



Agenda for 37th GST Council Meeting

20 September 2019

Volume – 3



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

<u>Agenda No.</u>	<u>Agenda Item</u>	<u>Page No.</u>
8	Issues recommended by the Fitment Committee for the consideration of the GST Council	6
9	Developments regarding implementation of GST EWB System – FASTag Integration	254
21	Status of payment of Advance User Charges by the States and CBIC and interest on delayed payment	258
22	Any other agenda item with the permission of the Chairperson i. Resubmission of refund application after filing NIL refund in FORM GST RFD-01A ii. Circular No. 107/26/2019-GST dated 18.07.2019 on supply of Information Technology enabled Services (ITeS services) –further clarification iii. Single disbursement related amendments of rule 91 of the CGST Rules iv. Doubts raised on treatment of secondary or post-sales discounts under GST	266 269 277 279

Discussion on Agenda Items

Agenda Item 8: Issues recommended by the Fitment Committee for the consideration of the GST Council

This agenda note deals with changes in GST rate for supply of goods and services. The proposed changes in GST rates emanate from the recommendations made by the Fitment Committee as detailed below.

2. Briefly stated, representations/recommendations have been received from various stake holders including Ministries and other offices of Centre and States, seeking changes in GST rate and certain clarifications regarding applicability of GST on supply of certain goods/services.

3. The Fitment Committee met on 6th and 7th September, 2019 and had detailed discussions on recommendations received from various stakes holders seeking changes in GST/IGST rates or seeking clarification on supply of goods/services.

3.1 Further the Fitment Committee has recommended no change in respect of certain goods and services. On certain issues Fitment Committee was of the view that further examination would be required before making any recommendation to the GST Council (Points deferred).

3.2 In Services, the issues of whether a uniform rate of GST be levied on lottery and the request from State of Punjab to exempt long term lease of land for setting up industrial parks by private entities are referred by Fitment Committee to GST Council for a decision.

4. Further, GST rate on Solar Power plant and Wind Power plant consequent to the direction of Hon'ble Delhi High Court was also examined. In its direction, Hon'ble Court had directed the GST Council to re-examine the 70:30 ratio to determine the effective rate on Solar power plant and other renewable energy devices prescribed in 31st GST Council meeting. The above fact has already been placed in the GST Council meeting in its 34th meeting held on 19th June, 2019 where it was decided that matter may be examined by Fitment Committee first and then placed in the next GST Council meeting. The matter was placed in the Fitment Committee with detailed information. The issue was discussed in Fitment. It was felt that a small group consisting of Karnataka, Maharashtra, Gujarat and West Bengal may examine the issue thread bare along with TRU along with all relevant information and the views of the sub-group be then circulated to Fitment members for preparation of a final proposal for the Council. The issue has been proceeded accordingly, for preparation of proposal for consideration of the Council.

5. Accordingly, Fitment Agenda for consideration of the GST Council is summarised as below:

- a) Recommendations made by the Fitment Committee for making changes in GST rates or for issuance of clarification in relations to goods- **Annexure I**
- b) Issues deferred by the Fitment Committee for further examination in relation to goods- **Annexure II**
- c) Issues where no change has been proposed by the Fitment Committee in relation to goods - **Annexure III**
- d) Recommendations made by the Fitment Committee for making changes in GST rates or for issuance of clarification in relations to services- **Annexure IV**
- e) Issues deferred by the Fitment Committee for further examination in relation to services - **Annexure V**

- f) Issues where no change has been proposed by the Fitment Committee in relation to services - **Annexure VI**
- g) Issues referred by the Fitment Committee in relation to services for a suitable decision by GST Council - **Annexure VII**
- h) Review of GST rate on supplies of setting up of Solar Power Plants and Wind Turbine based Plants on the direction of the Hon'ble High Court of Delhi – **Annexure VIII** (Refer to serial No. 19 and 20 of Annexure I)
- i) Note on High Court judgement in the matter relating to lapsing of accumulated ITC on fabric for the period prior to 31.07.2018- **Annexure IX**

6.1 It is also being brought to the notice of the Council that the trade approached the Hon'ble High Court of Gujarat court vide SCA No. 16213 of 2018 filed by M/s. Shabnam Petrofils Pvt. Ltd for restoration of accumulated ITC that was made to lapse on account of the decision of the Council in its 28th meeting held on 21st July, 2018 wherein it was decided to allow refund of input tax credit on account of inverted duty structure in the textile sector prospectively from 1st August, 2018 and the earlier input tax credit lying in balance which was accumulated on account of inverted duty structure on the date of notification shall stand lapsed. The Hon'ble Gujarat High Court vide order dated 17.07.2019 observed that the provision for lapsing of accumulated ITC, is ex-facie invalid and liable to be struck down as being without any authority of law on the ground that there is no express provision in Section 54(3) of the CGST Act for the lapsing of the unutilized accumulated ITC accumulated. A SLP against the order of the Gujarat High Court is under process to be filed in the Hon'ble Supreme Court.

