closest Model-1 to test negative scenarios, followed by Sikkim and Karnataka.
- Goa, Haryana and Kerala are yet to complete number of steps in testing – they have tested Assessee Validation.

6.2. It shall get deployed with the online refund processing functionality by 24th September, 2019 with CBIC and all States which would have completed the integration testing. The remaining Model 1 States will integrate as and when they are ready.

7. The status given above is for kind information of GST Council.

Agenda Item 13: Status and progress in generation of E-Invoicing

1. **Background:**

In its 35th meeting held on 21st June, 2019, the GST Council decided to introduce electronic invoicing system (e-invoice) in a phase-wise manner for B2B transactions. Phase 1 is proposed to be voluntary and it shall be rolled out from Jan 2020.

Presently, B2B invoice data is being entered multiple times - once for GSTR-1 (ANX-1 in proposed new return), then for e-way bill (in case of supplies involving movement of goods). Since the formats are different, the taxpayer has to prepare the invoice data for GSTR-1 and e-way bill separately. The e-invoice system, when implemented fully, will leads to one-time reporting of B2B invoice data which will reduce reporting in multiple formats. It will also make reporting of invoices to GST system as a natural and integral part of the business process which in turn will eliminate the process of compilation of invoices at the end of the tax period and consequent reduction of compliance burden. Further, it will lead to substantial reduction of issues in input credit verification as same data will get reported to tax department as well as to the receiver (in his inward supplies) and he will be able to reconcile with his Purchase Order and accept/reject well in time.

2. **Following are the advantage of e-invoice system:**

Advantages to the Trade	**Advantages to the Government**
• Automation of tax relevant process • Backward integration with e-way bill, return, refund etc. • Reduces compliance Cost by a. 37-39% for corporate businesses, b. 8-56% for private businesses • No hard copies of invoices • Assured Input Tax Credits • Early settlement of accounts • Simplified Compliance verification • Becomes part of business process	• Auto matching of ITC claims • Reduce fraud such as: a. Carousel fraud b. Phantom companies c. Suppression of turnover d. Clandestine supplies • Simplified Compliance verification • Better Tax management • Better HR usage • Providing tax reliefs and spurring the economic activities

3. **Generation of e-invoice from IRN Portal:** The OM vide which the Tech Sub-Group was constituted to look into tech aspects of e-invoice, mentions that the e-invoice will be generated through GST portal. This is NOT the case as any such centralization will bring unnecessary restriction on the way trade is conducted. The e-invoice system being implemented across the globe consists of two important parts namely, generation of invoice in a standard format so that invoice generated on one system can be read by another system. The second is the requirement of reporting of e-invoice to a central system designated by the tax department so that supplies can be reported in real time eliminating many malpractices associated with any value added tax/GST.

   The Tech Sub-Group has recommended that the government should not go for providing generation of e-invoice from GST portal as taxpayers may have different requirements and expectation which can't be met from one software. Also, the expectations and requirements may increase later. For this purpose, the taxpayer can use his accounting system/ERP. Based on decision of GST Council, GSTN has empanelled eight providers who are providing basic accounting system free of cost to small taxpayers. The free accounting software may be used by small taxpayers for generating e-invoice. It is pertinent to mention that taxpayers having turnover upto 1.5 Crores a year constitute 82.6 % of total taxpayer base and such taxpayers are eligible for free accounting software.

4. **Need for National invoice standard:**

Currently, there is no standard defined for e-invoice under GST or under any other statute. On the other hand, having a standard is a must to ensure complete inter-operability of e-invoices across the entire GST eco-system so that e-invoices generated by one software can be read by any other software, thereby eliminating the need of separate data entry every time. The machine readability and uniform interpretation is the key objective. Apart from the GST System, adoption of a standard will also ensure that an e-invoice shared by a seller with his buyer or bank or agent or any other player in the whole business ecosystem can be read by machines thereby eliminating data entry errors.

5. **International Scenario:**

Many countries across the world have adopted standards for e-invoice. Most of these standards like PEPPOL, UBL-TR, SUNAT etc. are based on UBL (Universal Business Language). Keeping in view, the original vision of UBL as a standard for electronic business, many user-countries had developed their own versions based on specific requirements and trade practices. The most commonly accepted one is PEPPOL (Pan European Public Procurement Online).

The Tech Sub-Group constituted by GST Council Secretariat **drafted an e-invoice standard** (based on PEPPOL standard, which in turn is based on UBL standard) **in partnership with Institute of Chartered Accountants of India (ICAI).** The draft took into account the requirements under Indian taxation laws and has features required for international transactions also. Under GST law, there are certain particulars which are mandatory to be included in invoices and the same have been made mandatory in the draft. Other features which could be used by businesses (in specific scenarios or by specified sectors of business) are marked as optional.

6. **Implementation and the learning from overseas**

Country	Pilot	Made Compulsory	Coverage	Data Format
South Korea	1997	2008	B to B	UBL
Chile	2002	2014	B to B	Electronic Tax Document DTE
Singapore	2003	2008	B to B	PEPPOL
Mexico	2004	2011	T.O.> Rs1.5 crore	CFDI (Comprobante Fiscal Digital or Internet)
Norway	2005	2011	B to G	PEPPOL
Sweden	2005	2008	B to G	PEPPOL
Denmark	NA	2005	B to G	NemHandel, PEPPOL

The e-invoice draft schema (with details like Technical field name, description of each field, whether it is mandatory or not, few sample values along with explanatory notes), Masters (with fields like UQC, State Code, invoice type, supply type etc.) and E-invoice template (as per the GST law, so as to correlate the terms used in other sheets) were published on domain (www.gstn.org/e-invoice) for feedback and suggestions. A simple online feedback form was provided to elicit feedback. The draft schema was also shared with the Trade and Industry bodies such as NASSCOM, FICCI, ASSOCHAM, CII as well as individual tax experts, businesses, GST partners of GSTN viz GSPs, the tax consultant firms e.g. E&Y, PWC, KPMG, Deloitte, etc.

More than 600 comments/suggestions were received by the Sub-Group, which were studied in detail and many of them have been incorporated in the final template of e-invoice. A copy of the report of Technology Sub-Group is attached as **Annexure 1.**

7. Recommendations

The sub-group has recommended the following for approval of the GST Council:

A. The standard of template of e-invoice based on industry consultation.

B. Format of Unique Invoice Reference Number (IRN) that will be based on the computation of hash of GSTIN of generator of document (invoice or credit note etc.), Year and Document number.

C. Creation of multiple registrars to which e-invoice could be reported by taxpayers to obtain Unique Invoice Reference Number to ensure 24X7 operations without any break. NIC will be the first registrar.

D. Digital Signing of e-invoice by registration portal.

E. Generation of QR Code by the e-Invoice Registration Portal (IRP) containing the IRN (hash) along with some important parameters of invoice like GSTIN of seller and buyer, invoice number and date, taxable amount, total tax and HSN Code of major item, to help validation of registered e-invoice in offline mode.

F. Multiple modes for getting invoice registered on IRP like Web, API, SMS, mobile app, offline tool, GSP.

G. Direct printing from JSON to enable small taxpayers to directly print from a mobile app to a compatible printer.

8. Approval Sought:

In view of what has been stated above, GST Council may kindly approve the **Recommendations of Technical sub-group on e-invoice as contained in para 7 above.**

Annexure 1

REPORT OF WORKING SUB-GROUP ON TECHNICAL ISSUES RELATING E-INVOICE

1. Background

A working sub-group was constituted by the GST Council Secretariat vide Order No. 189/Generation of Invoice/GSTC/2019 dated 23.05.2019 (**Annexure-1**) to examine and recommend on the technical architecture and all technical aspects for generation of e-invoice. The sub-group is also mandated to examine and recommend from time to time on all technical aspects of generation of e-invoice, viewing, downloading, backward and forward integration, system requirement, data format, mode of generation, monitoring, scale/management, data security, disaster management etc.

The Sub-Group had two meetings. The Sub-Group involved ICAI to finalise the template of e-invoice and had a meeting with ICAI representatives on 15/07/2019.

2. Objective of e-Invoice System

Value Added Tax Systems are prone to misuse of Input tax credit in various forms namely missing trader or carousal fraud (https://en.wikipedia.org/wiki/Missing_trader_fraud), underreported sales/ suppression of sales, inflated input tax credit, domestic sales disguised as exports etc. A report of European parliament has details on VAT fraud in EU (https://www.europarl.europa.eu/cmsdata/156408/VAT%20Fraud%20Study%20publication.pdf).
Indian GST has also seen similar frauds and it has some other elements on account of current design of return where Return having B2B invoice data (GSTR-1) is not connected to summary return (GSTR-3B) with which tax payments are made.

With enhancement of technology, which enables real-time reporting of data using variety of tools such as computers, mobiles, tablets etc., many tax authorities have started introducing e-invoice where generator of the invoice is required to report the e-invoice in near real time basis to tax department's portal.
Many people confuse this e-invoice as a system where taxpayers can generate the invoices centrally. This is NOT the case as any such centralization will bring unnecessary restriction on the way trade is conducted. The e-invoice system being implemented across the globe consists of two important parts namely, generation of invoice in a standard format so that invoice generated on one system can be read by another system. The second is the requirement of reporting of e-invoice to a central system designated by the tax department so that supplies can be reported in real time eliminating many malpractices associated with any value added tax. Indian GST is a value added tax which is levied on both goods and services without making any distinction between them unlike what was the case with state VAT or Service Tax in pre-GST days.

The Sub-Group was given the background of e-Invoice project, as reproduced below:

Objectives	Outcome
Better taxpayer services	• One time reporting on B2B invoice data in the form it is generated to reduce reporting in multiple formats (one for GSTR-1 and the other for e-way bill) and to generate Sales and purchase register (ANX-1 and ANX-2) from this data to keep the Return (RET-1 etc.) ready for filing. e-Way bill can also be generated using e-Invoice data

	• It will become part of his business process • Substantial reduction in input credit verification issues as same data will get reported to tax department as well to buyer in his inward supply (purchase) register. • On receipt of info thru GST System as buyer can do reconciliation with his Purchase Order and accept/reject in time
Reduction of tax evasion	• Complete trail of B2B invoices • System level matching of input credit and output tax
Efficiency in tax administration	• Elimination of fake invoices

3. Basic Features of the Solution

To cater to the abovementioned goals, the Sub-Group recommends the basic features which the solution must have, as given below:

a) **Scalability:** The solution must be highly scalable to take care of the increase in number of invoices, especially if Government decides to extend it to B2C invoices. Simplicity to scale will be the Mantra. Thus, the architecture should be able to handle these transactions (projection for next 7 to 9 years with possibility to support B2C transactions). It is pertinent to mention that the number of taxpayers went up from 65 lakhs to 122 lakhs in two years of GST with a growth rate of 40% as against pre-GST growth rate of 10% for taxpayers. In other words, we need to build a system which is capable of handling this kind of growth in taxpayers' base as well as number of invoices.

b) **Availability - 24X7 operations without any downtime**: The solution should be available 24X7 without any break, including any maintenance downtime. The proposal is to make an invoice legal only if it has a unique reference number generated by a Central portal. That demands no downtime of the system. The design and architecture of solution should support this.

c) **Consistency**: The Unique Invoice Reference Number (written as Invoice Reference Number or IRN in the GST law) given to each invoice after reporting on the portal, should be consistent across the entire eco-system for the life-cycle of the invoice. Design of solution should be such that invoice with unique reference number can also be used outside GST eco-system for features like bill discounting to reduce the cost of capital to MSMEs.

d) **Authenticity of content of invoice/Instant verification**: Invoice should be easily verified for authenticity by online verification or by scanning QR code, in case of offline validation. Thus, the invoice should be machine readable and its content should be vouched. The digital signing of the e-invoice by Tax System once it is uploaded by the supplier should be a requirement.

e) **Standardisation of e-invoice**: Today, the country does not have any standards for e-invoice and thus invoices generated electronically on one system can't be read by another. Thus, contents of e-invoice generated by one system are manually entered in case buyer has another system. There is strong need to put in place Standardisation of invoice (standard of invoice template) to cover not only GST Requirement but also other trade related requirements to

eliminate transcription errors and make e-invoice completely inter-operable across all kinds of accounting software systems. Adoption of universal standard template will also make export/import invoices inter-operable with systems of foreign buyers/sellers.

4. Discussion on Identified Issues

4.1 Scalability: The sub-group went through the e-way bill data as well as the invoices reported to GST systems. Currently, the e-way bill system supports generation of 10 to 24 Lakhs e-way bills per day or around 5 crore e-way bills in a month. E-way bills are mandatory only if the invoice value is more than Rs 50,000. The invoices reported in GST System for one quarter viz July-Sept 2018, was also studied (as given in the table below):

INVOICE COUNT BASED ON INVOICE VALUE

Invoice Value in Rage	No. of invoices Reported in GSTR-1			
	Jul-18	Aug-18	Sep-18	Sept as % of total
Rs. 1 to 5000	70659111	67050677	84562050	40.77%
Rs. 5K to 10K	18721798	18618066	25376274	12.23%
Rs. 10K to 20 K	18412303	18691949	25240434	12.17%
Rs. 20K to 50 K	23763639	24782813	33330404	16.07%
Rs. 50 K to 70 K	6420343	6740614	8225155	3.97%
Rs. 70 K to 1 Lakh	6124660	6328925	7751131	3.74%
Rs. 1 Lakh to 2 Lakh	8111953	8428748	9561009	4.61%
Rs. 2 Lakh to Rs. 5 Lakh	6685842	7058084	7567706	3.65%
Rs. 5 Lakh to 10 Lakh	2934701	3153725	3214941	1.55%
Rs. 10 Lakh to 50 Lakh	2120413	2344974	2324978	1.12%
Rs. 50 Lakh to Rs. 1 Crore	115510	126537	120112	0.06%
Rs. 1 to 2 Crore	43991	48578	47530	0.02%
Rs. 2 to 5 Crore	23257	25565	25892	0.01%
Rs. 5 to 10 Crore	6845	7823	7583	0.00%
Rs. 10 to 50 Crore	3138	3773	4099	0.00%
Above 50 Crore	209	275	331	0.00%
Less than Re. 1/-	144522	91303	73944	0.04%
TOTAL	**16,42,92,235**	**16,35,02,429**	**20,74,33,573**	100.00%

The above two datasets were used by the group to analyse the requirement and come up with scalability recommendations.

Around 20 Crore B2B invoices were reported by taxpayers in the 3rd month of the July-Sept quarter in 2018. While there is no empirical data on B2C invoices available today, a rough estimate for system design may be taken as 20 times that of B2B. Thus, in a month, the system should be able to handle 400 crore invoices and large percentile of the same will come during working hours namely 10 am to 8 pm. In another words, the architecture of system should be such that it can be scaled up to handle this kind of reporting load i.e. 1.3 crores per hour [(400/(30*10)] transactions (number of e-invoices reported).

Of course, the system will initially be provisioned for handling B2B invoices only which will be around 1 Crore per day or 10 lakhs per hour.

The Group recommends that project should be taken up in a phased manner starting with implementation on voluntary basis for B2B for large taxpayers as was done in case of e-way bill deployment.

The distribution of taxpayers based on turnover and number of invoices generated by them was also examined at by the Sub-Group.

INVOICE COUNT BASED ON EXTRAPOLATED TURNOVER OF 2017-18					
		No. of invoices Reported in GSTR-1 by such taxpayers			Average count of invoices per month
Count of Taxpayers	Turnover Slab based on FY 2017-18	Jul-18	Aug-18	Sep-18	
988128	Upto 5 Lakhs (leaving aside NIL filers)	257464	253720	2087261	0.88
629148	5 to 10 Lakhs	318412	306426	2821277	1.83
855459	10 to 20 Lakhs	760286	739343	6089012	2.96
580947	20 to 30 Lakhs	725116	697483	5926107	4.22
421528	30 to 40 Lakhs	732359	699671	5620924	5.58
324951	40 to 50 Lakhs	724665	688682	5167577	6.75
474029	50 to 70 Lakhs	1395523	1332789	9349826	8.49
466518	70 Lakh to 1 Crore	2197731	2107764	11730031	11.46
456516	1 Crore to 1.5 Crores	4629759	4507010	13291155	16.38
267233	1.5 Crores to 2 Crores	5893588	5816727	7125289	23.49
308246	2 Crores to 3 Crores	10269467	10187235	9630594	32.54
177922	3 Crores to 4 Crores	8109655	8053553	7289457	43.94
116253	4 Crores to 5 Crores	6507297	6396841	5746204	53.48
195031	5 Crores to 8 Crores	13907172	13776416	12167017	68.11
72551	8 Crores to 10 Crores	6672446	6602472	5811494	87.69
155588	10 Crores to 20 Crores	18592090	18411784	16069295	113.70
97816	20 Crores to 50 Crores	18338479	18443577	16121505	180.28
33982	50 Crores to 100 Crores	11174507	11091740	10028577	316.78
28118	100 Crores to 500 Crores	20603244	21306401	19186222	724.28
5941	Above 500 Crores	30244245	29517488	29947401	5033.34
6655905	**GRAND TOTAL**	**162053505**	**160937122**	**201206225**	26.25

In view of the data given above, it is recommended that e-invoice reporting should be started first with taxpayers having annual turnover of Rs 50 Crores and above whose total number is below one lakh but who upload around 40% (6.2 Cr out of 16.2 crores) of the total invoices uploaded in the GST System in a month. These taxpayers are expected to have automated systems/ERPs. The trial with them for a quarter will give us insight into system behaviour and carry out necessary tweaks as required. Decision of further rolling out the e-invoice system may be taken based on the trial and learnings from this initial phase.

4.2 Consistency and Authenticity of Invoice: The Committee discussed the concept of 'Consistency' and 'Predictability/derivability' of the unique number of the invoice which can be achieved by creation of a hash and digital signing of the content of the invoice. The benefits of such a system are as given below:

- The invoice data will be uploaded on a system which will derive hash function on the basis of seller GSTIN, Invoice Number (without any special chars), and year. The hash value and invoice content will then be digitally signed by the System and made available to: the seller, the buyer, GST System, E-way Bill system and any other stakeholder as decided by the Government.
- The generation of hash and signing of invoice document will be akin to signing of a sale document by a land registry / Sub Registrar who also gives a unique number to the sale deed. The sub-registrar does not go into the veracity of content as that is a contract between seller and buyer but registers the sale deed, which then becomes a registered document on which loans are given and the same is accepted by multiple authorities. Similarly, the Invoice is also a contract between supplier and receiver and digital signature with hash value will make the invoice consistent and predictable. The same can then be used for many other purposes. Thus an Invoice with hash and duly signed by appointed agency will be the valid invoice for claiming Input Tax Credit or for other purposes like bill discounting etc.
- In this way the government can have multiple registrars for invoice registration and the Unique Invoice Reference Number (IRN) will remain consistent across multiple registrars.
- Multiple registrars will ensure a system which is available 24X7. Also, this could lead to a scenario where multiple registrars will compete to provide not only better registration services but also additional services like checking correctness of tax rates, basic data check, generating report for buyer in specified format (many large companies take invoice data in specific formats like iDoc) etc.
- The sub-group discussed need of generation of a **QR code** by GST System on reporting of the e-invoice that will enable offline validation of business critical fields of the invoice such as
    - GSTIN of supplier
    - GSTIN of Recipient
    - Invoice number as given by Supplier
    - Date
    - Invoice value (taxable value and gross tax)
    - Number of line items.
    - HSN Code of main item (the line item having highest taxable value)
    - Unique Invoice Reference Number
- **Direct printing from JSON**: A printable section (Base64 encoding of a PDF) should be added to the JSON section once authenticated and delivered to the Supplier. This will enable small taxpayers to directly print from a mobile app to a compatible printer.