6.2 In this regard, vide Circular No.56/30/2018-GST dated 24.08.2018 issued to clarify the doubts regarding the lapsing of accumulated ITC, it was clarified that the amount of ITC to be lapsed shall, upon self-assessment, be furnished by such person in his GSTR 3B return for the month of August, 2018 and verification of accumulated ITC amount so lapsed may be done at the time of filing of first refund claim by such person. In view of the above judgement, it is proposed, to issue an instruction not to withhold the refund of textile traders for prospective period on account of such verification for the ITC to be lapsed, as mentioned in paragraph above.

7. The proposals, as contained in paras 5 and 6 above are placed before the GST Council for consideration.

Recommendations made by the Fitment Committee for making changes in GST rates or for issuance of clarification in relations to goods

S. No	Description	HSN	Present GST Rate (%)	Recommended GST Rate (%)	Comments
A. Recommendation of Fitment Committee for change in GST rate on Goods					
1.	All goods required for 7 th edition of FIFA Under-17 Women's World Cup	Any Chapter	Applicable rate	Nil	<ol style="list-style-type: none"> 1. Department of Sports has sought Guarantee to provide exemptions from IGST/GST on supply of goods and service to FIFA, FIFA subsidiaries, FIFA Confederations, Participating Member Associations (which are the participating teams), FIFA contractors, FIFA staff and others, FIFA Confederations and FIFA Member Associations staff and officials and FIFA listed individuals. 2. This will enable Central Government to bid for organizing the Under-17 Women's Football World Cup in India. 3. Fitment Committee has recommended to provide Guarantee that in case India wins the bid for organizing the said World Cup, the above exemptions would be granted.
2.	Marine Fuel 0.5% (FO)	27	18%	5%	<ol style="list-style-type: none"> 1. The new regulations of International Maritime Organization (IMO) mandating use of only those marine fuels having Sulphur content of less than 0.5% would come into force from 1st January, 2020 onwards. 2. In accordance with new regulations, the Indian Oil refineries are shifting to production of a new fuel globally known as "Marine Fuel 0.5% (FO)" which has a sulphur content of 0.5%. 3. Currently, concessional GST rate of 5% is available to two bunker fuels namely IFO 180 CST and IFO 380 CST. However, these fuels have a sulphur content of about 3-4%. Marine fuel oil being bunker oil with lower sulphur content deserves the same treatment. 4. Fitment Committee recommends reduction in GST rates on Marine Fuel 0.5% (FO) from 18% to 5%.
3.	Parts of Slide Fasteners	9607	18%	12%	<ol style="list-style-type: none"> 1. Briefly stated, prior to 27.07.2018, slide fasteners and their parts attracted 18% GST. The GST Council in its 28th meeting held in New Delhi on 21.07.2018 had recommended for reduction in the GST rates on Slide fasteners from 18% to 12%. The same was notified <i>vide</i> notification no.18/2018-Central Tax (Rate) dated 26.07.2018. 2. Domestic Zipper industry, mainly in MSME sector, has represented that parts of Zip Fasteners (e.g. Zip roll) are taxed

					<p>at 18% due to which they are becoming uncompetitive and facing losses.</p> <p>3. Accordingly, Fitment Committee recommends reduction in GST rate from 18% to 12% on parts of Slide Fastener.</p>
4.	Silver/ Platinum	71	3%	Nil	<p>1. Gold, silver, platinum etc. attracts 3% GST w.e.f. 01.07.2017.</p> <p>2. Subsequently, based on the recommendation of GST Council, exemption was provided, -</p> <p style="padding-left: 40px;">a) from IGST on import of gold by specified nominated agency [with effect from 13.10.2018]</p> <p style="padding-left: 40px;">b) from GST on gold supplied by specified nominated agency to exporters gold for exports of Jewellery. [with effect from 1.1.2019]</p> <p>3. The Export committee has recommended to extend above exemption from GST on silver and platinum for exports.</p> <p>4. Accordingly, Fitment committee has agreed with the recommendation of Export Committee.</p>
5.	Inclusion of Diamond India Limited (DIL) as Nominated agency	71	3%	Nil	<p>1. The IGST exemption is available on imports of gold by specified nominated agencies so as to supply at Nil GST to Jewellery exporters.</p> <p>2. Diamond India Limited (DIL) is not included in the specified list 34 of notification No 50/2017-Customs dated 30.6.2017 which contains name of nominated agency. List 34 has been also used for the purpose of GST exemption</p> <p>3. DIL has been made as a nominated agency by DGFT/ MoC to address the problems of gold supply to small exporters.</p> <p>4. The Export Committee has recommended for inclusion of DIL in list 34 of Notification No 50/2017-Customs dated 30.6.2017.</p> <p>5. Accordingly, Fitment committee recommends to accept the recommendation of Export Committee.</p>
6.	Cut and polished semi- precious stones	7103 or 7104	3%	0.25%	<p>1. 3% GST was provided on cut and polished diamonds and other goods falling under Chapter 71.</p> <p>2. Subsequently, 0.25% GST was prescribed on cut and polished diamonds and precious stones on the ground that majority of cut and polished diamonds are exported.</p> <p>3. Cut and polished semi-precious stones continue to attract 3% GST. The industry has demanded parity with cut and polished diamonds and precious stones stating that cut and polished semi-precious stones are also largely exported out of the country either as such or as studded with jewellery and a high rate of GST on such items only serves to result in capital blockage for the exporters who are mostly MSMEs.</p> <p>4. Fitment Committee examined the request and recommends reduction in GST rate to 0.25% on cut and polished semi-precious stones.</p>

7.	1. Fishmeal, 2. Meat cum Bone Meal	2301	5%	Nil [For period 1.07.17 to 31.12.18]	<ol style="list-style-type: none"> 1. Vide circular No. 80/54/2018-GST dated 31.12.2018, it was clarified that animal feed is exempt while inputs to animal feed such as fish meal, Meat cum Bone Meal attract 5% GST. 2. Several references have been received requesting that fishmeal be exempted from GST. Similar requests have been received for other inputs like meat cum bone meal, oil cakes etc. 3. Trade has also represented that owing to lack of clarity in the matter they had not collected GST and would cause them lot of hardships if the same is now recovered for past period. 4. Several Writ Petitions have also been filed against levy of GST on fishmeal and Meat cum Bone Meal, while challenging the said circular. 5. Accordingly, Fitment Committee examined the matter and felt that there were doubts as regards taxability of these goods in view of the interpretational issues involved in the relevant notification. Accordingly, there is a genuine case that industry did not collect GST for the past. The issue was clarified by the said circular. Hence considering the hardship to the industry there is merit for exempting GST for the period prior to issuance of the circular. As regards prospective exemption the Fitment Committee felt that this is manufactured item attracting GST at the lowest rate. Other inputs also attract GST at applicable rate. Hence Fitment Committee recommends granting of exemption to supply of "Fish meal and 'Meat cum Bone Meal' during the period 1.7.2017 to 31.12.2018 only. However, suppliers who have collected tax on the above goods during the period 1.7.2017 to 31.12.2018, will have to pay tax collected by them, under the provisions of CGST Act.
8.	Pulley, wheels and other parts (falling under 8483) and used as parts of agricultural machinery	8483	28%	12% [For period 1.07.17 to 31.12.18]	<ol style="list-style-type: none"> 1. Agriculture machinery and their parts falling under headings 8432, 8433, and 8436 were prescribed GST rate of 12% with the commencement of GST. 2. As per explanatory notes to HSN, only exclusive parts of agricultural machinery falling under heading 8432, 8433 and 8436 are classified under the same heading, while items like pulleys, pulley block themselves constitute an article and are classified under heading 8483. 3. Prior to 1.1.2019, goods falling under heading 8483 attracted 28% GST. With effect from 1.1.2019, GST rate on this heading has been reduced to 18%. 4. The domestic agricultural manufacturing industry had represented that 12% GST was recovered on Pulley, wheels and other parts which were used as parts of agricultural machinery during period 1.07.2017 to 31.12.2018, with the understanding that such parts were classified under 8432, 8433 and 8436. From 1.1.2019, GST is being collected at 18% and being paid accordingly. For parts, if GST is demanded, on such goods @ 28%, it would cause extreme hardship. It was