The Sub-Group is of the view that the purpose of Unique Invoice Reference Number (IRN) being consistent (across registrars), predictable (easy to pre-print labels etc. making adoption easy), etc. will go away if it is not generated using a hash algorithm. There are huge benefits to physical paper based systems to digital systems if they are made "predictable" and "derive-able". Thus, a hash function on seller GSTIN Invoice Number (without any special chars), and year should be used. The signature will make it "registered", "verifiable" and "trustable". Unique Invoice Reference Number (IRN) itself doesn't provide any trust, it is just a string!

4.3 Standardised E-Invoice Template:

In the second meeting of the Sub-Group, NIC presented an invoice JSON prepared by them. The same was examined by the Sub-Group. It was decided to compare the same with international invoice standards, so as to ensure that the proposed solution does not leave any important item. The group felt the need of involving ICAI for further inputs on preparation of standard e-invoice template. The draft so prepared based on NIC's draft and inputs from ICAI was put in public domain for consultation/feedback on 01/08/2019. It was also notified through a newspaper advertisement. The GSP-ASP eco-system along with accounting/billing software partners were also requested for feedback by sending them emails. More than 500 responses were received which were examined in consultation with ICAI and the draft e-invoice template was finalised. The fields/components of the e-invoice template are classified into two categories viz mandatory and optional. The mandatory fields are as per GST Law and the optional fields are based on trade practices and industry needs. The final template is attached as **Annexure-2**.

5. Recommendations of the Sub-Group

Keeping in view the details and discussions the sub-group had and the interaction with industry, the following recommendations are made:

A. **The Format of Unique Invoice Reference Number (IRN)**: The unique IRN will be based on the computation of hash of GSTIN of generator of document (invoice or credit note etc.), Year and Document number. This hash will be 32 bytes and unique for this combination. This way hash will always be the same irrespective of the registrar who processes it. The hash could also be generated by the taxpayers based on above algorithm and could be used as a sticker on his invoices, rather than writing manual after generation from portal. However, this pre-generated number will not be valid unless it is registered on the portal along with invoice details.

To ensure deduplication, the registrar will be required to send the hash to GST System to confirm whether the same has been reported already. In case it has been reported by another registrar and the GST System already has the same IRN, then the registrar will reject the registration and inform the sender. Only unique invoices from a taxpayer will be accepted and registered by the registrar.

This pre-supposes a robust and highly partitioned system to record unique IRNs by the GST System. GSTN should immediately start working on this so that it is available before the second registrar is appointed. In case, the central repository does not respond in an acceptable timeframe the Registrar will register the e-invoice and share it back with the sender. In a rare case, if such a scenario happens and a taxpayer uploads the same e-invoice thru more than one registrar, the GST system's ANX-1 will take only one which has later time stamp and discard the one which has earlier time stamp.

B. **Digital Signing by e-Invoice Registration Portal:** The invoice data will be uploaded on the IRP (Invoice Registration Portal), which will generate the hash and sign it with its private key. In case the taxpayer submits hash also along with invoice data, the same will be validated by IRN system and then signed.

C. **QR Code**: The IRP will also generate a QR code containing the unique IRN (hash) along with some important parameters of invoice (as suggested above at Para 4.2) and digital signature so that it can be verified on the central portal as well as by an Offline App. This will be helpful for tax officers checking the invoice on the roadside where Internet may not be available all the time. The web user will get a printable form with all details including QR code.

D. **The offline app** will be provided on the IRP for anyone to download to authenticate the QR code of the invoice offline and its basic details. However, to see the whole invoice, one will have to connect to the portal and verify and see the details online. That facility will have to be provided to tax officers, the way it is currently available under E-way bill system.

E. **Generation of e-invoice from IRN Portal**: The OM vide which the Sub-Group was constituted mentions that the e-invoice will be generated through GST portal. The Tech Sub-Group recommends that the government should not go for providing generation of e-invoice from GST portal as taxpayers may have different requirements and expectation which can't be met from one software. Also, the expectations and requirements may increase later. For this purpose, the taxpayer can use his accounting system/ERP. Based on decision of GST Council, GSTN has empanelled eight providers who are providing basic accounting system free of cost to small taxpayers. The free accounting software may be used by small taxpayers for generating e-invoice. It is pertinent to mention that taxpayers having turnover upto 1.5 Crores a year constitute 82.6 % of total taxpayer base and such taxpayers are eligible for free accounting software.

F. **Multiple Registrar for IRN System**: The Sub-Group recommends that the solution recommended above required provisioning by multiple registrars and hence this approach should be adopted. To start with, NIC will be the first Registrar, as decided by the Government (minutes of the meeting taken by Revenue Secretary on 24th April 2019). Based on experience of the trial more registrars may be added including GST System itself.

G. **Standardisation of Invoice**: The sub-group recommends adoption of the e-invoice schema and template including QR code as discussed in Para 4.3 above.

H. **Versioning of Invoice JSON format**: GSTN should ensure versioning of the JSON so as to enable future enhancements and ensure backward compatibility of the system.

I. **Modes for getting invoice registered**: Multiple modes should be made available so that taxpayer can use the best mode based on his/her need. In the e-way bill system the following modes are provided to generate e-way bills by uploading the required data of invoice and the vehicle number:

a. Web based,
b. API based,
c. SMS based,
d. mobile app based,
e. offline tool based and
f. GSP based.

All the modes mentioned above should also be provisioned under the proposed system for e-invoice, through the IRP (Invoice Registration Portal).

J. **Offline Tool**: It is recommended that the specifications of Offline Tool for the preparation of offline data should be published by GSTN so that eco-system partners can start the development work and provide the offline tool as per the taxpayers' needs.

K. **API mode**: Using API mode, the big tax payers and accounting software providers can interface their systems and pull the IRN after passing the relevant invoice information in JSON format. API request should handle one invoice request at time to generate the IRN. This mode will also be used for

bulk requirement (user can pass the request one after the other and get the IRN response within fraction of second) as well. The e-way bill system provides the same methodology.

L. **Direct Printing from JSON**: A tool may be provided which can open the signed JSON received by the seller from the IRP. This will enable small taxpayers to directly print from a mobile app to a compatible printer.

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Web : www.gstcouncil.gov.in

F.No.: 189/Generation of Invoice /GSTC/2019
23.05.2019

OFFICE MEMORANDUM

Sub: Constitution of working sub-Group on technical issues for generation of e-Invoice on GST portal –reg.

Committee of Officers (CoO) on generation of electronic Invoice through GST Portal have decided to constitute a working sub Group to examine and recommend on the technical architecture and all technical aspects for generation of e-invoice. Accordingly, this sub-Group shall consist of the following members:

S. No.	Name	Designation & Organization
1.	Dr Pramod Kumar Verma	Chief Architect, UIDAI
2.	Shri P. V.Bhatt	Dy Director General, NIC, Bangalore
3.	Shri Nitin Mishra	Executive Vice President (Technology), GSTN

2. The sub Group shall examine and recommend from time to time technical architecture and all technical aspects of generation of e-invoice, including inter alia generation, viewing, downloading, backward & forward integration, system requirement, data format, mode of generation like APP based, mobile, SMS, off-line and on-line invoice integration with portal, API integration, automated monitoring, automated scale/management, full data security (encryption for confidentiality and signing for non-tampering), disaster management and retrieval mechanism etc.

3. Shri Prakash Kumar, CEO, GSTN shall coordinate with this sub-Group and update the progress periodically.

4. This issues with the approval of the of the Revenue Secretary, Govt. of India.

(Rakesh Agarwal)
Under Secretary to GST Council

To

All members of sub-Group on technical issues for generation of e-Invoice

Copy to:

1) OSD to the Revenue Secretary, North Block, New Delhi

Annexure-2

Mandatory fields	

				Version number
LOGO	Invoice Type		Unique Identification Number	
	InvoiceType Code			
	Supplier_GSTIN			
Invoice number				
Invoice Date				
Reverse Charge				
Details of Receiver (Billed to)			Dispatch From Details	Details of Consignee (Shipped to)
GSTIN				Shipping To_GSTIN
State code				Shipping To_State
Place				Supply Type
Pin code				Transaction Mode

Item Description	Quantity	Rate	Assessable Value	GST Rate	IGST Value	CGST Value	SGST Value
Total Invoice Value							

| | | |

Note: Cardinality Means occurance of field in the schema. Below are the meanings of various symbol used in this column:

0..1 : It means this item is optional and even if mentioned can not be repeated

1..1: It means that this item is mandatory and can be mentioned only once.

1..n: It means this item is mandatory and can be repeated more than once

0..n: It means this item is optional but can be repated many times.

For example: Previous invoice reference is optional but if required one can mention many previous invoice reference.

Invoice Detail							
S No	Technical Field name	Cardinality	Small Description of the field	Is it Mandatory on invoice	Technical Field Specifications	Sample Value of the field	Explanatory Notes of the Field
0	Version	1..1	Version number	Mandatory	string(Max length:10)	1.0	It is the version of schema . It will be used to keep track of version of Invoice specification.
1	IRN (UUID)	0..1	Invoice Refernce Number	Mandatory	string(Max length:50)	649b01ft	This will be a unique reference number for this invoice. It can be generated by application based on the Algorithm provided by E-Invoice system or can be left blank. In case this field has been left blank E-Invoice system will generate it and respond back in response to registration request. In case application send this number then e-Invoice system will validate it and after validation registered same number against this invoice. Invoice will only be valid once it has this number and it is registered on E-invoice system.
2	Invoice_type_code	1..1	Code for Invoice type	Mandatory	string(Max length:10)	Reg/SEZP/SEZWP/EXP/EXPWP/DEXP	This will be the code to identify type of invoice, some of the examples are mentioned. It will have also code for bill of entry, commercial invoice and other type of invoices. B2C invoice can be mentionted as type and based on that some fileds will become optional. Detail JSON schema will mention these details later.
3	InvoiceNum	1..1	Invoice number	Mandatory	string(Max length:16)	Saf/1/2019	It will be as per invoice number rule mentionted in CGST/SGST rule. Rule to be checked.
4	InvoiceDate	1..1	Invoice Date	Mandatory	string (DD/MM/YYYY)	21-07-19	The date when the Invoice was issued. Format "YYYY-MM-DD"
5	Invoice_currency_code	1..1	Currency code	Optional	string(Max length:16)	USD	It depicts an additional currency in which all Invoice amounts can be given along with INR. one additional currency shall be used in the
6	Reversecharge	0..1	Reverse Charge	optional	Character	Y	Is the liability payable under reverse charge
7	**Delivery_or_Invoice_Period**	**0..1**		**Optional**			
8	Invoice_Period_Start_Date	1..1	Invoice period start date	Mandatory (if this section is selected or used)	string (DD/MM/YYYY)	21-07-19	
9	Invoice_Period_End_Date	1..1	Invoice Period End date	Mandatory (if this section is selected or used)	string (DD/MM/YYYY)	21-07-19	
10	**Order and Sales Order Reference**	**0..1**		**Optional**			
11	**Preceding Invoice**	**0..n**					
12	Preceeding_Invoice_Number	1..1	Detail of Base Invoice which is being amended by subsequent document	Mandatory (if this section is selected or used)	string(Max length:16)	Saf/1/2019	This is the reference of original invoice to be provided in the case of debit and credit notes. In mere invoicing this is not required. It is required to keep future expansion of e versions of Credit notes, Debit Notes and other documents requried under GST
13	Invoice_Document_Reference	1.1	Invoice reference	Optional	string(Max length:20)	KOL01	This reference is kept for user to provide any additional fields for eg., some branch, their user id, their employee id, sales centre reference
14	Preceeding_Invoice_Date	1..1	Date of Invoice	Mandatory (if this section is selected or used)	string (DD/MM/YYYY)	21-07-19	
15	**Other**	0..1					
16	Receipt_Advice_Reference	0..1	Terms reference	Optional	string(Max length:20)	CREDIT30	This reference is kept for user to provide their receipt advice details to their customer.
17	Tender_or_Lot_Reference	0..1	Lot / Batch Reference	Optional	string(Max length:20)	TENDERJAN2020	This reference is kept for mentioning number or detail of Lot or Tender if supplies are made under such Lot or tender
18	Contract_Reference	0..1	Contract Number	Optional	string(Max length:20)	CONT23072019	This reference is kept for mentioning contract number if supplies are made under any specific Contract
19	External_Reference	0..1	Any other reference	Optional	string(Max length:20)	EXT23222	An additional field for provision of any additional reference number for such supply.
20	Project_Reference	0..1	Project Reference	Optional	string(Max length:20)	PJTCODE01	This reference is kept for mentioning Project number if supplies are made under any specific Project
21	RefNum	0..1	Vendor PO Reference number	Optional	string(Max length:16)	Vendor PO /1	0
22	RefDate	0..1	Vendor PO Reference date	Optional	string (DD/MM/YYYY)	21-07-19	00-01-00
23	**Supplier Information**	**1..1**		**Mandatory**			*A group of business terms providing information about the Supplier.*
24	Supplier_Legal_Name	1..1	Supplier_Legal_Name	Mandatory	string(Max length:100)	The Institute of Charetred Accountants of India	Name as appearing in PAN of the Supplier
25	Supplier_trading_name	0..1	Trade Name of Supplier	Optional	string(Max length:100)	ICAI	A name by which the Supplier is known, other than Supplier name (also known as Business name).
26	Supplier_GSTIN	1..1	Gstin of the Supplier	Mandatory	Alphanumeric with 15 characters	29AADFV7589C1ZO	GSTIN of the supplier
27	Supplier_Addres	1..1	Supplier address1	Mandatory	string(Max length:100)	Vasanth Nagar	Address of the Supplier
28	Supplier_Addres	0..1	Supplier address 2	Optional	string(Max length:100)	Bangalore	City of the Supplier
29	Supplier_City	1..1	Supplier address 2	Optional	string(Max length:50)	Bangalore	City of the Supplier
30	Supplier_State	1..1	Place	Mandatory	string(Max length:50)	Karnataka	State of the Supplier
31	Supplier_Pincod	1..1	Pincode	Mandatory	string(Max length:6)	560087	Pincode of the Supplier
32	Supplier_Phone	0..1	Phone	Optional	string(Max length:12)	9999999999	Contact number of the Supplier
33	Supplier_Email	0..1	eMail id	Optional	string(Max length:50)	Supplier@icai.com	Email id of the Supplier.

S No	Technical Field name	Cardinality	Small Description of the field	Is it Mandatory on invoice	Technical Field Specifications	Sample Value of the field	Explanatory Notes of the Field
34	**Buyer Information**	**1..1**		**Mandatory**			**Header for Buyer information**
35	Billing_Name	1..1	Buyer Legal name	Mandatory	string(Max length:100)	Adarsha	Trade name of buyer
36	Billing_GSTIN	1..1	GSTIN	Mandatory	string(Max length:15)	29AACCR7832C1ZD	GSTIN of the Buyer
37	Billing_POS	1..1	State code	Mandatory	String(Max length:2)	29	Place of supply code of Supply
38	Billing_Address1	1..1	Address1	Mandatory	string(Max length:100)	Address	Address of the Buyer
39	Billing_Address2	0..1	Address2	optional	string(Max length:100)	Address	Address of the Buyer
40	Billing_State	1..1	Place	Mandatory	string(Max length:50)	Bangalore	State of the Buyer
41	Billing_Pincode	1..1	pincode	Mandatory	string(Max length:6)	560002	Pincode of the Buyer
42	Billing_Phone	0..1	Phone number	Optional	string(Max length:12)	080 2223323	contact number of the Buyer
43	Billing_Email	0..1	eMail id	Optional	string(Max length:50)	billing@icai.com	Email id of the buyer. This should be provided to help E-Invoicing system to receive this invoice on mail.
44	**Payee Information (Seller payment information)**	**0..1**		**optional**			*Header for Payee Information – person to whom amount is payable. Optional for cases where payment is to be made to a person other than Supplier*
45	Payee_Name	1..1	Payee name	Mandatory	string(Max length:100)		Name of the person to whom payment is to be made
46	Payer_Financial_Account	1..1	Account Number	Mandatory	string(Max length:18)		Account number of Payee
47	ModeofPayment	1..1	Payment mode	Mandatory	string(Max length:6)	Cash/Credit/Direct Transfer	Cash/Credit/Direct Transfer
48	Financial_Institution_Branch	1..1	Financial Institution Branch (IFSC Code)	Mandatory	string(Max length:11)		A group of business terms to specify Branch of Payee
49	Payment_Terms	0..1	Payment Terms	Optional	string(Max length:50)		Terms of Payment with the recipient if to be provided
50	Payment_Instruction	0..1	Payment Instruction	Optional	string(Max length:50)		A group of business terms providing information about the payment.
51	Credit_Transfer	0..1		Optional	string(Max length:50)		A group of business terms to specify credit transfer payments.
52	Direct_Debit	0..1		Optional	string(Max length:50)		A group of business terms to specify a direct debit.
53	CreditDays	0..1	Due date of Credit	Optional	Numeric (Min length:1 Max length:3)	30-11-2019	The date when the payment is due. Format "DD-MM-YYYY".
54	**Delivery_Information**	**1..1**		**Mandatory**			A group of business terms providing information about where and when the goods and services invoiced are delivered.
55	DispatchFromDetails	1..1	DISPATCH from details	Mandatory	Refer A1.1		
56	ECOM_GSTIN	0..1	eCommerce GSTIN	Optional	string(Max length:15)		Mention og E commerce operator is supply is made through him
57	ECOM_POS	0..1	State code	Optional	String(Max length:2)	29	Mention og E commerce operator is supply is made through him
58	**Invoice Item Details**	**1..n**		**Mandatory**			
59	List {items}		Items	Mandatory	Refer A1.2		A group of business terms providing information about the goods and services invoiced.
60	**Document Total**	1..1		**Mandatory**			
61	TotalDetails		Bill TotalDetails	Optional	Refer A1.3		0
62	Tax_Total	1..1	Total Tax Amount	Mandatory	Decimal (10,2)		When tax currency code is provided, two instances of the tax total must be present, but only one with tax subtotal.
63	Sum_of_Invoice_line_net_amount	0..1	Item level net amount	optional	Decimal (10,2)		Sum of all Invoice line net amounts in the Invoice. Must be rounded to maximum 2 decimals.
64	Sum_of_allowances_on_document_level	0..1	total discount	optional	Decimal (10,2)		Sum of all allowances on document level in the Invoice. Must be rounded to maximum 2 decimals.
65	Sum_of_charges_on_document_lev	0..1	total other charges	optional	Decimal (10,2)		Sum of all charges on document level in the Invoice. Must be rounded to maximum 2 decimals.
66	PreTaxDetails		Break up of the tax rate at invoice level	Optional	Refer A1.3		The total amount of the Invoice without GST. Must be rounded to maximum 2 decimals.
67	Paid_amount	1..1	Paid amount	Mandatory	Decimal (10,2)		The sum of amounts which have been paid in advance. Must be rounded to maximum 2 decimals.
68	Amount_due_for_payment	1..1	Payment Due	Mandatory	Decimal (10,2)		The outstanding amount that is requested to be paid. Must be rounded to maximum 2 decimals.
69	**Extra Information**	0..1		Optional			
70	Tax_Scheme	1..1	GST, Excise, Custom, VAT etc.	Mandatory	string(Max length:4)	GST,CUST, VAT etc..	Mandatory element. Use "GST"
71	Remarks	0..1	Remarks/Note	Optional	string(Max length:100)	New batch Items submitted	A textual note that gives unstructured information that is relevant to the Invoice as a whole. Such as the reason for any correction or assignment note in case the invoice has been factored.
72	**Additional_Supporting_Docum**	**0..n**		**optional**			
73	Additional_Supporting_Documents_url	0..1	Supporting document URLs	optional	string(Max length:100)		A group of business terms providing information about additional supporting documents substantiating the claims made in the Invoice. The additional supporting documents can be used for both referencing a document number which is expected to be known by the receiver, an external document (referenced by a URL) or as an embedded document, Base64 encoded (such as a time report).
74	Additional_Supporting_Documents_url	0..1	Supporting document in base64 format.	optional	string(Max length:1000)		A group of business terms providing information about additional supporting documents substantiating the claims made in the Invoice. The additional supporting documents can be used for both referencing a document number which is expected to be known by the receiver, an external document (referenced by a URL) or as an embedded document, Base64 encoded (such as a time report).
75	Invoice_Allowances_or_Charges	0..1	Total Value of allowances and charges at invoice level	optional	Decimal (10,2)		A group of business terms providing information about allowances or charges applicable at invoice level as sometime discount or charges may be applicable on invoice level not on line item level.