					<p>genuine understanding of the trade that such goods attracted 12% GST as parts of agricultural machineries. This doubt was clarified when the GST rate on pulley, wheels etc. was reduced from 28% to 18% on request of industry who had been arguing to issue clarification stating that these goods also attracted 12% GST rate treating them as a part of agricultural machinery.</p> <p>5. Fitment Committee in the overall facts of the case recommends that relief may be provided to such manufacturers for the period 1.07.2017 to 31.12.2018 by providing 12% GST rate on pulley, wheels and other parts (falling under 8483) and used as parts of agricultural machinery for the period 1.07.2017 to 31.12.2018. This concession would be available in cases where GST at the rate of 12% was only recovered during the said period.</p>
9.	Supplies to Railways	86	5% on goods in chapter 86 without refund	12% on goods in chapter 86 without refund	<p>1. Railway products are classified under Chapter 86 and attract 5% GST with no refund of, unutilized input tax credit is allowed.</p> <p>2. The Industry has requested that the rate structure has led to inversion and industry is saddled with huge accumulation of ITC affecting their cash flow. Hence they have requested to increase the GST rate to 18% with no restriction on ITC.</p> <p>3. However, certain Metros have requested for duty rate to be 5% with refund, so that cost for Metros remains low.</p> <p>4. The issue had been examined earlier by the Fitment Committee and was also placed before the GST Council in its 31st GST Council dated 22.12.2018. The Council had directed re-examination of the matter by the Fitment Committee before the issue is brought to the Council for its recommendation.</p> <p>5. The Fitment Committee has examined the issue. During deliberation, it was pointed that there is substantial accumulation of credit and a possible solution is to raise GST on these goods so as to address the issue of accumulation of ITC.</p> <p>6. Fitment committee has recommended for increase in GST from 5% to 12% on goods of Chapter 86 for resolving this issue. Condition of no refunds for accumulated ITC would continue. The industry shall be able to utilize the ITC over a period of time.</p> <p>7. As regards the request of Metros, it is submitted that means for public transport like buses and goods transport like trucks attract 28% GST, while public transport is exempt and goods transport attract 5% GST without ITC. Therefore 12% GST would be reasonable to address the ITC inversion of wagon manufacturers.</p>
10.	Vehicles used by the	87	18%	18%	<p>1. A concessional rate of GST of 18% as against 28% on cars only for those orthopedically physically challenged persons</p>

	handicapped persons				<p>who themselves can drive the vehicle based on certification issued by Department of Heavy Industry in this regard.</p> <ol style="list-style-type: none"> 2. Many references have been received stating that even the benefit of 18% GST is being denied to handicapped persons [as retrofit motor cars are not being manufactured] who are forced to pay the entire 28% GST along with applicable compensation cess. 3. Various issues faced by handicapped persons are: - <ol style="list-style-type: none"> (i) Whether the benefit is available to Left leg disability and not to Right leg disability? (ii) Whether the benefit is available to only “orthopaedically handicapped persons”, or to “all” handicapped persons? (iii) Whether the benefit is available to only vehicles with auto-transmission control mechanism, and not to normal automatic cars available in the market? 4. In this regard, correspondence have been made with the Department of Heavy Industry (DHI) who have recommended that: <ol style="list-style-type: none"> a) All Persons with Disabilities who are Orthopaedically Handicapped would be eligible for this benefit, subject to certain procedure prescribed by DHI. b) This benefit can be availed only for small cars having length of not more than 4 meters; and Petrol, Liquefied petroleum gases (LPG) and compressed natural gases (CNG) driven vehicles, motor capacity not exceeding 1200cc; or diesel driven vehicles of engine capacity not exceeding 1500 cc. c) The existing conditions will be modified suitably d) DHI will issue suitable guidelines and put in place an institutional mechanism to ensure that exemption benefit is received. 5. Accordingly, Fitment Committee recommends to accept recommendation of DHI. Fitment Committee will vet the guidelines which will be issued by DHI. .
11.	Specified defence goods	73, 84, 85, 87, 88, 89, and 93	18%/28%	Nil	<ol style="list-style-type: none"> 1. Certain defence goods not being manufactured indigenously are required to be imported. 2. The Ministry of Defence has provided a list of such defence goods that are unlikely to be produced in India over the next 5 years (upto 2025). 3. In Budget 2019-20, based on recommendations of Defence Ministry 23 categories of defence goods were exempted from BCD, <i>vide</i> notification No.19/2019-Customs dated 6.7.2019. 4. Ministry of Defence has also requested for IGST exemption on these goods. 5. Fitment Committee noted that such concession is necessary for securing the borders through modernisation of the forces

					<p>and considered that these goods are not produced domestically and are unlikely to be produced in the next 5 years. Fitment Committee recommended IGST exemption for 5 years.</p> <p>6. Tamil Nadu agreed to the proposal with an observation that this exemption be reviewed when compensation to the States ends.</p>
12.	Safety Matches	3605	5%/18%	12%	<p>1. Currently there are different rate structures for handmade safety matches and other than handmade matches which is leading to lot of difficulties for the trade and large-scale evasion due to misclassification.</p> <p>2. The Fitment committee recommends a uniform GST rate of 12% on all matches to remove the rate differential between handmade and machine-made matches as the same is not identifiable by visual examination. Therefore, the committee suggested this rate as a rate rationalization and revenue mobilization measure.</p>
13.	Polypropylene /Polyethylene Woven and Non- Woven Bags and sacks, whether or not laminated, of a kind used for packing of goods	3923/6305	5%/12% /18%	12%	<p>1. The issue regarding classification of Polypropylene Non-Woven Bags has already been clarified vide Circular No.80/54/2018-GST dated 31.12.2018.</p> <p>2. There are disputes going on regarding the classification of these bags owing to different rate structures in various judicial forums.</p> <p>3. In the 31st GST Council meeting, the GST rate on Flexible Intermediate Bulk Containers (FIBC) under heading 6305 was changed from 5%/12% depending on the value to a uniform rate of at 12% irrespective of value as a measure of rationalization as there were requests from trade that differential rate is leading to classification disputes and confusion in trade.</p> <p>4. Therefore, on similar lines, to avoid the classification disputes due to the rate differential on Polypropylene (PP)/Polyethylene Woven and Non- Woven Bags and sacks, whether or not laminated on the basis of their classification, Fitment committee recommended that the GST rate on all woven and nonwoven bags and sacks of polypropylene and polyethylene, whether or not laminated, of a kind used for packing of goods, may be rationalized at a uniform rate of 12%</p>
14.	Flour mill/rice mill/ and other machinery used in	8437	5%	12%	<p>1. 5% GST has been provided on flour mill/rice mill and other machinery used in milling industry, falling under heading 8437 as per pre-GST tax incidence.</p> <p>2. Wet grinder falls under heading 8509 and attracted 28% GST with inception of GST [i.e. 1.07.2017]. This rate was fixed as pre-GST tax incidence.</p>

	milling industry				<ol style="list-style-type: none"> 3. Subsequently GST on wet grinder was reduced from 28% to 12% as per 23rd GST Council recommendation. 4. Request has been received for reduction in GST rate from 12% to 5% on wet grinder on the ground that Atta chaki attracts 5% GST. 5. Fitment committee has recommended for rationalisation of GST on items falling under heading 8437 and operated with power to 12%. The Committee felt that it would not be desirable to reduce GST on wet grinder, as it will deepen the inversion in GST rate. As such all equipment and machine for agriculture and food processing attract 12% GST. Machines falling under heading 8430 are only exceptions.
15.	Plates and cups made up of all kinds of leaves/ flowers/bark	46	5%	Nil	<ol style="list-style-type: none"> 1. Presently the products made of sal leaves, siali leaves, sabia grass, khali dona, attract Nil GST. 2. Cups and plates made of leaves of areca tree, palm tree, coconut tree, dates tree, mandarin tree, banyan tree and banana tree attract 5% GST. 3. These products are made in unorganised cottage industry and mostly by women folk in rural areas like sal and Kali tree products. 4. Fitment Committee recommends Nil GST on these goods also.
16.	Specified goods for petroleum operations	Any chapter	5%	IGST be levied on transaction value on disposal of these goods in obsolete and non-reusable condition	<ol style="list-style-type: none"> 1. Specified goods for petroleum operations attract IGST at the rate of 5% in terms of notification No. 3/2017-IGST dated 30.6.2017, at the time of disposal of such goods, the IGST is to be paid at the depreciated value using the straight-line method (depreciation amount in excess of 70%) 2. Industry has represented that the disposal of obsolete and non-serviceable goods is done as scrap and it would not be feasible to dispose off such goods if IGST is to be charged at the depreciated value. Request has been to allow payment of tax at 18% on transaction value. On the Customs side, during Budget 2019-20, this request has been accepted subject to certification by Directorate General of Hydrocarbons (DGH) that such goods are non-serviceable and have been mutilated before disposal. 3. Fitment Committee agreed to the proposal and prescribed that an option may be given to pay GST at the rate of 18% at the time of disposal, on the transaction value on such imported goods, which are to be disposed of in non-serviceable form, after mutilation, subject to submission of a certificate from DGH to the effect that the said goods are non-serviceable and have been mutilated before disposal.
17.	Specified goods for petroleum operations	Any chapter	Applicable rate	5%	<ol style="list-style-type: none"> 1. On the lines of concession granted to specified goods imported under NELP, pre-NELP, CBM policy concession has been sought for goods imported under Hydrocarbon Exploration Licensing Policy (HELP).