S No	Technical Field name	Cardinality	Small Description of the field	Is it Mandatory on invoice	Technical Field Specifications	Sample Value of the field	Explanatory Notes of the Field
	A 1.0 ShipTo	**0..1**					
S No	**Parameter**		**Description**		**Field**	**Sample Value**	
1	ShippingTo_Name	1..1	ShippingTo_Name	Mandatory	string(Max length:60)	Adarsha	A group of business terms providing information about the address to which goods and services invoiced were or are delivered.
2	ShippingTo_GSTIN	1..1	ShippingTo_GSTIN	Mandatory	string(Max length:100)	36AABCT2223L12F	A group of business terms providing information about the address to which goods and services invoiced were or are delivered.
3	ShippingTo_Address1	1..1	ShippingTo_Address1	Mandatory	string(Max length:50)	Address	A group of business terms providing information about the address to which goods and services invoiced were or are delivered.
4	ShippingTo_Address2	0..1	ShippingTo_Address2	Optional	string(Max length:50)	Address	A group of business terms providing information about the address to which goods and services invoiced were or are delivered.
5	ShippingTo_Place	0..1	ShippingTo_Place	Optional	string(Max length:6)	Bangalore	A group of business terms providing information about the address to which goods and services invoiced were or are delivered.
6	ShippingTo_Pincode	1..1	ShippingTo_Pincode	Mandatory	string(Max length:50)	560001	A group of business terms providing information about the address to which goods and services invoiced were or are delivered.
7	ShippintTo_State	1..1	ShippintTo_State	Mandatory	string(Max length:100)	Karnataka	A group of business terms providing information about the address to which goods and services invoiced were or are delivered.
8	SubsupplyType		Supply Type	Mandatory	String(Max length:2)	Supply/export/Jobwork	A group of business terms providing information about the address to which goods and services invoiced were or are delivered.
9	TransactionMode		Transacion Mode	Mandatory	String(Max length:2)	Regula/BilTo/ShipTo	A group of business terms providing information about the address to which goods and services invoiced were or are delivered.
	A 1.1 DispatchFrom Details						
S No	**Parameter**		**Description**		**Field**	**Sample Value**	
1	Company_Name	1..1	Company_Name	Mandatory	string(Max length:60)	ICAI	Detail of person and address wherefrom goods are dispatched.
2	Address1	1..1	Address1	Mandatory	string(Max length:100)	Vasanth Nagar	Detail of person and address wherefrom goods are dispatched.
2	Address2	0..1	Address2	Optional	string(Max length:100)	Millers Road	Detail of person and address wherefrom goods are dispatched.
3	City	1..1	Place	Optional	string(Max length:100)	Bangalore	Detail of person and address wherefrom goods are dispatched.
4	State	1..1	State	Mandatory	String(Max length:2)	Karnataka	Detail of person and address wherefrom goods are dispatched.
5	Pincode	1..1	Pincode	Mandatory	string(Max length:6)	560087	Detail of person and address wherefrom goods are dispatched.
	A 1.2 Item Details	**1..n**					
S No	**Parameter**		**Description**		**Field**	**Sample Value**	
1	SLNO	1..1	Serial Number	Mandatory	int	1,2,3	
2	Item Description	0..1	Item description	optional	string(Max length:300)	Mobile	The identification scheme identifier of the Item classification identifier
3	ISService	0..1	ISService	Optional	Character	Y/N	Specify whether supply is that of Services or not
4	HSN code	0..1	HSN code	Optional	string(Max length:8)	1122	A code for classifying the item by its type or nature.
5	Batch	0..1	...	Optional	Refer A1.3.1	galaxy	Batch number details are important to be mentioned for certain set of manufacturers
6	Barcode	0..1	ItemBarcde	Optional	string(Max length:30)	b123	Barcoding if to be provided need to be specified
7	Quantity	1..1	Quantity	Mandatory	Decimal (13,3)	10	The quantity of items (goods or services) that is charged in the Invoice line.
8	FreeQty	0..1	free quantity	Optional	Decimal (13,3)	1	Detail of any FOC item
9	UQC	0..1	uom	Optional	string(Max length:8)	Box	The unit of measure that applies to the invoiced quantity. Codes for unit of packaging from UNECE Recommendation No. 21 can be used in accordance with the descriptions in the "Intro" section of UN/ECE Recommendation 20, Revision 11 (2015): The 2 character alphanumeric code values in UNECE Recommendation 21 shall be used. To avoid duplication with existing code values in UNECE Recommendation No. 20, each code value from UNECE Recommendation 21 shall be prefixed with an "X", resulting in a 3 alphanumeric code when used as a unit of measure.
10	Rate	1..1	Item Rate per quantity	Mandatory	Decimal (10,2)	500.5	The number of item units to which the price applies.
11	GrossAmount	1..1	gross amount	Optional	Decimal (10,2)	5000	The price of an item, exclusive of GST, after subtracting item price discount. The Item net price has to be equal with the Item gross price less the Item price discount, if they are both provided. Item price can not be negative.
12	DiscountAmount	0..1	discount amount	Optional	Decimal (10,2)		The total discount subtracted from the Item gross price to calculate the Item net price.
13	PreTaxAmount	0..1	Pretax	Optional	Decimal (10,2)	50	The unit of measure that applies to the Item price base quantity, must be the same as the unit code of the Invoiced/credited quantity. Codes for unit of packaging from UNECE Recommendation No. 21 can be used in accordance with the descriptions in the "Intro" section of UN/ECE Recommendation 20, Revision 11 (2015): The 2 character alphanumeric code values in UNECE Recommendation 21 shall be used. To avoid duplication with existing code values in UNECE Recommendation No. 20, each code value from UNECE Recommendation 21 shall be prefixed with an "X", resulting in a 3 alphanumeric code when used as a unit of measure.
14	AssesseebleValue	1..1	net amount	Mandatory	Decimal (13,2)	5000	The unit price, exclusive of GST, before subtracting Item price discount, can not be negative
15	GST Rate	1..1	Rate	Mandatory	Decimal(3,2)	5	The GST rate, represented as percentage that applies to the invoiced
16	Iamt	0..1	IGST Amount as per item	Mandatory	Decimal(11,2)		A group of business terms providing information about GST breakdown by different categories, rates and exemption reasons
17	Camt	0..1	CGST Amount as per item	Mandatory	Decimal(11,2)	650.00	
18	Samt	0..1	SGST Amount as per item	Mandatory	Decimal(11,2)	650.00	
19	Csamt	0..1	CESS Amount as per item	Optional	Decimal(11,2)	65.00	
20	StateCessAmt	0..1	State cess amount as per item	Optional	Decimal(11,2)	65.00	
21	OtherCharges	0..1	Other if any	Optional	Decimal(11,2)		A group of business terms providing information about allow ances applicable to the Invoice as a whole. A group of business terms providing information about charges and taxes other than GST, applicable to the Invoice as a whole.
22	Invoice_line_net_amount	0..1	Invoice line Net Amount	Optional	Decimal(11,2)		The total amount of the Invoice line. The amount is "net" without GST, i.e. inclusive of line level allow ances and charges as well as other relevant taxes. Must be rounded to maximum 2 decimals.

S No	Technical Field name	Cardinality	Small Description of the field	Is it Mandatory on invoice	Technical Field Specifications	Sample Value of the field	Explanatory Notes of the Field
23	Order__Line_Reference	0..1	Reference to purchase order	optional	String (50)		Reference of purchase order.
24	ItemTotal	1..1	net amount	Optional	Decimal (13,2)	5000	A group of business terms providing the monetary totals for the
25	Origin_Country	0..1	Origin country of item	optional	String(Max length: 2)		This is to specify item origin country like mobile phone sold in India could be manufactured in China.
26	SerialNoDetails	0..1	...	Optional	Refer A 1.3.2		
	A 1.3 Total Details	**1..1**		**Mandatory**			
S No	**Parameter**		**Description**		**Field**	**Sample Value**	
1	IGSTValue	0..1	IGST Amount as per invoice	Optional	Decimal(11,2)		Appropriate taxes based on rule will be applicable. For example either of CGST& SGST or IGST will be mandatory. As there is no way to show conditional mandatory, optional has been mentionted against all
2	CGSTValue	0..1	CGST Amount as per	Optional	Decimal(11,2)		Taxable value as per Act to be specified
3	SGSTValue	0..1	SGST Amount as per	Optional	Decimal(11,2)		Taxable value as per Act to be specified
4	CESSValue	0..1	cess Amount as per invoice	Optional	Decimal(11,2)		Taxable value as per Act to be specified
5	StateCessValue	0..1	State cess Amount as per invoice	Optional	Decimal(11,2)		Taxable value as per Act to be specified
	Rate	0..1	Tax Rate	Optional	Decimal(11,2)		Tax Rate
6	OtherCharges	0..1	Pretax/post charges	Optional	Decimal(11,2)		A group of business terms providing information about allowances applicable to the Invoice as a whole. A group of business terms providing information about charges and taxes other than GST, applicable to the Invoice as a whole.
7	Roundoff	0..1	roundoff value	Optional	Decimal(11,2)		The amount to be added to the invoice total to round the amount to be paid. Must be rounded to maximum 2 decimals.
8	TotalInvoiceValue	1..1	Total amount	Mandatory	Decimal(11,2)		The total amount of the Invoice with GST. Must be rounded to maximum 2 decimals.
	A 1.3.1 Batch Details	**1..1**					
S No	**Parameter**		**Description**		**Field**	**Sample Value**	
1	BatchName	1..1	Batch number/name	Mandatory	string(Max length: 20)		Batch number details are important to be mentioned for certain set of manufacturers
2	BatchExpiryDate	0..1	Expiry Date	optional	string (DD/MM/YYYY)		Batch number details are important to be mentioned for certain set of manufacturers
3	WarrantyDate	0..1	Warranty Date	Optional	string (DD/MM/YYYY)		Batch number details are important to be mentioned for certain set of manufacturers
	A 1.3.2 Seria	**0..1**					
S No	**Parameter**		**Description**		**Field**	**Sample Value**	
1	SerialNumber	1..1	Serial Number in case of each item having unique number	Optional	string(Max length: 15)		0
2	OtherDetail1	0..1	other detail of serial number	Optional	string(Max length: 10)		0
3	OtherDetail2	0..1	other detail of serial number	Optional	string(Max length: 10)		0
	A 1.3.3 PreTax Details						
S No	**Parameter**		**Description**		**Field**	**Sample Value**	
1	Pretax Particulars		Pretax ledger/particulars	Optional	string(Max length: 100)		0
2	TaxOn		Pretax on gross amount or any other	Optional	Decimal(11,2)		0
3	Amount		Amount	Optional	Decimal(11,2)		0

Agenda Item 14: Linking GST Registration with Aadhar and proposed changes in the GST Law & GSTN System

1 In original design of return, the normal taxpayers had to file details of Outward Supplies (GSTR-1), details of Inward Supplies (GSTR-2) and Monthly Return (GSTR-3). In this process, **taxpayers had to file all types of invoices (B2B, B2C large, Export Invoices, Supplies to SEZ from Domestic Market, Invoices under RCM, Supplies made through e-Commerce, Nil rated/Exempted etc.).** The B2B Invoices were transmitted to Inward Supply Statement (GSTR-2) of Recipient by the system for acceptance/rejection etc. for avoiding mismatches and possible transcription (data entry) errors which would have happened if the same invoice was also uploaded by buyer as purchase invoice and system would have done matching. The recipient taxpayers were required to upload Inward Supply invoices (Import, RCM Supplies, Supplies received from SEZ etc.) and missing invoices and file GSTR-2. Based on both the statements, Monthly return was to be generated and filed by the taxpayers. This design had clear supply chain and option to match both supply and receipt side transactions and ITC.

However, GSTR-2 and GSTR-3 were kept on hold due to certain reasons but GSTR-1 was kept operational and an ad-hoc summary return GSTR-3B was implemented for facilitating payment of GST. Since, GSTR-3B was an interim arrangement, there were no linkages to the different tables of GSTR-1. Therefore, it was not possible for the GST System to match the outward supplies of a taxpayers with the inward supplies of their purchasers. Accordingly, it was also not possible for the GST Systems to check the tax liabilities payable and actually paid through GSTR-3B and the ITC, claimed and actual entitlement of the taxpayers.

Therefore, many taxpayers have shown low taxable turnover in GSTR-3B than what they have shown in their GSTR-1 or e-Way Bills. Similarly, many taxpayers have availed more ITC than what they were entitled for. **Table T-1** below shows mismatch in liability declared in GSTR-1 and GSTR-3B where the difference is more than Rs. 5 lakhs:

Table T-1

COUNTRYWIDE SUMMARY		**(RS. IN CRORE)**
MONTH	**No. of Tax Payers**	**DIFFERENCE of Liability (R1-R3B)**
Apr'19	5,750	4146.32
May'19	4,291	4579.82
June'19 (Monthly GST-R1 filers)	5,000	1948.69
June'19 (Quarterly GST-R1 filers)	940	148.65

Similarly, taxpayers have claimed more ITC in their GSTR-3B than what they have in their GSTR-2A, which contains the ITC passed on by the suppliers through their GSTR-2 Further, there are cases where ITCs are availed by the taxpayers on which tax has not been paid by their suppliers through GSTR-3B. **Table T-2** shows this data for the FY 2017-18 prepared in August 2019. Column-2 of the table shows the range of mismatch of ITC claimed in GSTR-3B and that accruing in GSTR-2A and column-3 shows number of taxpayers falling under each range.

Table T-2

S. No.	Range of mismatch of ITC claimed in 3B and that accruing in 2A	No. of Tax Payers
1	LESS THAN ZERO	4096930
2	zero	2138239
3	Up to 10,000	1165345
4	10,000 to 50,000	761886
5	50,000 to 1.00 lakh	257073
6	1.00 lakh to 2 lakh	184429
7	2 lakh to 5 lakh	144290
8	5 lakh to 10 lakhs	58583
9	10 lakhs to 20 lakhs	33055
10	20 lakhs to 50 lakhs	22627
11	50 lakhs to 1 cr.	8463
12	1 cr. To 5 Cr	7785
13	5 Cr. To 10 Cr.	1050
14	10 Cr. To 20 Cr	465
15	20 Cr. To 40 Cr	190
16	40 Cr. To 70 Cr	64
17	70 Cr. To 100 Cr	23
18	Above 100 Cr.	41
GRAND TOTAL		**8880538**

Also, liberal provision under the law to grant registration with deeming clause of 3 working days is believed to have led to entry of unscrupulous elements who are indulging in malpractices. In many cases no trace has been found of promoters of such entities. Thus, a need has been felt to introduce Aadhar based identity verification of promoters and authorised signatories.

2. Basic Problems:

The analysis above throws up three basic problems, which need to be handled:

i. Invoice reported by seller in GSTR-1 is not determining liability in GSTR-3B and the ITC accruing in GSTR-2A is not determining ITC in the Return.

ii. Rigorous authentication of identity of the taxpayers/authorized signatories is not taking place

iii. There is big time gap between issue of invoice and its reporting in GSTR-1 to GST portal.

3. Approach to handle the above Problems

To handle above mentioned problems, multipronged approach is proposed:

a. Implementation of New Return

b. Authentication of identity of promoters from Aadhar

c. Adoption of e-Invoicing where invoice will be reported in near real time to GST portal.

3.1 New Return: Details of implementation of New Return are given in the Agenda Item no 11. The New Return has unidirectional document (invoice etc.) flow and check gap in tax liability and ITC as these will flow from ANX-1 and ANX-2. This return shall be prepared on the basis of supplies

and receipts data of invoices. System shall create liability and calculate eligible ITC for the tax period and hence it will eliminate any scope for under-reporting of liability. The New Return also has a cap on provisional ITC which can be taken over and above what will flow from ANX-2 and other Returns and any enhancement in ITC by the taxpayers shall be recorded. Further, the new system will show status of return filing by their suppliers to the recipient taxpayers.

3.2 Authentication of identity of promoters from Aadhar:

To curb/check fly-by-night operators who are taking advantage of easy registration process (3 working days and no field inspection) and to authenticate the identity of the promoters and authorised signatories, GSTN has been asked to put in place mechanism for Aadhar Authentication of following types of taxpayers and the authorized signatories in first phase:

a. Auth. Signatory and Proprietor in case of Proprietorship concerns,
b. Auth. Signatory and Partners managing/Auth in case of Partnership firms
c. Auth. Signatory and Karta in case of HUF
d. All other authorized Signatories

Taxpayers coming for new registration shall be asked whether they intend to provide their Aadhar details or not. In case they don't consent, facility of auto-approval of registration will be ceased and a physical verification process will be made mandatory to confirm their identity using other documents.

If taxpayer gives his consent, he will be asked to enter Aadhar details at the time of filing registration. In case Promoter does not want to share Aadhar details with authorised signatory or tax consultant filling up the registration form a link shall be forwarded to the persons concern for entering Aadhar details and the OTP received from UIDAI for verification of their Aadhar. On successful authentication, following data will be fetched from Aadhar to GST System:

i. Name,
ii. Address,
iii. Date of Birth,
iv. Gender,
v. Photograph,
vi. Mobile No.,
vii. e-mail ID (if available)

3.3 E-Invoicing: Details have been discussed as part of Agenda Note No 13.

4. The mechanism suggested above at **paragraph 3.2** is placed before the Council for approval.

Agenda Item 15: Update on change of share capital/ownership structure of Goods And Services Tax Network (GSTN) and transfer of shares of GSTN from Empowered Committee of State Finance Ministers (EC) & Non- Government Institution to Centre, State Governments & Union Territories

The GST Council in its 27th Meeting held on 4th May, 2018 decided that GSTN will be converted into a 100% Government-owned entity by transferring 51% equity shares held by the Non-Government institutions to the Centre and states equally. The Union Cabinet in its Meeting held on 26th September, 2018 approved the proposal to convert GSTN into a fully-owned Government Company with 50% equity of the Company to be held by the Central Government and the balance 50% to be held by States and Union Territories.

2. Further, the GST Council in its 31st Meeting held on 22nd December, 2018 and the Department of Revenue (DOR), Government of India vide its Letter No. S-31011/5/2018-ST-1-DoR dated 17th January, 2019 both have approved the revised shareholding pattern of GSTN as per **(Annexure-1).**

3. In order to facilitate the above decision and consequent to the approval as accorded by the shareholders of GSTN in their Extra-Ordinary General Meeting (EGM) held on 21st June, 2019, the Empowered Committee of State Finance Ministers (EC) & all Non- Government Institutions have already offered their entire existing shareholding in GSTN through Share Transfer Notice for Sale/Transfer to Centre, State Governments & Union Territories accordingly in order to convert GSTN into a 100% Government-owned entity as per **(Annexure-2)** and hence this will result into change of share capital/ownership structure of GSTN. The details of the Share Transfer Notices issued by the EC & Non- Government Institutions are mentioned as under:

S. No	Name of Transferor	Share Transfer Notice date
1.	Empowered Committee of State Finance Ministers (EC)	29th July 2019 & reissued on 4th September, 2019
2.	LIC Housing Finance Limited	29th July 2019 & reissued on 4th September, 2019
3.	NSE Investments Ltd.	6th August 2019
4.	ICICI Bank Ltd.	14th August 2019
5.	HDFC Bank Ltd.	23rd August 2019
6.	HDFC Ltd.	30th August 2019

4. The respective Transferees (Centre and States) are required to acknowledge the receipt of the above Share Transfer Notice and communicate their acceptance through Purchase Notice to the respective Transferor(s) within 30 days from the receipt of Share Transfer Notice. Post acceptance of the offer to purchase the share, Centre, State Governments & Union Territories are required to pay share purchase consideration to them accordingly.

5. Pursuant to the above Share Transfer Notice, only State Govt. of Madhya Pradesh has communicated their acceptance till date. In two cases share transfer notice expired and had to be re-issued as required action was not taken by the Transferees (States/UTs) within 30 days.

6. **Proposal**: Accordingly, Centre, State Governments and Union Territories are requested to accept the above offer within 30 days (from the date of receipt of Share Transfer Notice) through Purchase Notice and pay the respective share purchase consideration and execute necessary documentations including Shareholders' Agreement (**Annexure-3**) and send the same to GSTN.

7. The Council may take note of the above and issue necessary advisory/directions to all concerned in order to complete the above transaction at the earliest.

Annexure-1

GOODS AND SERVICES TAX NETWORK
PROPOSED NEW SHAREHOLDING STRUCTURE

Annexure

Sl. No	Name of Subscribers	Ledger Folio Number	No. of shares allotted	Paid-up Capital
1	2	3	4	5
1	Member (System) (on behalf of President of India)	E-001	50,00,000	5,00,00,000
2	Govt. of Punjab	E-008	1,61,290	16,12,900
3	Govt. of Gujarat	E-009	1,61,290	16,12,900
4	Govt. of Odisha	E-010	1,61,290	16,12,900
5	Govt. of Tamil Nadu	E-011	1,61,290	16,12,900
6	Govt. of Jammu & Kashmir	E-012	1,61,290	16,12,900
7	Govt. of Maharashtra	E-013	1,61,300*	16,13,000
8	Govt. of Rajasthan	E-014	1,61,290	16,12,900
9	Govt. of Sikkim	E-015	1,61,290	16,12,900
10	Govt. of Karnataka	E-016	1,61,290	16,12,900
11	Govt. of Andhra Pradesh	E-017	1,61,290	16,12,900
12	Govt. of Meghalaya	E-018	1,61,290	16,12,900
13	Govt. of Bihar	E-019	1,61,290	16,12,900
14	Govt. of Nagaland	E-020	1,61,290	16,12,900
15	Govt. of Himachal Pradesh	E-021	1,61,290	16,12,900
16	Union Territory of Puducherry	E-022	1,61,290	16,12,900
17	Govt. of Mizoram	E-023	1,61,290	16,12,900
18	Govt. of Uttarakhand	E-024	1,61,290	16,12,900
19	Govt. of Haryana	E-025	1,61,290	16,12,900

20	Govt. of Assam	E-026	1,61,290	16,12,900
21	Govt. of Goa	E-027	1,61,290	16,12,900
22	Govt. of Kerala	E-028	1,61,290	16,12,900
23	Govt. of Manipur	E-029	1,61,290	16,12,900
24	Govt. of Tripura	E-030	1,61,290	16,12,900
25	Govt. of West Bengal	E-031	1,61,290	16,12,900
26	Govt. of Delhi	E-032	1,61,290	16,12,900
27	Govt. of Jharkhand	E-033	1,61,290	16,12,900
28	Govt. of Uttar Pradesh	E-034	1,61,290	16,12,900
29	Govt. of Chhattisgarh	E-035	1,61,290	16,12,900
30	Govt. of Madhya Pradesh	E-036	1,61,290	16,12,900
31	Govt. of Arunachal Pradesh	E-037	1,61,290	16,12,900
32	Govt. of Telangana		1,61,290	16,12,900
	Total		**1,00,00,000**	**10,00,00,000**

** The State of Maharashtra has been given additionally 10 shares extra, being on top amongst states in GST collection.*

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Details of Share Transfer of GSTN

S. No.	Transferee	Transferor's Share certificate Number	Distinctive Number of Shares to be transferred (Lower Limit)	Distinctive Number of Shares to be transferred (Upper Limit)	Non Government Institution/EC (Transferor)	Nos. of shares to be acquired	New Share certificate number	Consideration payable for shares @ Rs. 10 each to Non-Government Institutions	Aggregate consideration payable for shares @ Rs. 10 each to Non-Government Institutions	Transfer Duty to afixed on share transfer form (SH-4) by Government @ 0.25%	Aggregate Transfer Duty to afixed on share transfer form (SH-4) by Government @ 0.25%
1	Government of India	7	2,92,501	3,25,000	NSE Investments Limited	32,500	NA	3,25,000		812.50	
		16	9,06,787	9,71,429		64,643	NA	6,46,430		1,616.08	
		38	56,14,694	61,30,611		5,15,918	NA	51,59,180		12,897.95	
		44	86,65,062	90,52,000		3,86,939	NA	38,69,390	1,00,00,000	9,673.48	25,000.00
		5	2,24,251	2,60,000	LIC Housing Finance Limited	35,750	NA	3,57,500		893.75	
		14	7,71,037	8,42,143		71,107	NA	7,11,070		1,777.68	
		36	45,31,266	50,98,775		5,67,510	NA	56,75,100		14,187.75	
		40	70,78,612	75,04,244		4,25,633	NA	42,56,330	1,10,00,000	10,640.83	27,500.00
		3	1,59,251	1,91,750	HDFC Limited	32,500	NA	3,25,000		812.50	
		12	6,41,751	7,06,393		64,643	NA	6,46,430		1,616.08	
		34	34,99,430	38,52,286		3,52,857	57	35,28,570	45,00,000	8,821.43	11,250.00
2	Government of Punjab	34	38,52,287	39,34,576		82,290	58	8,22,900	8,22,900	2,057.25	2057.25
3	Government of Gujarat	34	39,34,577	40,15,347		80,771	59	8,07,710	8,07,710	2,019.28	2019.28
		41	75,04,245	75,05,763		1,519	60	15,190	15,190	37.98	37.98
4	Government of Odissa	41	75,05,764	75,88,053		82,290	61	8,22,900	8,22,900	2,057.25	2057.25
5	Government of Tamil Nadu	41	75,88,054	76,70,343		82,290	62	8,22,900	8,22,900	2,057.25	2057.25
6	Government of Jammu & Kashmir	41	76,70,344	77,52,633		82,290	63	8,22,900	8,22,900	2,057.25	2057.25
7	Government of Maharastra	41	77,52,634	78,34,933		82,300	64	8,23,000	8,23,000	2,057.50	2057.50
8	Government of Rajasthan	41	78,34,934	78,91,183		56,250	65	5,62,500	5,62,500	1,406.25	1406.25
		4	1,91,751	2,17,790	HDFC Bank Limited	26,040	66	2,60,400	2,60,400	651.00	651.00
9	Government of Sikkim	4	2,17,791	2,24,250		6,460	67	64,600	64,600	161.50	161.50
		13	7,06,394	7,71,036		64,643	68	6,46,430	6,46,430	1,616.08	1616.08
		35	40,15,348	40,26,534		11,187	69	1,11,870	1,11,870	279.68	279.68
10	Government of Karnataka	35	40,26,535	41,08,824		82,290	70	8,22,900	8,22,900	2,057.25	2057.25
11	Government of Andra Pradesh	35	41,08,825	41,91,114		82,290	71	8,22,900	8,22,900	2,057.25	2057.25
12	Government of Meghalya	35	41,91,115	42,73,404		82,290	72	8,22,900	8,22,900	2,057.25	2057.25
13	Government of Bihar	35	42,73,405	43,55,694		82,290	73	8,22,900	8,22,900	2,057.25	2057.25
14	Government of Nagaland	35	43,55,695	44,37,984		82,290	74	8,22,900	8,22,900	2,057.25	2057.25
15	Government of Himanchal Pradesh	35	44,37,985	45,20,274		82,290	75	8,22,900	8,22,900	2,057.25	2057.25
16	Union Territory of Puducherry	35	45,20,275	45,31,265		10,991	76	1,09,910	1,09,910	274.78	274.78
		42	78,91,184	79,62,482		71,299	77	7,12,990	7,12,990	1,782.48	1782.48
17	Government of Mizoram	42	79,62,483	80,44,772		82,290	78	8,22,900	8,22,900	2,057.25	2057.25
18	Government of Uttarakhand	42	80,44,773	81,27,062		82,290	79	8,22,900	8,22,900	2,057.25	2057.25
19	Government of Haryana	42	81,27,063	82,09,352		82,290	80	8,22,900	8,22,900	2,057.25	2057.25
20	Government of Assam	42	82,09,353	82,78,122		68,770	81	6,87,700	6,87,700	1,719.25	1719.25
		6	2,60,001	2,73,520	ICICI Bank Limited	13,520	82	1,35,200	1,35,200	338.00	338.00
21	Government of Goa	6	2,73,521	2,92,500		18,980	83	1,89,800	1,89,800	474.50	474.50
		15	8,42,144	9,05,453		63,310	84	6,33,100	6,33,100	1,582.75	1582.75
22	Government of Kerala	15	9,05,454	9,06,786		1,333	85	13,330	13,330	33.33	33.33
		37	50,98,776	51,79,732		80,957	86	8,09,570	8,09,570	2,023.93	2023.93
23	Government of Manipur	37	51,79,733	52,62,022		82,290	87	8,22,900	8,22,900	2,057.25	2057.25
24	Government of Tripura	37	52,62,023	53,44,312		82,290	88	8,22,900	8,22,900	2,057.25	2057.25
25	Government of West Bengal	37	53,44,313	54,26,602		82,290	89	8,22,900	8,22,900	2,057.25	2057.25
26	Government of Delhi	37	54,26,603	55,08,892		82,290	90	8,22,900	8,22,900	2,057.25	2057.25
27	Government of Jharkhand	37	55,08,893	55,91,182		82,290	91	8,22,900	8,22,900	2,057.25	2057.25
28	Government of Uttar Pradesh	37	55,91,183	56,14,693		23,511	92	2,35,110	2,35,110	587.78	587.78
		43	82,78,123	83,36,901		58,779	93	5,87,790	5,87,790	1,469.48	1469.48

29	Government of Chhattisgarh	43	83,36,902	84,19,191		82,290	94	8,22,900	8,22,900	2,057.25	2057.25
30	Government of Madhya Pradesh	43	84,19,192	85,01,481		82,290	95	8,22,900	8,22,900	2,057.25	2057.25
31	Government of Arunachal Pradesh	43	85,01,482	85,83,771		82,290	96	8,22,900	8,22,900	2,057.25	2057.25
32	Government of Telangana	43	85,83,772	86,65,061		81,290	97	8,12,900	8,12,900	2,032.25	2032.25
	TOTAL					**51,00,000**		**5,10,00,000.00**	**5,10,00,000**	**1,27,500.00**	**1,27,500.00**
33	Government of Telangana	2	79,626	1,59,250	Empowered Committee	**79,625**	NA	**7,96,250.00**	**79,625.00**	**1,990.63**	
34	Government of Telangana	9	4,83,376	4,83,750	Empowered Committee	**375**	NA	**3,750.00**	**3,750.00**	**9.38**	**2,000.00**

Annexure-3

Annexure A as referred in Articles of Association

SHAREHOLDERS' AGREEMENT

This Shareholders Agreement is made on this [_] day of [_], [...] ("**Agreement**")

BY AND BETWEEN

1. The **Government of India** (hereinafter referred to as "**Central Government**") acting through and represented by the [ ], Department of Revenue, Ministry of Finance, Government of India (which expression shall include its successors in office) of the one part; and

2. [The **Governments of States in the Union of India listed in Schedule 1 hereto** (hereinafter individually referred to as "**State Government**" and collectively referred to as "**State Governments**"), acting through and represented by the person mentioned in **Schedule 1** of the second part]; and

3. **Empowered Committee of State Finance Ministers** (hereinafter referred to as "**EC**") a society registered under the Societies Registration Act, 1860, having its registered office at [ ] acting through and represented by the [ ], (which expression shall include its successors in office) of the third part; and

4. [The **Parties listed in Schedule 2 hereto** (hereinafter individually referred to as "**Private Participant**" and collectively referred to as "**Private Participants**") (which expression shall, unless it be repugnant or contrary to the subject or context thereof, be deemed to mean and include their respective nominees, legal representatives and successors) of the fourth part]

The Central Government, the EC, [the State Governments] and the Private Participants, are hereinafter collectively referred to as the "**Parties**" and individually as the "**Party**".

WHEREAS:

A. The **GOODS AND SERVICES TAX NETWORK** is a private limited not-for-profit company incorporated and existing under the provisions of the (Indian) Companies Act, with its registered office at [ ] (hereinafter referred to as the "**Company**", which expression shall, unless it be repugnant or contrary to the subject or context thereof, be deemed to mean and include its legal representatives, successors and permitted assign);

B. The Company has been incorporated to, amongst others, promote trade and commerce by providing easily accessible, quick and efficient information technology and communications related services to the public and Government;

C. According to the Articles of Association of the Company, every entity which intends to be a shareholder in the Company is required to execute a Shareholders' Agreement in order to be entitled to receive Shares of the Company;

D. The Central Government is the beneficial and legal owner of 24.5% of the issued, subscribed and paid up equity share capital of the Company as on date of this Agreement.

E. The State Governments and the EC are collectively the beneficial and legal owners of 24.5% of the issued, subscribed and paid up equity share capital of the Company as on date of this Agreement.

F. Private Participants are collectively the beneficial and legal owners of 51% of the issued, subscribed and paid up equity share capital of the Company as on date of this Agreement.

G. The Parties hereby intend to set forth and record the terms and conditions to govern the relationships in their mutual capacity as the Member or shareholders of the Company once shares are issued to them and to record their respective rights and obligations in relation to the management and functioning of the Company and other matters incidental thereto.

NOW THEREFORE, in consideration of the above recitals, the mutual covenants of the Parties, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. DEFINITIONS AND INTERPRETATIONS

(a) "**Articles of Association**" **or "AOA"** means the articles of association of the Company;

(b) "**Business Day**" means a day (other than a Saturday or Sunday) on which public sector banks are open for business in New Delhi;

(c) "**Charter Documents**" means the Memorandum of Association and Articles of Association of the Company incorporating as appropriate, and consistent with, to the extent permitted by law, the terms and conditions of this Agreement;

(d) "**Deed of Adherence**" means the Deed of Adherence to be executed in accordance with Clause 5 hereof.

1.1. **In this Agreement, except to the extent that the context otherwise requires**:

i. Capitalized terms used but not defined herein shall have the same meaning as ascribed to them under the Articles of Association.

ii. References to Clauses are to clauses of this Agreement;

iii. Headings to Clauses are for convenience only and are to be ignored in construing this Agreement;

iv. References to a "entity" are to be construed so as to include any firm, company, Government, or any joint venture, association or partnership (whether or not having a separate legal personality);

v. References to a "company", are to be construed so as to include any company, corporation, or other body corporate, wherever and however established;

vi. References to any statute or statutory provisions are to be construed as a reference to the same as it may have been, or may from time to time, amended modified or reenacted;

vii. Words denoting the singular include the plural and vice versa and words importing the masculine gender include feminine and neuter genders and vice versa;

viii. References to Annexures, Schedules and Recitals are to annexures, schedules and recitals to this Agreement and shall be taken, read and construed as essential parts of this Agreement but headings and the table of contents are for ease of reference and shall be ignored in construing this Agreement;

ix. The word "month" wherever used shall mean the period of time which ends on the same date as it commenced in the previous month but if there is no numerically corresponding date in the following month then the period shall end on the last day of the month;

x. Time being the essence of this Agreement; and

xi. References to "Rs." or "Rupees" or "INR" are references to lawful currency of India.

2. CAPITAL STRUCTURE

The paid up share capital of the Company shall at all times be owned and maintained in the proportion mentioned in Table I of Article 6 of the Articles of Association (**Agreed Proportion**).

3. FUTURE CAPITALIZATION

3.1 In order to ensure that percentage of Shares held by each shareholder is maintained as per the Agreed Proportion, all parties to this Agreement (including the Parties) hereby agree that each party (including the Parties) shall be allotted Shares against its total investment in the Company in such proportion only as may be required to maintain the Agreed Proportion. The remaining part of the total investment of each party (including the Parties) shall be allocated towards share application money (**Pending Share Application Money**) and further shares against such **Pending Share Application Money** shall be issued in accordance with the AOA and this Agreement in a manner that Agreed Proportion is maintained.

3.2 Subscription of the Shares by any party other than the Parties hereto (**New Shareholder(s)**) shall be in accordance with the AOA. Allotment of Shares to the New Shareholder shall take place in accordance with the AOA and the directions of the Board thereafter. Where applicable, shareholders having the Pending Share Application Money with the Company will be issued Shares against such Pending Share Application Money simultaneously with the Shares issued to any New Shareholder in proportion and in a manner that ensures that the aggregate shareholding of each shareholder of the Company at all times remains in accordance with the Agreed Proportion.

3.3 If the authorized share capital of the Company is further increased, the Members of Group A and Group B shall proportionately subscribe to the Shares in order to maintain the overall Agreed Proportion.

4. TRANFER OF SHARES

All matters including matters related to the transfer or transmission of Shares and the management of the Company shall be governed by the AOA in addition to this Agreement.

5. DEED OF ADHERENCE

Any entity (other than the Parties) that intends to subscribe to the Shares of the Company shall have to execute the deed of adherence in the form specified in **Annexure 1** hereof ("**Deed of Adherence**") and undertake and be bound by the terms and conditions of the Agreement before being eligible to be a shareholder in the Company. Any entity that executes the Deed of Adherence shall be deemed to be a party to this Agreement.

6. RESERVED MATTERS- SHAREHOLDER'S MEETINGS

6.1 The shareholders shall take all the needful steps to ensure that Company is doing the business in accordance with the provisions of this Agreement and Charter Documents.

6.2 The matters set forth in **Schedule 3** hereof shall only be decided in accordance with the procedure set out in Article 38 and 39 of the AOA.

7. OBLIGATIONS OF PARTIES

7.1 Each shareholder shall share with the Company, free of cost, all relevant information, knowledge and data, whether confidential or not (except any trade secrets), that is required and necessary for the smooth functioning of the Company.

7.2 Each shareholder shall transfer to the Company, free of cost, such of its knowledge as is required and necessary for the smooth functioning of the Company.

7.3 For the purpose of this Clause, the shareholders may decide upon the information, data and knowledge that is required and necessary for the smooth functioning of the Company.

7.4 Each shareholder shall provide to the Company, and keep update, its address for the purpose of serving the notice by the Company.