	undertaken under Hydrocarbon exploration Licensing Policy (HELP)				<ol style="list-style-type: none"> 2. This is in line with the concessions granted under Customs and GST to supply of specified goods under New Exploration Licensing Policy (NELP), Coal Bed Methane (CBM) policy etc. 3. The Fitment Committee agreed to the proposal and recommends 5% GST rate on specified goods mentioned in List to the notification No. 3/2017-Central Tax (Rate) dated 28th June, 2017, required in connection with petroleum operations undertaken under Hydrocarbon Exploration Licensing Policy (HELP).
18.	<p>Food and Agriculture Organisation (FAO) and Government of India collaboration projects namely:</p> <p>(i) Strengthening capacities for Nutrition-sensitive agriculture and food systems</p> <p>(ii) Green Ag: Transforming Indian Agriculture for Global Environment Benefits and the conservation of Critical Biodiversity and Forest landscapes</p>	Any Chapter	Applicable rates	Nil	<ol style="list-style-type: none"> 1. The Government of India is to enter into the agreement with the Food and Agricultural Organization (F.A.O) for collaboration in the agricultural sector. 2. F.A.O has sought exemption from Basic Customs Duty and GST for the goods and services imported or procured domestically for use in these projects. 3. The importation of goods into India for execution of projects financed by the United Nations which has been approved by the Government of India have been exempted from the levy of Basic Customs Duty (BCD). 4. Fitment Committee recommends exemption from GST for both these projects subject to appropriate certification.
19.	Solar Power Plant	84,85 and 94	70:30 ratio for goods	Under examination	<ol style="list-style-type: none"> 1. Hon'ble Delhi high Court has directed for consideration of representation made by Solar Power Developers Association

			and services		(SPDA) and Indian Wind Turbine Manufacturers Association (IWTMA).
20.	Wind based Power Plant	84,85 and 94	70:30 ratio for goods and services	Under examination	2. To examine the representations, the said associations were heard and were asked to furnish detailed information. This information along with other available information along with agenda was then placed before the Fitment Committee. After detailed examination the Fitment Committee recommends 70:30 ratio. Detailed recommendation of the Fitment Committee is at Annexure VIII to the Fitment Agenda.
B. Compensation Cess changes					
1.	Cess on the Vehicle [for transport of 10 or more persons but less than 13 persons including the driver] of heading 8702 and having specification of small cars of 8703	8702	15%	1% [petrol] 3% [diesel]	<ol style="list-style-type: none"> The motor vehicles falling under heading 8703 attract GST @ 28% in addition to applicable compensation cess Small cars not exceeding 4000 mm and having engine capacity not exceeding 1200 CC (for petrol/CNG/LPG cars) and 1500 CC (for diesel cars), falling under heading 8703 attract Compensation cess @ 1% and 3% respectively. Heading 8703 covers vehicles that can carry upto 9 persons. However, vehicles with same specification that are capable of carrying 10 or more persons fall under heading 8702. The vehicles capable of carrying 10 or more persons, but less than 13 persons attract compensation cess at the rate of 15% even if are of length 4000 mm and capacity 1200 CC for petrol and 1500 CC for diesel. A parity has been sought. The compensation cess on small cars of heading 8703 has been fixed as per pre-GST tax incidence. In erstwhile Central Excise regime, the vehicle (for transport of 10 or more persons but less than 13 persons) of heading 8702 and having length 4000 mm and capacity 1200 CC for petrol and 1500 CC for diesel attracted 12.5% Central excise duty. Thus, Fitment Committee felt that both type of vehicles should be treated at par under GST regime also. Accordingly, Fitment recommends: <ol style="list-style-type: none"> 1% cess [for petrol small vehicles having 4000mm length and 1200 CC engine] 3% cess [for diesel small vehicles having 4000 mm length and 1500 CC engine capacity].
2.	Caffeinated Beverages	22029990	18%	28% + 12% compensation cess	<ol style="list-style-type: none"> Caffeinated beverages classified under Tariff Item 22029990, although provide instant energy, are harmful as side-effects of caffeine are well documented. These are also in the nature of niche products and are gaining acceptability as substitutes of aerated beverages. Fitment Committee recommends increase in the GST rate, on Caffeinated Beverages classified under Tariff Item 22029990 from 18% to 28% + 12% compensation cess, to bring them at par with aerated waters.

3.	Refund of compensation cess on tobacco products arising out of inverted duty structure in compensation cess rates.	Chapter 24	28% + applicable cess	-	<ol style="list-style-type: none"> 1. Refund of accumulated Input Tax Credit is allowed in terms of section 54 (3) of the Central Goods and Service Act, 2017. 2. The provisions of CGST Act, 2017 have been made applicable to compensation cess also vide section 9(2) of the Goods and Service Tax (Compensation to States) Act, 2017. The section reads as follows: <i>For all purposes of furnishing of returns and claiming refunds, except for the form to be filed, the provisions of the Central Goods and Services Tax Act and the rules made thereunder, shall, as far as may be, apply in relation to the levy and collection of the cess leviable under section 8 on all taxable supplies of goods or services or both, as they apply in relation to the levy and collection of central tax on such supplies under the said Act or the rules made thereunder.</i> 3. It has been reported that certain manufacturers have filed refund claim on account of inverted duty structure relating to compensation cess on tobacco products. 4. The traders have claimed that their input is chewing tobacco or other forms of tobacco attracting higher compensation cess rates and output is tobacco products such as “Hookah” or “flavoured tobacco compound” etc. having substantially lower compensation cess rate. Hence, the claim of refund of inverted duty structure has been filed. 5. The process employed does not seem to be a normal process of manufacture and seems to be designed only to avail refund of inverted duty structure. This is not in accordance with the spirit of Section 54(3) of the CGST Act 2017 (refund of inverted duty structure). 6. Fitment Committee recommends that refund of inverted duty of compensation cess may not be allowed under Section 54 (3) of the CGST, Act, 2017 for tobacco products, including on refund claims already filed. 7. A view about the pending refund claims as discussed above may be taken.
----	--	------------	-----------------------	---	--

C. Clarification

1.	Parched Gram	0713/2106	Nil/5%	Nil/5%	<ol style="list-style-type: none"> 1. Doubts have been raised whether mild heat treatment of leguminous vegetables such as gram etc. would lead to change in classification. 2. Dried leguminous vegetables are classified under HS code 0713. As per the explanatory memorandum to the HSN to HS code 0713, this heading covers leguminous vegetables of heading 07.08 which have been dried, and shelled, of a kind used for human or animal consumption (e.g., peas, chickpeas etc.). They may have undergone moderate heat treatment designed mainly to ensure better preservation by inactivating the enzymes (the peroxidases in particular) and eliminating
----	--------------	-----------	--------	--------	--

					<p>part of the moisture; however, such treatment should not affect the internal character of the cotyledon.</p> <p>3. The Fitment Committee recommends that a clarification may be issued that that such leguminous vegetables which are subjected to mere heat treatment for removing moisture, or to soften and puff it or removing the skin, and not subjecting to any other processing or addition of any other ingredients such as salt and oil, would be classified under HS code 0713 and if the above dried leguminous vegetable is mixed with other ingredients (eg. as namkeens) then the same would be classified under sub heading 210690 as namkeens, bhujia, chabena and similar edible preparations and attract applicable GST rate.</p>
2.	Mechanical sprayers	8424	12%	12%	<p>1. Briefly, on introduction of GST all goods of heading 8424 i.e. [Mechanical appliances (whether or not hand-operated) for projecting, dispersing or spraying liquids or powders; spray guns and similar appliances; steam or sand blasting machines and similar jet projecting machines (other than fire extinguishers, whether or not charged)] was prescribed 18% GST rate [S.No.325 of Schedule III].</p> <p>2. Subsequently, keeping in view various requests/representations, the GST Council in its 25th council meeting recommended 12% GST on mechanical sprayers.</p> <p>3. Accordingly, vide notification No. 6/2018- Central Tax (Rate), dated 25th January, 2018, the entry No. '195B' [Schedule II] was inserted. Simultaneously, mechanical sprayers were excluded from the ambit of S. No. 325 of Schedule III and specifically included in the entry at S. No. 195B, without any condition or differentiation between hand or power operated.</p> <p>4. Accordingly, Fitment Committee recommends issuance of circular stating that that the S. No. 195B of the Schedule II to notification No. 1/2017- Central Tax (Rate), dated 28.06.2017 covers "mechanical sprayers" of all types whether or not hand operated.</p>
3.	Parts for manufacture of solar water heater and system.	8419	5%	5%	<p>1. As per entry No 232, solar water heater and system attracts 5% GST.</p> <p>2. Further, as per S. No. 234 of the notification No. 1/2017 solar power-based devices and parts for their manufacture falling under chapter 84, 85 and 94 attracts 5% concessional GST.</p> <p>3. Solar water heater and system would be also covered under S. No 234 under the category of Solar Power based devices. Thus, parts for manufacture of solar water heater and system would be eligible for 5% GST under S. No. 234.</p> <p>4. Accordingly, Fitment Committee recommends for issuance of clarification sating that parts falling under chapter 84, 85</p>