8. REPRESENTATIONS AND WARRANTIES

8.1 Each of the Non-Government Institutions that become party to this Agreement hereby warrants and represents to other parties of the Agreement that:

(i) it is duly organized and validly existing under law and has all requisite legal power and authority to execute this Agreement and carry out the terms, conditions and provisions hereof;

(ii) the execution and delivery by the such parties to this Agreement has been duly authorized by all requisite corporate and other action and will not contravene any provisions of or constitute a default under, any other agreement or instrument to which it is a party or by which it may be bound;

(iii) this Agreement will constitute following the execution and delivery thereof valid and legally binding obligations of such parties, enforceable against it in accordance with its respective terms in accordance with the applicable laws;

(iv) it is not insolvent and no insolvency proceedings have been instituted, nor threatened or pending by or against it and it shall forthwith give notice to the other parties to this Agreement and to the Company upon knowing of any such proceedings being instituted or threatened to be instituted against such party;

(v) except those disclosed to the Company and shareholders at the date of execution of this Agreement or Deed of Adherence, there are no actions, suits, claims, proceedings or investigations pending or, to the best of the knowledge of such parties, threatened in writing against it at law, in equity, or otherwise, whether civil or criminal in nature, before or by, any court, commission, arbitrator or Governmental Authority, and there are no outstanding judgments, decrees or orders of any such courts, commissions, arbitrators or governmental authorities, which materially and adversely affects its ability to perform its obligations under this Agreement;

8.2 Each of the parties to this Agreement [including the EC] that are not Non-Government Institutions hereby represents and warrants to the other parties of this Agreement that:

(i) it has the power and authority to enter into and perform its obligations under this Agreement;

(ii) this Agreement has been duly authorised, executed and delivered by it and constitutes a valid and binding obligation enforceable against it in accordance with its terms;

(iii) to the best of its knowledge, neither the execution and delivery of this Agreement by it nor the performance of its obligations will violate, adversely affect, contravene or breach or create any default under any agreement, instrument, judgment of the applicable law.

9. CONFIDENTIALITY

9.1 Each of the Non-Government Institutions that are party to this Agreement agrees that it shall not, at any time or under any circumstances, without the prior written consent of the Company and the Central Government, [EC] or the State Governments as may be applicable, directly or indirectly communicate or disclose to any entity or person any knowledge, data or information, irrespective of form, howsoever acquired by them including the information relating to the consumers, technology, trade secrets, systems, operations or other confidential information regarding the property, business and affairs of the Company or the Central Government, the EC or the State Governments("**Confidential Information**").

9.2 Provided however that the confidentiality obligation under this Clause 9 shall be subject to the following exceptions:

(i) Disclosure to the employees and auditors requiring the information for the purposes of this Agreement subject to the execution of a confidentiality agreement by them; or

(ii) Disclosure to legal advisors and professional consultants subject to the execution of a confidentiality agreement by them; or

(iii) If the information is, prior to the execution of this Agreement lawfully in the possession of the Investor through sources other than the Party(ies); or

(iv) If such information has been released or disclosed by requirement of law; or

(v) If the information is or becomes generally and publicly available, other than due to reason of breach of this Agreement.

9.3 The Private Participants shall maintain and cause to be maintained all Confidential Information, as secret and confidential using the same degree of care as they use for their own confidential information of similar nature, but in any event no less than reasonable care, as per this Clause 9 even after the termination of this Agreement for any reason whatsoever.

10. Termination

10.1 This Agreement shall terminate:

i. With respect to all parties of this Agreement, upon the dissolution or winding up of the Company; or

ii. With respect to any one or more parties to this Agreement, upon such one or more of such parties ceasing to be a shareholder of the Company;

iii. With respect to any one or more parties to this Agreement, upon any material breach by such one or more parties ("**Defaulting Party**") of any of its representations, warranties, covenant and/or undertakings herein and/or the Articles of Association.

10.2 In case of termination of this Agreement under Clause 10.1 (iii) due to any material breach by any Non-Government Institution, such Non-Government Institution shall, if decided by the Board, transfer its entire shareholding in the Company in the manner as may be directed by the Board in accordance with the AOA.

11. EFFECTIVE DATE

11.1 For the Parties, this Agreement shall be effective from the date of execution of this Agreement.

11.2 For the parties to this Agreement other than the Parties, this Agreement shall be effective from the date of issuance of Shares to such parties.

12. MISCELLANEOUS

12.1 Notices

12.1.1 Any notice to be given under this Agreement shall be deemed to have been duly given upon receipt when in writing and delivered in person, by facsimile transmission, by telex, email or by courier, addressed as follows:-

(i) If to Central Government:
Address.
Attention:
Fax No:
Email address:

(ii) [If to EC:
Address.
Attention:
Fax No:
Email address]

(iii) If to State Governments:
1. SG A,
Address.
Attention:
Fax No:
Email address:

2. SG B
Address.
Attention:
Fax No:
Email address:

3. SG C
Address.
Attention:
Fax No:
Email address:

(iv) If to Private Participants:
1. PP X
Address.
Attention:
Fax No:
Email address:

2. PP Y
Address.
Attention:
Fax No:
Email address:

3. PP Z
Address.
Attention:
Fax No:
Email address:

12.1.2 Any Party may change its address provided above for the purpose of this Agreement by giving written notice to the shareholders of such change forthwith in the manner hereinabove provided.

12.2 Governing Law

This Agreement shall be governed and interpreted by and construed in accordance with the laws of India without giving effect to the principles of conflict of laws there under. Courts at New Delhi shall have the exclusive jurisdiction.

12.3 Entire Agreement

Subject to the AOA, this Agreement, together with all Annexures, Schedules, Exhibits and attachments hereto, represents the entire agreement and understanding between the parties to this Agreement with respect to the subject matter of this Agreement and supersedes any prior agreement or understanding, written or oral, that the parties to this Agreement may have had.

12.4 Amendments

Any modification, amendment, or waiver of any provision of this Agreement shall be effective if, but only if, in writing and signed in person or by an authorized representative of each party to this Agreement except consequent upon conversion of company into 100% Government company the EC and Private Participants shall from the date of conversion be no longer parties to this agreement and this agreement shall remain in force amongst the remaining parities and shall stand modified to this extent and governed accordingly as per the amended AOA of the company.

12.5 Severability

If any article, clause, section or paragraph, or part thereof, of this Agreement or any agreement or document appended hereto or made a part hereof is invalid, ruled illegal by any court of competent jurisdiction, or unenforceable under present or future applicable laws, then it is the intention of the parties to this Agreement that the remainder of the Agreement, or any agreement or document appended hereto or made a part hereof, shall not be affected thereby

unless the deletion of such provision shall cause this Agreement to become materially adverse to any party in which case the parties shall negotiate in good faith such changes to the Agreement as will best preserve for the parties the benefits and obligations under such provision.

12.6 Counterparts

This Agreement may be executed in two or more counterparts, and by each Party on the same or different counterparts, but all of such counterparts shall together constitute one and the same instrument.

12.7 Waivers

No failure by a Party to take any action with respect to a breach of this Agreement or a default by any other Party shall constitute a waiver of the former Party's right to enforce any provision of this Agreement or to take action with respect to such breach or default or any subsequent breach or default. Waiver by any Party of any breach or failure to comply with any provision of this Agreement by a Party shall not be construed as, or constitute, a continuing waiver of such provision, or a waiver of any other breach of or failure to comply with any other provision of this Agreement.

12.8 No Agency

This Agreement shall not constitute any Party as the legal representative or agent of another Party, nor shall any Party have the right or authority, to assume, create or incur any liability or obligation, express or implied, against, in the name of, or on behalf of another Party.

12.9 No Third Party Beneficiaries

Nothing expressed or mentioned in this Agreement is intended or shall be construed to give any entity other than the Parties hereto (and their respective successors and permitted assigns) any legal or equitable right, remedy or claim under or in respect of this Agreement or any provision herein contained.

12.10 Survival

The obligations of confidentiality mentioned in Clause 9 shall survive indefinitely irrespective of any termination of this Agreement for whatever reasons or without reasons whatsoever.

IN WITNESS WHEREOF the Parties have hereunto set their respective hands the day and year first above written.

SIGNED AND DELIVERED by .....

for and on behalf of the **Central Government**

Witnessed by :

Name:

Address

[SIGNED AND DELIVERED by .....
for and on behalf of **Empowered Committee of State Finance Ministers**

Witnessed by :

Name:

Address]

SIGNED AND DELIVERED by .....
for and on behalf of **State Government**:

Witnessed by :

Name:

Address

SIGNED AND DELIVERED by .....
for and on behalf of **State Government**:

Witnessed by :

Name:

Address

SIGNED AND DELIVERED by .....
for and on behalf of **State Government**:

Witnessed by :

Name:

Address

SIGNED AND DELIVERED by .....
for and on behalf of **Private Participant**:

Witnessed by :

Name:

Address

SIGNED AND DELIVERED by .....
for and on behalf of **Private Participant**:

Witnessed by :

Name:

Address

SIGNED AND DELIVERED by .....
for and on behalf of **Private Participant**:

Witnessed by:

Name:

Address

SIGNED AND DELIVERED by .....
for and on behalf of **Private Participant**:

Witnessed by:

Name:

Address

SCHEDULE 1

List of State Governments

(i) Government of [_] acting through and represented by [___] (which expression shall include its successors in office)

(ii) Government of [_] acting through and represented by [___] (which expression shall include its successors in office)

(iii) Government of [_] acting through and represented by [___] (which expression shall include its successors in office)

SCHEDULE 2

List of Private Participants

(i) [_]

(ii) [ ]

(iii) [_]

(iv) [_]

SCHEDULE 3

RESERVED SHAREHOLDERS MATTERS

(a) Rescinding of any contract, memorandum of understanding, agreement etc. entered into with the Government;

(b) Formation of a policy for disclosure of the confidential and sensitive information to any person outside the Company and Government;

(c) Amendment of the Memorandum of Association or Articles of Association of the Company;

(d) Any reorganization or change in the nature of the business or scope of business or the activities undertaken pursuant to the Memorandum of Association of the Company;

(e) Purchasing or taking on lease or otherwise acquire for the Company, property right or privilege which Company is authorized to acquire in excess of a sum to be previously specified by the Ordinary Resolution;

(f) Appointment or change in the auditors, except as contemplated by these Articles; (Consequent upon the conversion of company into Government Company, the provisions mentioned in Article No. 90 will be operative)

(g) Formation of subsidiary companies;

(h) Any merger, restructuring, sale, divestment, amalgamation, demerger, reorganization or consolidation of the Company or any of the subsidiaries;

(i) Any liquidation, winding up, deregistration or dissolution;

(j) Change in name of the Company;

(k) Change in status of the Company from private limited company to public limited company or vice-versa or from not for profit to for profit company;

(l) Redemption of capital and/or any buy back of shares;

(m) Change in capital structure, ownership or debt structure of the Company;

(n) Any transfer of shares by any Shareholder;

(o) Divestment or sale of assets of the Company; and

(p) Any license, transfer, assignment, sale or grant of all or any of the intellectual property rights of the Company.

ANNEXURE 1

DEED OF ADHERENCE

I, [Insert name of the interested party to be the New Shareholder/Transferee], a company incorporated and existing under the laws of [__], having its registered office at [_____] (hereinafter referred to as ["_"], which expression shall include my successors and permitted assigns), is interested in subscribing to the shares of the Goods and Services Tax Network (the "**Company**") and therefore undertakes the following:

(a) That I have received a copy of the Shareholders' Agreement dated [ ] (the "**Shareholders' Agreement**") and that I understand the implications of all provisions relating to the rights, duties and obligations of any nature whatsoever under the Shareholders' Agreement

(b) That I shall abide by all the terms and conditions of the Shareholders' Agreement from the date of issue of shares of the Company to me;

(c) That the Shareholders' Agreement shall be binding on me;

(d) That I represent and warrant to all parties to the Shareholders' Agreement the undertakings given in Clause 8 of the Shareholders' Agreement

(e) That I shall not undertake any act of omission or commission, which is or may be contrary to the provisions of the Shareholders' Agreement, prejudicial to any of the rights or interests of parties to the Shareholders' Agreement or which may impede or render ineffective any action undertaken by any of the parties of the Shareholders' Agreement in exercise of their rights under the Shareholders' Agreement.

IN WITNESS WHEREOF, I execute this Deed on the [__] day of [____], [____].

SIGNED AND DELIVERED by .....

for and on behalf of the .....

Witnessed by:

Name:

Address:

Agenda Item 16: Minutes of 11th Meeting of Group of Ministers (GoM) on IT issues

The 11th Meeting of the Group of Ministers on IT issues took place on the 29th June 2019 at Bengaluru.

2. The Minutes of the meeting are (Annexure-1) placed for the information of the Council.

Annexure-1

MINUTES OF MEETING

Date: of meeting: June 29,2019 Time: 12:00 Noon to 2:00 PM

In pursuance of decision taken in the 21st Meeting of GST council held on 9th September 2017 at Hyderabad, a Group of Ministers (GoM), was constituted to monitor and resolve the IT challenges faced in implementation of GST.

The first meeting of GoM was held on September 16, 2017 where the GoM had identified 47 items for time bound resolution. In the 3rd meeting 8 more items were added to this list, followed by 4 more items getting added in the meeting convened on 17th Jan 2018. Out of these, 8 have been put on hold on account of decisions of GST Council leading to 51 items. Out of 51 prioritised functionalities, 50 functionalities are made operational on GST portal and one functionality of Refund is made partially operational.

The GoM reviewed development status of New returns and other IT issues raised in the meeting of IT Committee held from time to time in its 11thmeeting held on 29th June 2019, at Bengaluru.

The eleventh meeting, was attended by the following Hon'ble Members of GoM.

Sl. No.	Name	Designation	Group of Members
1	Shri Sushil Kumar Modi	Hon'ble Deputy Chief Minister, Bihar	Convener of GoM
2	Shri Bandeppa Kashempur	Hon'ble Minister for Cooperation, Karnataka	Member, GoM

Shri Niranjan Pujari, Hon'ble Minister for Finance, Odisha, Shri T. S. SinghDeo, Hon'ble Minister for Commercial Taxes, Government of Chhattisgarh and Hon'ble Minister of Finance, Telangana could not attend due to other pressing engagements.

The list of officers who attended from GST Council Secretariat, CBIC/ States, NIC, GSTN and Infosys is mentioned in Annexure 1.

A detailed presentation was made by NIC covering status of implementation of e-way Bill system during last six months. Also, a presentation covering analytics reports of e-way bill was made by CEDA, NIC, Delhi. Live demo of analytics reports related with e-way bill was made by NIC units from Bengaluru and Delhi.

Presentation about GST system and important issues like New return was made along with development status of other functionalities by GSTN/Infosys. Also, live demo of Compliance and Data Analysis report 1 and 2 was made to GoM.

Highlights of presentation as well as observations and advice of Hon'ble Members of GoM are given below.

I. Presentation by NIC

A. Presentation about E-way Bill system by NIC, Bengaluru

a. DDG, NIC, Karnataka presented the improvements in the EWB system made over last six months which include:
   i. Addition of checks and balances
   ii. Blocking of e-way bill on same invoices
   iii. Auto-calculation of PIN to PIN distance between places for inter-state and intra-state movement of goods.
   iv. Blocking of generation of e-way bill for cancelled GSTIN.

b. Live demo of analytical reports for e-way bill system
   i. Reports based on various risk parameters- report about newly registered taxpayer generating huge number of e-way bills, report about generation of multiple e-way bill on same PAN, same mobile number, reports about outward supply chain and inward supply chain and trend analysis of generation of e-way bill system.
   ii. Report about evasion prone commodities
   iii. Report about Officer performance

c. The DDG, NIC informed the GoM that blocking and unblocking of e-way bill system on non-filing of two consecutive Returns will be made operational from 21st August 2019. Currently, the same is under integration test between GST System and E-Way Bill System.

d. CEO, GSTN informed the GoM about the work on integration of EWB system with Vahan database of Ministry of Road and Surface Transport to ensure that non-commercial vehicles are not used for movement of goods.

B. Live Demo by Centre of Excellence for Data Analytics (CEDA), NIC, Delhi.

a. CEDA of NIC remotely demonstrated Business Intelligence and analytical reports developed for e-way bill system.

b. The said system is capable of demonstrating the details of cancellation, rejection, verification patterns of EWB in a state/UT. Further, commodity wise analysis could also be conducted in the said system.

c. CEO, GSTN informed that access will be provided to few officers of each State/CBIC for these reports.

II. Presentation by GSTN/Infosys on GST System:

1. Overall Statistics and status of Prioritized functionalities

a. **Overall status of** prioritized functionalities was presented before GoM by CEO, GSTN and it was informed that out of 51 prioritized functionalities, 50 functionalities are made operational on GST portal and one functionality of Refund is made partially operational and complete online Refund processing will be implemented by September 2019 as there are dependencies on Model-1 States and CBIC.

b. **Overall statistics** of registration, payment of taxes and return filing was presented before the GoM. Since 1st July 2017 till date, more than 29.24 Crores returns have been filed on GST Portal along with 9.38 Crores payment transactions. The total taxpayer

registered till date are more than 1.22 Crores. The total invoices uploaded are about 500 Crore. The e-way bills generated are about 70.14 Crore.

c. CEO, GSTN also informed the progress made with regards to the refund application. CEO, GSTN informed the GoM that Refund application has seen maximum change and few more changes are going to take place in near future:
    i. Disbursement of Refund by Single authority
    ii. Changes in Refund on account of New Return
d. The EVP (Services) highlighted the impact of new returns on Refund functionality. She further informed that the processes of backend for refund by the officers has already been developed and will be implemented along with the single disbursement through PFMS system.
e. On query of Convener about time by when refund system will be available to officers, Infosys representative informed that it will be available by September 2019.

2. New Return Development

a. CEO, GSTN presented the time lines for development and roll-out plan of the New Return and also explained the transition plan decided by the Council for development of new GST return. He highlighted, the issues involved in development of New return and the anticipated challenges on account of parallel running of GST ANX-1 and GSTR-3B during transition. He informed that running two parallel system of Returns (GSTR 3B/ANX1/ANX2 alongside GSTR-1 and New Return) will be a difficult task. The main challenges foreseen at this stage are
    i. Export refund need business validation change and integration of ANX-1 and GSTR-3B whereas currently it is with GSTR-1 and GSTR-3B. While GSTR-1 is digitally signed and firmed up when it is filed, ANX-1 is not filed and can be amended any time till RET-1 is filed. Filing of RET-1 is proposed in Jan 2020 and hence this will pose a big problem as invoices can be amended after refund is taken as ANX-1 will not be frozen in absence of filing of RET-1 during Oct-Dec 2019.
    ii. ITC refund would be impacted if GSTR-2A is phased out as officers use the same for processing the ITC refund. GSTR-2A is generated based on GSTR-1. Since ANX-1 is not filed, refund cannot be processed on view of ANX-2 as ANX-1 will not be frozen and hence ANX-2 will not be frozen during Oct-Dec 2019.
    iii. Multiple time changes in refund application
    iv. Amendment of invoices through ANX-1A is required at the time of Go-live for Export refund. The use case is extremely complex and cannot be implemented by 1st Oct 2019
b. To avoid the complexity of parallel run, of two systems, GSTN has proposed to Infosys for deploying New return (ANX 1/ANX 2 and GST RET-1) by October 2019, without few features like automatic computation of interest, etc. which could be rolled out during November 2019 to January 2020.
c. The convener GoM, asked Infosys representative to present their views on the proposal of GSTN. The Infosys representative informed that implementing Ret-1 from October 2019, even without few features, will not be possible. He further informed that the

suggested method will get implemented on small taxpayers first and then on larger ones, since large taxpayers have large number of invoices to upload and they will face more challenge on a hurriedly developed tool. Also, they need more time to develop their backend own systems as per New Return system. They suggested that new Return should be implemented for small taxpayers first from October 2019 and then it should be implemented for large taxpayers from January 2020.

d. CCT, Karnataka highlighted that the implementation of the new GST return is a project in itself, and involves tremendous work on account of the development of the back-end system of Model I States. He also highlighted the challenges faced by Model I States and CBIC in this regard.
e. ADG (Systems), CBIC, Chennai stated that API specifications and APIs should be shared with the Model-1 States and CBIC at the earliest, so as to ensure that they could initiate the process of development of New Return on priority. The new Return has to undergo change management process and will require time for same.
f. EVP (Services), GSTN highlighted issues involved in change management like end to end automation of refund, integration of refund with PFMS, and New Return.
g. CCT, Kerala stated that given the fact that the Model-1 States have to do the integration of the new return, they also require time for the said integration. She suggested that the new return should be rolled out from April 2020 as that will give sufficient time to Model-1 States to build their backend systems.
h. Infosys representative suggested that, it would be better if the feedback obtained from the trade on Beta deployment is incorporated in the software. Under the current plan, there is no time for the same. Infosys proposed that the decision of GST Council could be partially implemented by rolling out the GST ANX-1 for small taxpayers from October 2019, and for the large taxpayers from January 2020. In view of the same, GSTR-1 & GSTR-3B would have to continue for the large taxpayers (above Rs. 5 Crore) till tax period of December 2019.
i. After discussion the Convener of the Committee directed that the officers of GSTN, Infosys, Core Group and few States (Model 1 and Model 2) should discuss Infosys proposal threadbare, including the practical aspects of the said proposal. The same should be then presented before the Core Group on GST. The recommendations of the Core Committee on GST should then be presented before the GST Council for its consideration.
j. Convener further remarked that any major change/reform in the last quarter could be disruptive, and the decision on implementing this change or otherwise in the last quarter will have to be taken by GST Council. However, he stated that the system should be fully ready by January 2020, even if GST Council decides to postpone the implementation to April 2020.

3. **Change requests**:

a. GSTN presented the status of CRs and informed that out of total 343 CRs raised since July 2017 to till date, 239 are in production and 103 CRs are still pending at Infosys end, some of which are pending for long time. Aging of pending 103 CRs was presented where it was seen that few CRs are pending for more than two years. It was mentioned that the relevance of CRs are lost if they are not delivered on time and it leads to many difficulties.

b. GoM was further informed that the pending CRs include 20 CRs which are critical as they are based on change made in the law and need to be made available on the portal without any further delay. One example of the same was shared which deals with revision of Format ITC-04 (CR: # 11557). It was highlighted that GST ITC 04 is to be filed for goods sent for job work. The form was amended in Sept 2018 and CR was given to Infosys immediately. The dates for filing of ITC-04 had to be extended three times (31st March 2019; 30th June 2019 and for a third time to 31st Aug 2019 because of non-development of functionality on time.

c. The GoM took a serious view of undue delay in handling of CRs by Infosys. The Convener mentioned that the timeline of closing the CR pendency by March 2020, as provided by Infosys to GSTN, is not acceptable, and he directed that Infosys should plan to deliver CR pendency by October 2019. He also mentioned that Infosys should deploy more resources, if required, to complete the pending CRs on priority. Infosys expressed certain reservations to this like availability of limited trained resources who understand the system. Convener stated that all CRs for which timeline is shown as January, February and March 2020 should be completed by December 2019 and all others by October 2019.

d. Infosys to revise the timeline for disposal of pending CRs and share the same with GSTN (Action: Infosys)

4. Issue of data reconciliation with Model 1 States/CBIC

a. To highlight the importance of data reconciliation between GST System and Model-1 States, CCT, Karnataka demonstrated GST Pro2, back end system developed by NIC Karnataka using which the tax officers are able to monitor taxpayers in near real time. He highlighted the importance of real time data for compliance management as any missing return with State team may lead to issue of wrong notice, which is happening today on account of gap in data between GST system and Karnataka system.

b. EVP (Technology), GSTN presented the gap and steps taken by GSTN in reducing the same. He mentioned that a reconciliation API has been provided by GSTN, and, those Model-1 States who have integrated this reconciliation API would be able to reconcile their data with zero gap on reconciliation. He further stated that only 3 States out of 9 have integrated the Recon API. He further mentioned that data on availability of Returns showing month/year have been shared with CBIC and Model-1 States to enable them to compare what is available with them to find out missing records. After that missing records which are few thousand out of 29 crores will be pulled by CBIC/Model-1 States.

c. CCT, Karnataka suggested that in place of VC based weekly coordination meeting between CBIC/Model-1 States and GSTN, a face-to-face workshop should be conducted, which was agreed to by GSTN. (Action: GSTN)

5. Data (Registration/Return and Payment) Sharing with other States

a. On sharing of data of taxpayers of other States, GSTN informed that all India record-search functionality at BO system for enforcement officers of Model 2 States has been made available.

b. As far as Model I States are concerned, API Specs for Registration has been released. However, the API for Return and payment (Ledger) will be released by July 25,2019.

6. Helpdesk ticket analysis

a. CEO, GSTN presented status of the open tickets, disposition of open tickets along with pendency/aging of open tickets with L2/L3 which showed that 191 tickets are pending for more than 90 days out of total pendency of 2538 tickets

b. Infosys representative presented analysis of open tickets and mentioned that whenever there is a new functionality rolled out, the number of Tickets increases. Infosys stated that the pendency of Tickets has decreasing trend.

c. Convener directed that efforts should be made to ensure that no Ticket is pending for more than 30 days. (Action: Infosys)

7. MIS Reports

a. CEO, GSTN presented the status of MIS reports for Phase I, Phase II and Business Intelligence reports for Phase III. He further mentioned that Phase I reports (49 in numbers) are being revamped and will be redeployed by July end. The phase II MIS reports are under various stages of development, as BO Modules are under various stages of development.

b. CEO, GSTN briefed GoM on huge delay in finalization and roll out of the BI reports, and highlighted that the resources in the development team are not getting augmented. In more than one year only one-Use Case has been rolled out of 50 reports, which is extremely slow. He further informed the GoM that this has already been escalated to the Chairman as well as CEO of Infosys.

c. Infosys informed that they are finding challenges in identifying domain experts for BI. Infosys stated that they would revert to GSTN regarding timelines for BI by first week of July 2019. [**Action: Infosys**]

d. Infosys representative presented, live demonstration of compliance reports 1 and 2, on the lines of the reports prepared by NIC, Karnataka in the GST Pro system. The GoM was informed that it will be rolled out by end of July 2019 (**Action: Infosys**)

8. **Suggestions from State officers**

a. Shri N. Sai Kishore, Joint Commissioner Telangana, asked about how to stop tax payers from generating excess e-way bills. It was clarified that officers can cancel Registration by Suo-moto cancellation. Also, officer can use blocking/unblocking facility for e-way bill which will be available to officers from August 2019.

b. Shri Anand Satpathy, Special Commissioner, Odisha suggested to implement New Return system on pilot basis. ON this, CEO GSTN informed the GoM that it is not possible to implement New Return on pilot basis on a smaller set of taxpayers due to inter-state transactions among States and management of ITC flow will be difficult.

c. Shri Arun Mishra, Additional Secretary suggested to seek guidance from Core Committee for phased implementation of New Return and same was agreed.

9. Closing Remarks by Hon'ble members of GoM.

a. Convener conveyed that progress in development of different applications, since last tenth meeting of GoM (September 22,2019) to 29th June 2019 was not satisfactory and asked Infosys to increase the resources for following timelines.
b. BI reports development is very slow and they should be developed on priority and Infosys should deploy more expert resources for same.
c. The development of New Return is challenging and Infosys should focus on timely delivery taking into consideration the decisions of GST Council.
d. GoM meeting will be held every two months and if required monthly meetings will be held

The meeting ended with Vote of Thanks to Chair.

Annexure-1

List of Participants for Tenth GoM held on September 22, 2018 at Bengaluru

1. GST Council: The following officers attended the meeting from GST Council

Sl. No.	Name	Designation
1	Shri Dheeraj Rastogi	Joint Secretary

2. CBIC: The following officers attended the meeting from CBIC:

Sl. No.	Name	Designation
1	Shri BasavarajNalegave	ADG (Systems), CBIC, Bengaluru
2	S. Thirunavukkarasu	ADG (systems), CBIC, Chennai

3. States: The following officers attended the meeting from States:

Sl. No.	Name	Designation
1	Ms.Tinku Biswal	CCT, Kerala
2	Shri M S Srikar	CCT, Karnataka
3	Shri Arun Mishra	Addl. Secretary, CT, Bihar.
4	Shri Ananda Satpathy	Special Commissioner, Odisha
5	Shri S. L. Agarwal	Special Commissioner, Chhattisgarh
6	Shri B V Ravi	Additional Commissioner, Karnataka
7	Shri Nitesh Patil	Additional Commissioner, Karnataka
8	Shri Avinash Menon	Additional Commissioner, Karnataka
9	Shri K. S. Basavaraj	Joint Commissioner, Karnataka
10	Shri Murali Krishna BV	Joint Commissioner, Karnataka
11	Shri Ramesh Kumar	Joint Commissioner, Karnataka
12	Shri Raviprasad MP	Joint Commissioner, Karnataka
13	Shri Harshal Nikam	Joint Commissioner, Maharashtra
14	Shri N Sai Kishore	Joint Commissioner, Telangana
15	Shri Deepak Giri	Deputy Commissioner, Chhattisgarh
16	Abhinav Kumar Jha	Assistant Commissioner, Bihar
17	Ms.Saumya Sunkad	Assistant Commissioner, Karnataka
18	R E. Thippeswamy	Consultant

4. NIC

Sl. No.	Name	Designation
1	Shri P V Bhat	DDG , NIC
2	Ms.Sunitha	Sr. Technical Director
3	Shri Suresh	Technical Director

5. GSTN: The following officers attended the meeting from GSTN:

Sl. No.	Name	Designation
1	Shri Prakash Kumar	CEO
2	Ms.Kajal Singh	EVP (Services)
3	Shri Nitin Mishra	EVP(Technology)
4	Shri Pankaj Dixit	SVP (Infrastructure)
5	Shri BhagwanPatil	VP (Services)
6	Shri ShashankShekhar	AVP (PM)
7	Shri SarthakSaxena	OSD to CEO, GSTN

6. Infosys: The following officers attended the meeting from Infosys:

Sl. No.	Name	Designation
1	Shri Praveen Rao	COO
2	Shri C N Raghupati	SVP
3	Shri Renga	VP
4	Shri. P.N. Moorthy	AVP
5	Shri. Indrasis Dasgupta	Program Manager
6	Shri Debapriya Ghosh	Delivery Manager
7	Dr.Chandra Sekhar	Principal Consultant
8	Shri Shibu Nair	Product Manager
9	Ms.Dhanya	Technology Analyst

Agenda Item 17: Performance Report of the NAA (National Anti-profiteering Authority) for the quarter April to June 2019

The NAA (National Anti-profiteering Authority) had been constituted as per the provisions of Section 171 of the CGST Act 2017. In terms of provisions of provisions of clause (iv) of Rule 127 of the CGST Rules 2017, National Anti-Profiteering Authority (NAA) is required to furnish a performance report to the GST Council by 10th of the closing of each quarter.

2. Anti-profiteering mechanism under GST is a multi-tier mechanism. The methodology of examination of the complaints to determine profiteering is as under:

i. State Level Screening Committee (SLSC) examines State level complaint and recommends to the Standing Committee (SC);
ii. SC, in addition to complaints recommended by SLSC, also receives complaint directly in respect of suppliers having pan India or presence in more than one State/UT;
iii. SC examines and sends recommendation to the DG, Anti-profiteering (DGAP).
iv. DGAP then completes investigation, within a period of 3 months, and furnishes a report of its findings to NAA.
v. Based on the report from DGAP, NAA determines all aspects relating to profiteering, passes its order regarding reduction in prices; return of amount to recipient; imposition of penalty; and cancellation of registration.

3. Accordingly, the performance report of anti-profiteering authority in the Ist quarter (April, 2019 to June, 2019) of financial year 2019-20 at various levels, as stated above, is as under:

3.1. Performance of **National Anti-Profiteering Authority:**

Opening Balance	No. of Investigation Reports received from DGAP during the quarter	Disposal of Cases (during Quarter)				Closing Balance
		Total Disposal during quarter	No. of cases Where Profiteering established	No. of cases Where Profiteering not established	No. of cases referred back to DGAP	
41	36	27	13	10	4	50

Details of 27 cases disposed by NAA in this quarter are enclosed at Annexure A.

3.2 Performance of **DG (Anti-profiteering):**

Opening Balance (No. of cases)	Receipt	Category of cases received				Disposal	Mode of disposal of cases		Closing Balance (No. of cases)
		Construction Services	FMCG	Restaurant Services	Others		Report to NAA confirming profiteering	Report to NAA for closure action	
78	40	17	8	2	13	35	30	5	83

3.3 Performance report of the **Standing Committee** on Anti-profiteering:

Opening Balance (No. of cases)	Receipt	Disposal	Closing Balance (No. of cases)
233	627	773	87

3.4 Performance report from the State Level Screening Committee:

Opening Balance (No. of cases)	Receipt	Disposal		Closing Balance (No. of cases)
		Cases referred to Standing Committee	Cases Rejected	
75	83	76	7	79

A detailed performance of each State Level Screening Committee is enclosed at Annexure "B".

4. NAA has been conducting outreach programmes across the country to sensitize the jurisdictional Officers about their role and responsibility towards check of profiteering. During the tenure of this report, the following outreach programmes and zonal review meetings on Anti-Profiteering efforts were held:

i. Indore on 2nd April, 2019.
ii. Jaipur on 15th April, 2019.
iii. Bhubaneshwar on 08th April, 2019.
iv. Shimla on 13th May, 2019.
v. Bengaluru on 17th May, 2019.

5. Accordingly, the quarterly report of the National Anti-profiteering Authority for the quarter April to June 2019 is placed before the GST Council for information.

Annexure – A

S. No.	Order No. and date of Order	Respondent	Amount of Profiteering (Rs. In Lakhs)
1	23/2019 dated 03.04.2019	Saint Gobtain	Nil
2	24/2019 dated 03.04.2019	Rosata Vitrified	Nil
3	25/2019 dated 16.04.2019	Dev Snacks	12.76
4	26/2019 dated 25.04.2019	Mak Plywood Ind	Nil
5	27/2019 dated 02.05.2019	Professional Couriers	Nil
6	28/2019 dated 02.05.2019	TTK Prestige Ltd	0.13
7	29./2019 dated 06.05.2019	TTK Prestige Ltd	9.75
8	30/2019 dated 08.05.2019	Puri Constructions	101.06
9	31/2019 dated 10.05.2019	VTWO Ventures	0.18
10	32/2019 dated 23.05.2019	Shrivision	Nil
11	33/2019 dated 24.05.2019	Conscient Infrastructure	Nil
12	34/2019 dated 24.05.2019	Eldeco	41.82
13	35/2019 dated 28.05.2019	Salarpuria Real Estate	19.69
14	36/2019 dated 10.06.2019	Bestech India Ltd	Nil
15	37/2019 dated 12.06.2019	Bharti Telemedia Ltd	Nil
16	38/2019 dated 14.06.2020	Sattva Developers	99.20
17	39/2019 dated 24.06.2019	Sun Infra	81.67
18	40/2019 dated 26.06.2019	Pinky Sales	6.55
19	41/2019 dated 26.06.2019	Bhutani International Medicos	0.05
20	42/2019 dated 26.06.2019	Adarsh	54.67
21	43/2019 dated 26.06.2019	Unicharm	10.77
22	44/2019 dated 28.06.2019	Vatika	Nil
23	45/2019 dated 28.06.2019	Signature Builder	Nil
Internal Orders			
S. No.	**Date of Order**	Respondent	**Remarks**
1	I.O. No.04/2019 dated 24.04.2019	Krishna Trading Co	Referred back to DGAP under Rule 133(4)
2	I.O. No. 05/2019 dated 02.05.2019	Himalaya Drug co	Referred back to DGAP under Rule 133(4)
3	I.O. No. 06/2019 Dated 24.06.2019	Whirlpool	Referred back to DGAP under Rule 133(4)
4	I.O. No. 07/2019 datedbn 26.06.2019	Radicon	Referred back to DGAP under Rule 133(4)

Annexure – B

Quarterly Perfromance Report From the State Level Screening Committee - April 2019 to June 2019

S.No.	States	April						May						June						Quarter-Apr to June					
		R/NR	OB	R	Disposal		CB	R/NR	OB	R	Disposal		CB	R/NR	OB	R	Disposal		CB	R/NR	OB	R	Disposal		CB
					SC	R					SC	R					SC	R					SC	R	
1	Andhra Pradesh	✓	4	1	0	0	5	✓	5	0	0	0	5	✓	5	1	0	0	6	✓	4	2	0	0	6
2	Arunachal Pradesh	✓	0	0	0	0	0	✓	0	0	0	0	0	✓	0	0	0	0	0	✓	0	0	0	0	0
3	Assam	✓	0	0	0	0	0	✓	0	2	0	0	2	X						✓	0	0	0	0	0
4	Bihar	X					0	X						X						✓	0	0	0	0	0
5	Chhattisgarh	X					0	X						X						X					
6	Goa	✓	0	0	0	0	0	✓	0	0	0	0	0	✓	0	0	0	0	0	✓	0	0	0	0	0
7	Gujarat	✓	3	4	1	0	6	✓	6	1	0	0	7	✓	7	11	0	0	18	✓	3	13	0	2	18
8	Haryana	✓	0	0	0	0	0	✓	0	1	0	1	0	✓	0	3	3	0	0	✓	0	7	7	0	0
9	Himachal Pradesh	X					0	X						X						X					
10	Jammu and Kashmir	X					0	X						X						X					
11	Jharkhand	X					0	✓	1	0	0	0	1	✓	1	0	0	0	1	X					
12	Karnataka	✓	6	1	4	0	3	✓	3	2	2	1	2	✓	2	2	1	1	2	✓	2	11	0	1	12
13	Kerala	✓	0	0	0	0	0	X						✓	0	0	0	0	0	X					
14	Madhya Pradesh	X						X						X						✓	3	11	1	0	13
15	Maharashtra	✓	7	2	1	0	8	✓	8	11	11	0	11	✓	8	0	0	0	8	✓	8	2	1	0	9
16	Manipur	✓	0	0	0	0	0	✓	0	0	0	0	0	✓	0	0	0	0	0	✓	0	0	0	0	0
17	Meghalaya	✓	0	0	0	0	0	✓	0	0	0	0	0	X						✓	0	0	0	0	0
18	Mizoram	✓	0	0	0	0	0	✓	0	0	0	0	0	✓	0	0	0	0	0	X	0	0	0	0	0
19	Nagaland	X	0	0	0	0	0	✓	0	0	0	0	0	✓	0	0	0	0	0	✓	0	0	0	0	0
20	NCT of Delhi	✓	9	3	0	0	12	✓	12	0	12	0	0	✓	0	0	0	0	0	X	9	3	12	0	0
21	Odisha	X						X						X						✓	3	0	0	1	2
22	Puducherry	X						X						X						✓	0	0	0	0	0
23	Punjab	X						X						X						X					
24	Rajasthan	X						X						X						✓	31	4	32	1	2
25	Sikkim	X						X						X						✓	0	0	0	0	0
26	Tamil Nadu	✓	1	3	0	0	4	✓	4	0	0	0	4	✓	4	0	0	0	4	✓	1	3	0	0	4
27	Telangana	✓	0	0	0	0	0	✓	0	1	0	0	1	✓	1	15	16	0	0	✓	0	9	9	0	0
28	Tripura	✓	0	0	0	0	0	✓	0	0	0	0	0	X						✓	0	0	0	0	0
29	Uttar Pradesh	✓	2	0	0	0	2	✓	2	3	2	0	3	✓	3	7	4	0	6	X	2	10	6	0	6
30	Uttarakhand	X						X						X						✓	0	3	0	0	3
31	West Bengal	X						X						X						✓	9	5	8	2	4
			32	14	365	0	40		41	21	27	2	36		31	39	24	1	45		75	83	76	7	79

R/NR= Received (✓) /Not Received (X)
OB= Opening Balance
SC= Forwarded to Standing Committee
R= Rejected
CB= Closing Balance

Application Received and Disposed	
	Regularly
	Rarely
	None

Agenda Item 18: Creation of the State and Area Benches of the Goods and Services Tax Appellate Tribunal (GSTAT)

In terms of Section 109 of the CGST Act, 2017, Goods and Service Tax Appellate Tribunal are being constituted by the Government on the recommendation of the GST Council. The Appellate Tribunal having National/Regional Benches at national level and the State /Area Benches at State level, hear appeals against orders passed by the Appellate Authority or by the Revisional Authority.

2. In order to recapitulate the recommendations of the GST Council in respect of Creation of GSTAT and further developments in chronological order is as under:

- **28th meeting of the GST Council on 21.07.2018 recommended:**

  (i) Constitution of Goods and Services Tax Appellate Tribunal (GSTAT); and

  (ii) Creation of National Bench of GST Appellate Tribunal at New Delhi and three Regional Benches at Mumbai, Chennai and Kolkata.

- Union Cabinet approved creation of National Bench of the GST Appellate Tribunal at New Delhi.

- National Bench at New Delhi was notified vide Notification No. **S.O. 1359(E)—**[No. 1/2019, [F.No. A.50050/99/2018-Ad.1C(CESTAT)] dated 13-03-2019 issued by Department of Revenue.

- **35th meeting of the GST Council on 21.06.2019 recommended**:

  (i) Creation of State/Area bench as per requests received from States.

  (ii) Separately consider constitution of benches in Uttar Pradesh due to court cases.

  (iii) Constitution of Jammu & Kashmir GST Appellate Tribunal in terms of proviso to Section 109(6) of the CGST Act, 2017.

- The Goods and Services Tax Appellate Tribunal (Appointment and Conditions of Service of President and Members) Rules, 2019 are notified by Central Government as per the recommendations of the GST Council in 28th meeting, vide notification No. G.S.R. 584(E)-[F.No. A.50050/99/2018-Ad.1C(CESTAT)] dated 21.08.2019.

- State and Area bench as per above, notified vide Notification No. **S.O. 3009(E)—** [F.No. A.50050/150/2018-Ad.1C(CESTAT)] dated 21-08-2019 issued by Department of Revenue, as under:

Sl. No.	Name of States/ Union Territory	Location for State Bench	Location for Area Bench
1.	Andhra Pradesh	Vijayawada	Vishakhapatnam and Tirupati
2.	Assam	Guwahati	No bench
3.	Bihar	Patna	-do-
4.	Chhattisgarh	Atal Nagar Raipur	-do-
5.	Delhi	New Delhi	-do-

6.	Goa	Panaji	-do-
7.	Gujarat	Ahmedabad	Surat and Rajkot
8.	Haryana	Hisar	No bench
9.	Himachal Pradesh	Shimla	-do-
10.	Jharkhand	Ranchi	-do-
11.	Karnataka	Bengaluru	-do-
12.	Kerala	Thiruvananthapuram	-do-
13.	Maharashtra	Mumbai	Pune and Nagpur
14.	Odisha	Cuttack	No bench
15.	Puducherry	Pondicherry	-do-
16.	Punjab	Chandigarh	-do-
17.	Tamil Nadu	Chennai	-do-
18.	Telangana	Hyderabad	-do-
19.	Tripura	Agartala	-do-
20.	Uttarakhand	Dehradun	No bench
21.	West Bengal	Kolkata	Two Area Benches at Kolkata
22.	Arunachal Pradesh	Common State Bench of GSTAT at Guwahati, Assam	
23.	Manipur		
24.	Nagaland		
25.	Sikkim		
UTs (without legislature)			
26.	Andaman & Nicobar	State Bench of West Bengal (Kolkata)	
27.	Dadra & Nagar Haveli	State Bench of Maharashtra (Mumbai)	
28.	Daman & Diu	State Bench of Maharashtra (Mumbai)	
29.	Lakshadweep	State Bench of Kerala (Ernakulam)	
30.	Chandigarh	State Bench of Punjab (Chandigarh)	

3. Requests from States have been received for creation of State /Area benches. Accordingly, a proposal for creating State/Area benches is submitted before the GST Council for consideration as below:

Sl. No.	**Name of States/Union Territory**	**Location for State Bench**	**Location for Area Bench**
1.	Meghalaya	Shillong	No bench
2.	Mizoram	Aizawl	-do-
3.	Rajasthan	Jaipur	Jodhpur
4.	Karnataka	-	Two Area benches at Bengaluru

Agenda Item 19: Amendments in GST Laws in view of creation of UTs of Jammu & Kashmir and Ladakh

The Jammu and Kashmir Reorganization Act, 2019 seeks to reorganize the existing State of Jammu and Kashmir for formation of Union territory of Ladakh without legislature and Union territory of Jammu and Kashmir with Legislature.

2. The Act has received the President's assent and is expected to be notified from 31st October 2019. Consequent changes in the CGST Act, 2017 (as amended), UTGST Act, other States SGST Act and J&K SGST Act are listed in Annexures below.

3. The preliminary changes in the CGST Act and the UTGST Act have already been discussed and approved by the Law Committee in their meeting held on 29th and 30th August 2019. These have been placed in **Annexure 1**.

4. The Law Committee recommended that the J&K SGST Department may be requested for comments on the amendments required in the J&K SGST Act which are in line with the Jammu and Kashmir Reorganization Act, 2019 and other changes in the CGST / UTGST Act. Consequently, the J&K SGST Department were requested and the changes suggested by them have been included in **Annexure 2**.

5. The amendments are placed before the Council for deliberation and approval. These amendments will be communicated to the Ministry of Home affairs, subject to vetting / input by the Ministry of Law and Justice.

Annexure 1

Amendments approved by the Law Committee

Part A: Clauses of the CGST Act: -

1. Section 2(56) of the CGST Act defines India as:

"India" means the territory of India as referred to in article 1 of the Constitution, its territorial waters, seabed and sub-soil underlying such waters, continental shelf, exclusive economic zone or any other maritime zone as referred to in the Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976, and the air space above its territory and territorial waters;

Article 1 of the constitution provides for the States and the territories thereof shall be as specified in the First Schedule. Further, the Jammu and Kashmir Reorganization Bill, 2019 provides for amendment of the First Schedule for insertion / inclusion of Jammu and Kashmir and Ladakh as Union territories. Therefore, for applicability of the CGST Act to Union territory of Jammu and Kashmir and Ladakh, no amendment seems to be required.

2. Section 2(103) of the CGST Act: -

(103) "State" includes a Union territory with Legislature;

Since, J&K has been established as a Union territory with legislature and the CGST Act provides for inclusion of such Union territory within the ambit of the CGST Act, no amendment seems to be required in this definition.

3. Section 2(114) of the CGST Act: -

(114) "Union territory" means the territory of— (a) the Andaman and Nicobar Islands; (b) Lakshadweep; (c) Dadra and Nagar Haveli; (d) Daman and Diu; (e) Chandigarh; and (f) other territory. Explanation. —For the purposes of this Act, each of the territories specified in sub-clauses (a) to (f) shall be considered to be a separate Union territory;

It is noted that Ladakh has been formed as Union territory without a legislature under Section 3 of the reorganization act. Therefore, the definition of Union territory under clause 114 under sub-section (2) will need to be amended as under:

(114) "Union territory" means the territory of— (a) the Andaman and Nicobar Islands; (b) Lakshadweep; (c) Dadra and Nagar Haveli; (d) Daman and Diu; (e) Chandigarh; **(ea) Ladakh** and (f)other territory. Explanation. —For the purposes of this Act, each of the territories specified in sub-clauses (a) to (f) shall be considered to be a separate Union territory;

4. Section 2(121) of the CGST Act:-

(121) any reference in this Act to a law which is not in force in the State of Jammu and Kashmir, shall, in relation to that State be construed as a reference to the corresponding law, if any, in force in that State.

Before introduction of GST, there were certain laws which were not applicable in the State of Jammu and Kashmir and in some of these cases the State of Jammu and Kashmir had its own state specific laws. The levy of Service Tax through the Finance Act, 1994 was one such levy. This clause was inserted to bring in coherence between the GST laws and the existing laws applicable in the State of Jammu & Kashmir. This would not require any amendment.

5. Explanation to Section 22 of the CGST Act: -

Explanation—For the purposes of this section, –

(iii) the expression "special category States" shall mean the States as specified in sub-clause (g) of clause (4) of article 279A of the Constitution [1][except the State of Jammu and Kashmir[2][and States of Arunachal Pradesh, Assam, Himachal Pradesh, Meghalaya, Sikkim and Uttarakhand]].

This explanation was inserted vide the Central Goods and Services Tax (Extension to Jammu And Kashmir) Act, 2017. At present no amendment appears necessary.

6. Section 109 (6) of the CGST Act: -

(6) The Government shall, by notification, specify for each State or Union territory [except for the State of Jammu and Kashmir], a Bench of the Appellate Tribunal (hereafter in this Chapter, referred to as "State Bench") for exercising the powers of the Appellate Tribunal within the concerned State or Union territory:

Provided that for the State of Jammu and Kashmir, the State Bench of the Goods and Services Tax Appellate Tribunal constituted under this Act shall be the State Appellate Tribunal constituted under the Jammu and Kashmir Goods and Services Tax Act, 2017:

After the formation of the Union territories of Jammu & Kashmir and Ladakh, the Central Government will be specifying a Bench of the Appellate Tribunal unlike which will be referred as the State Bench for the State of Jammu & Kashmir. The section will, therefore, have to be amended as under: -

(6) The Government shall, by notification, specify for each State or Union territory ~~*[except for the State of Jammu and Kashmir]*~~***,*** *a Bench of the Appellate Tribunal (hereafter in this Chapter, referred to as "State Bench") for exercising the powers of the Appellate Tribunal within the concerned State or Union territory:*

~~***Provided that for the State of Jammu and Kashmir, the State Bench of the Goods and Services Tax Appellate Tribunal constituted under this Act shall be the State Appellate Tribunal constituted under the Jammu and Kashmir Goods and Services Tax Act, 2017:***~~

This would also require amendment in Section 109 and Section 110 of the J&K SGST Act, which is as under:

Section 109 and Section 110 to be replaced as:

109. **Appellate Tribunal and Benches thereof**. - (1) Subject to the provisions of this Chapter, the Goods and Services Tax Tribunal constituted under the Central Goods and Services Tax Act shall be the Appellate Tribunal for hearing appeals against the orders passed by the Appellate Authority or the Revisional Authority under this Act.

(2) The constitution and jurisdiction of the State Bench and the Area Benches located in the State shall be in accordance with the provisions of section 109 of the Central Goods and Services Tax Act or the rules made thereunder.

110. President and Members of Appellate Tribunal, their qualification, appointment, conditions of service, etc.- The qualifications, appointment, salary and allowances, terms of office, resignation and removal of the President and Members of the State Bench and Area Benches shall be in accordance with the provisions of section 110 of the Central Goods and Services Tax Act.

Part B: Clauses of the UTGST Act that need amendment: -

7. Section 1(2) of the UTGST Act: -

(2) It extends to the Union territories of the Andaman and Nicobar Islands, Lakshadweep, Dadra and Nagar Haveli, Daman and Diu, Chandigarh and other territory;

[1] Ins. by Act 26 of 2017, s 2, (w.e.f. 08.07.2017)
[2] Ins. by Act 31 of 2018, s. 11, (w.e.f. 01.02.2019)

It is noted that Ladakh has been formed as Union territory without a legislature under Section 3 of the reorganization act. The UTGST Act has to be made applicable on the territory of Ladakh. The section will, therefore, have to be amended as under: -

(2) It extends to the Union territories of the Andaman and Nicobar Islands, Lakshadweep, Dadra and Nagar Haveli, Daman and Diu, Chandigarh, Ladakh and other territory

8. Section 2(8) of the UTGST Act: -

(114) "Union territory" means the territory of— (a) the Andaman and Nicobar Islands; (b) Lakshadweep; (c) Dadra and Nagar Haveli; (d) Daman and Diu; (e) Chandigarh; and (f) other territory. Explanation. —For the purposes of this Act, each of the territories specified in sub-clauses (a) to (f) shall be considered to be a separate Union territory;

For application of the UTGST Act on the territory of Ladakh. The section will, therefore, have to be amended as under:-

(114) "Union territory" means the territory of— (a) the Andaman and Nicobar Islands; (b) Lakshadweep; (c) Dadra and Nagar Haveli; (d) Daman and Diu; (e) Chandigarh; **(ea) Ladakh** and (f)other territory. Explanation. —For the purposes of this Act, each of the territories specified in sub-clauses (a) to (f) shall be considered to be a separate Union territory;

Part C : Clauses of the SGST Acts (other than J&K SGST Acts) that required amendment

9. Section 2(114) of the SGST Act: -

(114) "Union territory" means the territory of— (a) the Andaman and Nicobar Islands; (b) Lakshadweep; (c) Dadra and Nagar Haveli; (d) Daman and Diu; (e) Chandigarh; and (f) other territory. Explanation. —For the purposes of this Act, each of the territories specified in sub-clauses (a) to (f) shall be considered to be a separate Union territory;

It is noted that Ladakh has been formed as Union territory without a legislature under Section 3 of the reorganization act. Therefore, the definition of Union territory under clause 114 under sub-section (2) will need to be amended as under:

(114) "Union territory" means the territory of— (a) the Andaman and Nicobar Islands; (b) Lakshadweep; (c) Dadra and Nagar Haveli; (d) Daman and Diu; (e) Chandigarh; **(ea) Ladakh** and (f)other territory. Explanation. —For the purposes of this Act, each of the territories specified in sub-clauses (a) to (f) shall be considered to be a separate Union territory;

Part D : Clauses of the Jammu and Kashmir Reorganization Bill, 2019 that need deliberation: -

10. Section 95 of the Jammu and Kashmir Reorganization Bill, 2019: -

95. (1) All Central laws in Table -1 of the Fifth Schedule to this Act, on and from the appointed day, shall apply in the manner as provided therein, to the Union territory of Jammu and Kashmir and Union territory of Ladakh.

(2) All other laws in Fifth Schedule, applicable to existing State of Jammu and Kashmir immediately before the appointed day, shall apply in the manner as provided therein, to the Union territory of Jammu and Kashmir and Union territory of Ladakh.

Sub-section (1) of Section 95 of the Bill provides for application of Central laws to the Union territories of Jammu & Kashmir and Ladakh. Further, sub-section (2) of the same section, provides for applicability of the State laws. This includes the Jammu and Kashmir SGST Act through Table 4 *(Sr. No. 50)* of the Act. The challenge is that the Jammu and Kashmir SGST Act has been made applicable to both the Union territory of Jammu & Kashmir and Union Territory of Ladakh. However, under the GST structure while the Union territory of Jammu & Kashmir shall have an independent SGST Act, the Union territory of Ladakh will be governed by the Central UTGST Act. This anomaly, would need

redressal. This may be amended through the power to remove difficulties under Section 103 of the Jammu and Kashmir Reorganization Act.

11. Power to adapt laws under Section 96 of the Jammu and Kashmir Reorganization Bill, 2019: -

96. For the purpose of facilitating the application in relation to the successor Union Territories, of any law made before the appointed day, as detailed in Fifth Schedule, the Central Government may, before the expiration of one year from that day, by order, make such adaptations and modifications of the law, whether by way of repeal or amendment, as may be necessary or expedient, and thereupon every such law shall have effect subject to the adaptations and modifications so made until altered, repealed or amended by a competent Legislature or other competent authority.

It is noted that Section 96 of the Bill empowers the Central Government to make modifications on any law as detailed in the Fifth Schedule by an order to facilitate the application of such law in the newly formed Union territories. However, since the Central Goods and Services Tax Act, 2017 or the Union territory goods and services tax Act has not been listed under the Fifth Schedule, it appears that amendment of the same through an order is not possible.

Annexure 2

Comments received from the J&K SGST Department on the amendments required in the J&K SGST Act

THE STATE GOODS AND SERVICES TAX (AMENDMENT) ACT, 2019

In exercise of powers vested under proclamation No. dated , the ---------is pleased to enact as follows:

Short title and Commencement:

1. (*1*) This Act may be called the State Goods and Services Tax (Amendment) Act, 2019.

(*2*) Save as otherwise provided, the provisions of this Act shall come into force on such date as the Union Territory of Jammu and Kashmir t may, by notification in the Official Gazette, appoint:

2. In section 2 of the State Goods and Services Tax Act, 2017 (hereinafter referred to as the principal Act),—

(*a*) in clause(1) for the words "Transfer of Property Act, Svt.1977(1920 A.D.) (XLII of 1920 A.D.)", the words, brackets and figures "Transfer of Property Act, Svt.1882" shall be substituted;

(*b*) in clause (*36)* for the words "article 279A of the Constitution as applicable to the State of Jammu and Kashmir", the words, brackets and figures "article 279A of the Constitution" shall be substituted;

(c) clause (*69,*) the following sub-section shall be inserted namely,-

(f) a Regional Council or a District Council constituted under the Sixth Schedule to the Constitution;

(g) a Development Board constituted under article 371 of the Constitution; or

(h) a Regional Council constituted under article 371A of the Constitution;

(d)in clause (*84*), for the word, brackets and letter "Jammu and Kashmir Societies Registration Act, 1998 (1941 A.D.) (VI of 1998)", the word, brackets and letter "Societies Registration Act, 1860 (21 of 1860)" shall be substituted;

(e) clause (114) is recasted as:
"Union territory" means the territory of— (a) the Andaman and Nicobar Islands; (b) Lakshadweep; (c) Dadra and Nagar Haveli; (d) Daman and Diu; (e) Chandigarh; (ea) Ladakh and (f) other territory. Explanation. —For the purposes of this Act, each of the territories specified in sub-clauses (a) to (f) shall be considered to be a separate Union territory;

3. In section 67 of the principal Act, ,—

Amendment of section 67.

(*a*) in sub-section (*10*)for the words "Code of Criminal Procedure, Svt.1989 (1933 A.D.) [XXIII of 1989]**,**", the words, brackets and figures "Code of Criminal Procedure, 1973 (2of 1974)" shall be substituted;

4. In section 69 of the principal Act, ,—

Amendment of section 69.

(*a*) in sub-section (*3*)for the words "Code of Criminal Procedure, Svt.1989 (1933 A.D.) [XXIII of 1989]**,**", the words, brackets and figures "Code of Criminal Procedure, 1973 (2of 1974)" shall be substituted;

Amendment of section 70.

5. In section 70 of the principal Act,—

(*a*) in sub-section (*1*) for the words "Code of Civil Procedure, Svt. 1977 (1920 A.D.) [X of Svt.1977]**,**", the words, brackets and figures "Code of Civil Procedure, 1908 (5 of 2008)" shall be substituted;

(b) in sub-section (*2*) for the words "section 193 and section 228 of the Jammu and Kashmir Ranbir Penal Code, Svt.1989 (1932 A.D.) [XII of 1989]**.,**", the words, brackets and figures "section 193 and section 228 of the Indian Penal Code. (45 of 1860)." shall be substituted;

Amendment

6. In section 79of the principal Act, in sub-section (*1*), in clause (*f*), the words, brackets and figure "Code of Criminal Procedure, Svt. 1989 (1933 A.D.) (XXIII of 1989)" the words, brackets and figures "Code of Criminal Procedure,1973(2 of 1974)" shall be substituted;

Amendment

7. In section 82 of the principal Act,the words, brackets and figure " except Part III of the said Code" shall be omitted.

8. In section 93 of the principal Act,

Amendment of section 93.

(a) in sub section (1) the words, brackets and figure " except Part III of the said Code" shall be omitted;

(b)in sub section (2) the words, brackets and figure " except Part III of the said Code" shall be omitted;

(c) in sub section (3) the words, brackets and figure " except Part III of the said Code" shall be omitted;

(d) in sub section (4) the words, brackets and figure " except Part III of the said Code" shall be omitted;

9. In section 105 of the principal Act,

Amendment of section 105.

(a) in sub section (1)the words, brackets and figure "Code of Civil Procedure, Svt. 1977 (1920 A.D.) [X of 1977]."the words, brackets and figures "Code of Civil Procedure,1908 (5 of 1908)." shall besubstituted;

(b)in sub section (2) the words, brackets and figure "Chapter XXVI of the Code of Criminal Procedure, Svt. 1989 (1932A.D.) [XXIII]]." the words, brackets and figures "Chapter XXVI of the Code of Criminal Procedure,1973 (2 of 1974)." And for the words, brackets and figure "sections 193 and 228, and for the purpose of section 196 of the Jammu and Kashmir State Ranbir Penal Code Svt. 1989 (1932 A.D.) (XII of 1989).." the words, brackets and figures "sections 193 and 228, and for the purpose of section 196 of the Jammu and Kashmir State Indian Penal Code(45 of 1860).." shall be substitute;

Amendment of section 111.

10. In section 111of the principal Act,

(a) in sub-section (*1)* the words, brackets and figure "Code of Civil Procedure, Svt. 1977 (1920 A.D.) [X of 1977])" the words, brackets and figures "Code of Civil Procedure, 1908 (5 of 1908)" shall be substituted;

(b) in sub-section (*2)* the words, brackets and figure "Code of Civil Procedure, Svt. 1977 (1920 A.D.) [X of 1977]" the words, brackets and figures "Code of Civil Procedure, 1908 (5 of 1908)" shall be substituted;

(c) in sub section (4) the words, brackets and figure "sections 193 and 228, and for the purposes of section 196 of the Jammu and Kashmir State Ranbir Penal Code, Svt.1989 (1932 A.D.) [XII of 1989]." the words, brackets and figures "sections 193 and 228, and for the purposes of section 196 of the Indian Penal Code,(45 of 1860)." And for the words, brackets and figure "section 195 and Chapter XXVI of the Code of Criminal Procedure, Svt. 1989(1933 A.D.) [XXIII of 1989]..." the words, brackets and figures "section 195 and Chapter XXVI of the Code of Criminal Procedure,1973(2 of 1974).." shall be substitute;

Amendment of section 117.

11. In section 117 of the principal Act in sub section (9) the words, brackets and figure "Code of Civil Procedure, Svt. 1977 (1920 A.D.) [X of 1977]." the words, brackets and figures "Code of Civil Procedure, 1908(5 of 1908)." shall be substituted;

Amendment of section 24.

12. In section 118 of the principal Act in sub section (2) the words, brackets and figure "Code of Civil Procedure, Svt. 1977 (1920 A.D.) [X of 1977]" the words, brackets and figures "Code of Civil Procedure, 1908(5 of 1908)." shall be substituted;

Amendment of section 131

13. In section 131 of the principal Act the words, brackets and figure "Code of Criminal Procedure, Svt. 1989(1933 A.D.) [XXIII of 1989]," the words, brackets and figures "Code of Criminal Procedure, 1973 (2 of 1974)." shall be substituted;

Amendment of section 134

14. In section 134 of the principal Act in sub section (4) the words, brackets and figure "Code of Criminal Procedure, Svt. 1989(1933 A.D.) [XXIII of 1989]," the words, brackets and figures "Code of Criminal Procedure, 1973." shall be substituted;

Amendment of section 150

15. In section 150 of the principal Act in sub section (1) ,-

(a) clause (f) the words, brackets and figure "Jammu and Kashmir Electricity Act, 2010 (XIII of 2010," the words, brackets and figures "Electricity Act, 2003 (36 of 2003)." shall be substituted;

(b) clause (g) the words, brackets and figure "Registration Act, Svt. 1977 (1920 A.D.) [XXXV of 1977)," the words, brackets and figures "Registration Act,1908 (16 of 1908)." shall be substituted;

Amendment of section 156

16. In section 156 of the principal Act the words, brackets and figure "Jammu and Kashmir State Ranbir Penal Code, Svt.1989 (1932 A.D.) [XII of 1989]" the words, brackets and figures "Indian Penal Code, (45 of 1960)." shall be substituted;

Amendment of section 158

17. In section 158 of the principal Act,-

(a) in sub section (2) the words, brackets and figure "Evidence Act, Svt. 1977 (1920 A.D.) [XIII of Svt.1977)," the words, brackets and figures "Indian Evidence Act, 1872 (1 of Svt.1872)." shall be substituted;

(b) in sub section (3) the words, brackets and figure "Jammu and Kashmir State Ranbir Penal Code, Svt.1989 (1932 A.D.) [XII of 1989] or the Prevention of Corruption Act, Svt. 2006 (1949 A.D.) [XIII of 2006]," the words, brackets and figures "IndianPenal Code, Svt.1989 (45 of 1860) or the Prevention of Corruption Act, 1988 [XIII of 2006])." shall be substituted;

Amendment

18. In section 174 of the principal Act sub section (3) the words, brackets and figure "Jammu and Kashmir General Clauses Act, Svt. 1977 (1920 A.D.) (XX of 1977)" the words, brackets and figures The General Clauses Act, 1897." shall be substituted;

STATEMENT OF OBJECTS AND REASONS

The State Goods and Services Tax Act, 2017 (the Act) was enacted with a view to make a provision for levy and collection of tax on *intra-State* supply of goods or services or both by the State Government.

2. After the enactment of The Jammu and Kashmir Reorganization Act,2019(Act no.34 of 2019) certain changes are required to be made in the act in view of the extension of central laws to the Union Territory of Jammu and Kashmir as such it is proposed to amend the State Goods and Services Tax Act, 2017.

3. The proposed State Goods and Services Tax (Amendment) Act, 2019, *inter alia,* provides for the attainment of uniformity with the Central Goods and Services Tax Act, 2017.

4. The draft Act seeks to achieve the above objectives.

Notes on clauses

Clause 1 of the Act provides for the Short title and Commencement.

Clause 2 of the Act seeks to amend certain definitions with respect to repeal and extension of the central laws as well certain definitions like insertion of regional councils and development boards constituted under article 37 1and 371A.

Clause 3 of the Act seeks to amend section 67 of the principal Act relating to extension of Code of Criminal Procedure, 1973 (2of 1974).

Clause 4 of the Act seeks to amend section 69 of the principal Act relating to extension of Code of Criminal Procedure, 1973 (2of 1974).

Clause 5 of the Act seeks to amend section 70 of the principal Act relating to extension of Code of Civil Procedure, 1908 (5 of 2008) and Indian Penal Code. (45 of 1860).

Clause 6 of the Act seeks to amend section 79 of the principal Act relating to extension of Code of Criminal Procedure, 1973 (2of 1974).

Clause 7 of the Act seeks to amend section 82 of the principal Act relating to extension of Insolvency and Bankruptcy Code, 2016 (31 of 2016)

Clause 8 of the Act seeks to amend section 93 of the principal Act relating to extension of Insolvency and Bankruptcy Code, 2016 (31 of 2016)

Clause 9 of the Act seeks to amend section 105 of the principal Act relating to extension of Code of Civil Procedure,1908 (5 of 1908),Chapter XXVI of the Code of Criminal Procedure,1973 (2 of 1974) and Jammu and Kashmir State Indian Penal Code(45 of 1860).

Clause 10 of the Act seeks to amend section 111 of the principal Act relating to extension of Code of Civil Procedure, 1908 (5 of 1908),Indian Penal Code,(45 of 1860) and Code of Criminal Procedure,1973(2 of 1974).

Clause 11 of the Act seeks to amend section 117 of the principal Act relating to extension of Code of Civil Procedure, 1908 (5 of 1908).

Clause 12 of the Act seeks to amend section 118 of the principal Act relating to extension of Code of Civil Procedure, 1908 (5 of 1908).

Clause 13 of the Act seeks to amend section 131 of the principal Act relating to extension of Code of Criminal Procedure, 1973 (2of 1974).

Clause 14 of the Act seeks to amend section 134 of the principal Act relating to extension of Code of Criminal Procedure, 1973.

Clause 15 of the Act seeks to amend section 150 of the principal Act relating extension of Electricity Act, 2003 (36 of 2003) and Registration Act,1908 (16 of 1908).

Clause 16 of the Act seeks to amend section 156 of the principal Act relating to extension of "Indian Penal Code, (45 of 1960).

Clause 17 of the Act seeks to amend section 158 of the principal Act relating to Indian Evidence Act, 1872 (1 of Svt.1872) andthe Prevention of Corruption Act, 1988 [XIII of 2006].

Clause 18 of the Act seeks to amend section 174of the principal Act relating to extension of The General Clauses Act, 1897.

Agenda Item 20: Special Composition Scheme for Brick kilns, Menthol, Sand Mining Activities and Stone crushers

It may be recalled that the GoM on reverse charge had recommended considering denying the benefit of composition to Brick kilns, Menthol, Sand Mining Activities and Stone crushers under GST. The Law Committee too had recommended the same and the matter was deliberated in the 35th Meeting of the GST Council. However, Haryana, in the said Council Meeting, had reported that the tax yield from these categories of taxpayers had witnessed a drastic fall in the GST regime and denial of composition would thus lead to further loss of revenue since it was difficult to monitor their activities because such units mostly operate from rural areas. In the said Council Meeting, Haryana had further recommended increasing the tax rate on such items under composition and exploring the possibility of resorting to capacity based taxation in such cases. Consequently, a Committee of Officers (CoO) was constituted vide Office Memorandum of the GST Council Secretariat bearing F.No.346/CoO-SpclCmpSch/GSTC/2019, dated 12.07.2019 to examine whether a special composition scheme for Brick kilns, Menthol, Sand Mining Activities and Stone crushers may be devised and to suggest suitable mechanisms thereof in view of the deliberations of the GST Council in its 35th Meeting.

2. The CoO deliberated on the matter in its meeting held on 05.09.2019 and observed the following:

1. These industries are typically run by small taxpayers (turnover of most entities would be below the threshold for composition scheme) and may find the additional compliance requirements associated with normal registration slightly more challenging. Moreover, with the increase in threshold for registration for suppliers of goods been increased to Rs. 40 lakhs and therefore, fewer number of taxpayers would now be required to be registered under GST.

2. The industries are characterized by a high value addition with very little ITC on inputs and input services; and a proportionately high value and tax on outputs. In terms of value addition, these industries deserve a treatment similar to services on this account (which is also characterized by high value addition).

3. Mentha-oil is slightly different from Brick kilns, Sand Mining Activities and Stone crushers as in the process of manufacture of Mentha-oil, the primary process of conversion of mint leaves to Mentha-oil is generally carried out by the agriculturist himself. Mentha-oil is then aggregated by the traders and sent for further processing. Therefore, a special composition scheme may not be required in this case and there is merit in bringing the commodity under reverse charge mechanism in terms of section 9(3) of the CGST Act, 2017.

4. Further, denial of Composition Scheme to the said taxpayers would require them to register as normal taxpayers with increased compliance requirements which may not be accompanied by a commensurate significant impact on revenue collection.

5. Option of levying tax on presumptive/capacity based may present a legal challenge in view of the fact that such a method of taxation does not go with the present basic feature of GST (which is a consumption based tax).

6. The primary concern of tax administration in relation to these industries is significant shortage in revenue in post GST regime.

3. In view of the observations mentioned above, the Committee of Officers recommended the following:

i. Exclusion from normal composition scheme and introduction of a special composition scheme for taxpayers supplying Brick kilns, Sand Mining Activities and Stone crushers with an increased rate (*similar to the rate for the composition scheme introduced for services/residual suppliers vide notification No. 2/2019-Central Tax (Rate), dated 07.03.2019*);

ii. Increasing the rate for normal taxpayers supplying Brick kilns, Sand Mining Activities and Stone crushers from the current rate of 5% to 12%; and

iii. Notifying the supply of Mentha-oil under the provisions of sub-section (3) of section (9) so that tax shall be paid on reverse charge by the recipient of such supplies.

The record of discussion of the meeting of the CoO on 05.09.2019 is enclosed as **Annexure 1.**

4. Since the above recommendations required deliberation on rates, it was proposed by the Committee that above recommendations be sent to the Fitment Committee for examination and further deliberations. The Fitment Committee, in its meeting held on 07th September, 2019 deliberated on the above. However, the Fitment committee felt that it would not be feasible to make any recommendations on the proposal at such short notice.

5. Accordingly, in terms of the O.M. referred above, the following recommendations of the Committee of Officers (CoO) constituted for special composition scheme is placed before the Council:

i. Exclusion from normal composition scheme and introduction of a special composition scheme for taxpayers supplying Brick kilns, Sand Mining Activities and Stone crushers with an increased rate (*similar to the rate for the composition scheme introduced for services/residual suppliers vide notification No. 2/2019-Central Tax (Rate), dated 07.03.2019*);

ii. Increasing the rate for normal taxpayers supplying Brick kilns, Sand Mining Activities and Stone crushers from the current rate of 5% to 12%; and

iii. Notifying the supply of Mentha-oil under the provisions of sub-section (3) of section (9) so that tax shall be paid on reverse charge by the recipient of such supplies.

6. Accordingly, the agenda is placed before the GST Council for further deliberation and consideration.

Annexure 1

Record of discussion of the 1st meeting of the Committee of Officers on Special Composition Scheme under GST for Brick kilns, Menthol, Sand Mining Activities and Stone crushers held on 5th September, 2019

A meeting of the **Committee of Officers on Special Composition Scheme under GST for Brick kilns, Menthol, Stone crushers and Sand Mining Activities** was convened on 05.09.2019 under the chairmanship of Shri Yogendra Garg, Pr. Commissioner, GST, CBIC at Kalpavriksh, North Block, New Delhi. The list of attendees is enclosed as **Annexure-A.**

2. At the outset, the Pr. Commissioner, GST informed the members that the primary objective for formation of this Committee of Officers is to examine whether a special composition scheme for Brick kilns, Menthol, Sand Mining Activities and Stone crushers may be devised and to suggest suitable mechanisms thereof in view of the deliberations of the GST Council in its 35th Meeting. The GoM on reverse charge had recommended considering denying the benefit of composition to these segments under GST and the Law Committee too had recommended the same. However, Haryana, in the said Council Meeting, had reported that the tax yield from these categories of taxpayers had witnessed a drastic fall in the GST regime and denial of composition would thus lead to further loss of revenue since it was difficult to monitor their activities because such units mostly operate from rural areas. In the said Council Meeting, Haryana had further recommended increasing the tax rate on such items under composition and exploring the possibility of resorting to capacity based taxation in such cases. This Committee was formed to examine these issues in detail. Commissioner of State Tax (UP) informed that though the OM for the composition of the Committee of Officers on Special Composition Scheme refers to "***Menthol***", the entry appears to be referring to "***Mentha-oil***".

3. All the members agreed that these industries are characterized by a high value addition with very little ITC on inputs and input services; and a proportionately high value of output. In terms of value addition, this characteristic, the output supply of these industries deserve a treatment similar to services (which are also characterized by high value addition). It was noted that most of these industries (except Mentha-oil) were under an optional composition scheme under the existing laws and had the option of paying VAT based on their capacity. Inspite of VAT being a value-added tax, the said tax was collected on an optional basis at the initial stage.

4.1 State-wise revenue of the said products under the existing laws (VAT regime) was perused by the members of the Committee. All the members from the States reported that though accurate data is not available, on average terms there has been a substantial shortfall in revenue out of these products in GST ranging to approximately 40%. Commissioner of State Tax (Uttarakhand) has reported a decrease in revenue out of Brick Kilns from approx.. Rs. 1081 lakhs in 2016-17 to approx.. Rs. 651 lakhs in 2017-18. Similarly, there was a shortfall in revenue of Bihar from Brick Kilns to the extent of almost approx.. Rs. 30 crores (fall of 60%). Haryana has reported that though the numbers of Brick Kilns have come down, the revenue has substantially gone down from approx.. Rs. 60 crores to approx.. Rs. 24 crores in the said period.

4.2 The consolidated report in respect of Mentha-oil was also presented before the Committee. It was observed that in the VAT regime, Mentha-oil dealers were mainly concentrated in the State of Uttar Pradesh and to some extent in Gujarat. The process of manufacture of Mentha-oil was discussed and

Commissioner of State Tax (UP) informed that the primary process of conversion of mint leaves to Mentha-oil is carried out, generally, by the agriculturist himself and that the same neither requires any substantial capital investment, nor any other inputs. This is then aggregated by the traders and sent for further processing. It was opined by her that there is merit in bringing the commodity under reverse charge mechanism.

5. The Committee members also discussed the feasibility of introduction of capacity based levy in respect of the above commodities under the current provisions of the GST laws. It was deliberated that section 7 of the CGST Act levies GST on "Supply" and therefore, levying GST on notional capacity / production may have legal challenges. It was also noted that a detailed discussion in this regard had taken place in the GST Council in its meeting held in January, 2018. Committee members also deliberated whether introduction of mandatory E-way Bill for the said commodities would result in increased compliance / increase in revenue, as opined by Uttarakhand. It was opined that, mandatory requirement of E-way Bill would only increase administrative challenges as it would be prone to misuse, given the structure of the industry and the average distance of transportation, and would hardly have any positive impact on revenue.

6. Based on the above discussion, the Committee unanimously agreed on the following:

(i) These industries are typically run by small taxpayers (turnover of most entities would be below the threshold for composition scheme) and may find the additional compliance requirements associated with normal registration slightly more challenging. Moreover, with the increase in threshold for registration for suppliers of goods been increased to Rs. 40 lakhs and therefore, fewer number of taxpayers would now be required to be registered under GST.

(ii) The industries are characterized by a high value addition with very little ITC on inputs and input services; and a proportionately high value and tax on outputs. In terms of value addition, these industries deserve a treatment similar to services on this account (which is also characterized by high value addition).

(iii) Further, denial of Composition Scheme to the said taxpayers would require them to register as normal taxpayers with increased compliance requirements which may not be accompanied by a commensurate significant impact on revenue collection.

(iv) Option of levying tax on presumptive/capacity based may present a legal challenge in view of the fact that such a method of taxation does not go with the present basic feature of GST (which is a consumption based multi-point tax).

(v) The primary concern of tax administration in relation to these industries is significant shortage in revenue in post GST regime.

7. Therefore, the Committee recommended the following:

i. Exclusion from normal composition scheme and introduction of a special composition scheme for taxpayers supplying Brick kilns, Sand Mining Activities and Stone crushers with an increased rate (*similar to the rate for the composition scheme introduced for services/residual suppliers vide notification No. 2/2019-Central Tax (Rate), dated 07.03.2019*);

ii. increasing the rate for normal taxpayers supplying Brick kilns, Sand Mining Activities and Stone crushers from the current rate of 5% to 12%; and

iii. Notifying the supply of Mentha-oil under the provisions of sub-section (3) of section (9) so that tax shall be paid on reverse charge by the recipient of such supplies.

8. Since the above recommendations require deliberation on rates, it was proposed by the Committee that above recommendations (para 7) may be sent to the Fitment Committee for examination and further deliberations.

Annexure-A

S. No.	Name & Designation (Shri/Smt)	Organization
1	Yogendra Garg	Pr. Commissioner, GSTPW-I, CBIC
2	Sanjay Mangal	Commissioner, GSTPW-II, CBIC
3	Amitabh Kumar	Joint Secretary, GSTC Secretariat
4	A. K. Mishra	Addl. Secretary, C T D, Bihar
5	Amrita Soni	CCT, UP
6	Amit K. Aggarwal	CCT, Haryana
7	Vijay Kr. Singh	Addl. E.T.C. Haryana
8	Anuj Gogia	Commissioner, CGST, Dehradun
9	Piyush Kumar	Addl. Commissioner, State Tax, Uttarakhand
10	Ajay Kumar	D.C. State Tax, Uttarakhand
11	Amaresh Kumar	JC, GSTPW
12	Vikash Kumar	DC, GSTPW