					and 94 for the manufacture solar water heater and system will attract 5% GST.
4.	Exclusive parts of medical devices.	9018/ 9019/ 9021/ 9022	12%	12%	<ol style="list-style-type: none"> As per chapter note 2(b) of the Chapter 90, parts and accessories of the instruments used mainly and principally for the medical instrument of chapter 90 shall be classified with the machine only. For the ready reckoner, chapter note 2(b) is reproduced below: - “2 (b): other parts and accessories, if suitable for use solely or principally with a particular kind of machine, instruments or apparatus, or with a number of machines, instruments or apparatus of the same heading (including a machine, instrument or apparatus of heading 9010, 9013 or 9031) are to be classified with the machines, instruments or apparatus of that kind;” Accordingly, Customs was assessing imports of such parts @ 12% IGST. However, CAG office [in Chennai] has raised an objection that parts would attract GST at the rate of 18%. As per chapter note 2(b), parts suitable for use solely or principally with a particular kind of machines, instruments or apparatus should be classified with the machines only and shall attract 12%. The matter has been deliberated in the Fitment Committee and Committee recommends issuance of a clarification that 12% IGST would be applicable on the parts and accessories suitable for use solely or principally with a medical device falling under sub-heading 9018, 9019, 9021 or 9022 in terms of chapter note 2 (b).
5.	Almond Milk	22029990	18%	18%	<ol style="list-style-type: none"> Almond Milk is made by pulverizing almonds in a blender with water and is then strained. References have been received as to whether “almond milk” would be classified under tariff item 22029920 as “Fruit Pulp or fruit juice-based drinks” and attract 12% GST. The Fitment Committee notes that Almond milk is not produced from fruit pulp, nor the milk produced by pulverizing the almonds be considered as fruit juice. Thus, Almond milk will be classified under tariff item 22029990 and attract GST rate of 18%. Fitment Committee recommended issuance of a clarification on the above lines.
6.	Supply of goods (Stores/Bonded Stores) to Naval Ships	Any chapter	-	Nil	<ol style="list-style-type: none"> The supplies to Coast Guard is exempt from IGST. There is no specific exemption (like Coast Guard) for stores of Naval Ships. However, Navy has been getting exemption for a long time from BCD and earlier CVD on treatment of navy ships as foreign going vessels under the Customs Act, 1962. Navy has requested for issuance of specific clarification/exemption from GST.

					3. Fitment Committee has deliberated the matter and recommends to issue a clarification stating that imported stores for Navy would be exempted from import duty including IGST under GST regime also.
7.	Vessels and Ships etc.	Any chapter	-	Nil IGST [on vessels/ships etc. imported under lease if GST is payable on transaction covered by item 1(b) or 5(f) of Schedule II of the Central Goods and Service Tax Act, 2017]	<p>1. To avoid double taxation on imports of aircraft, engine of aircraft under an arrangement of transfer of right in goods without transfer of right, imports of such goods was exempted from payment of IGST subject to the condition that GST is paid on supply of service [with effect from 1.7.2017].</p> <p>2. Under GST, the transfer of right in goods has been provided in the Schedule II to the CGST Act, 2017 declaring to be services: - <i>“any transfer of right in goods or of undivided share in goods without the transfer of title thereof” 1(b)</i> <i>‘transfer of the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration’ 5(f)</i></p> <p>3. Subsequently, IGST on imports of rigs and all other goods was exempted when imported under lease.</p> <p>4. Presently, Notification No. 50/2017-Customs exempts IGST on imported goods, as per entries below (a) Aircrafts, aircraft engines and other aircraft parts imported into India under a transaction covered by item 1(b) or 5(f) of Schedule II of the Central Goods and Service Tax Act, 2017 [S.No. 547A] (b) Rigs and ancillary items imported for oil or gas exploration and production taken on lease by the importer for use after import [S.No. 557A] [22nd GST] (c) All goods, vessels, ships (other than motor vehicles) imported under lease, by the importer for use after import [S.No. 557B] [23rd GST]</p> <p>5. The above entries are subject to same condition No 102 of the notification No 50/2017-Customs.</p> <p>6. The intention of S. No 557 A and 557 B is to exempt, from IGST, on imports of goods under an arrangement of transfer of right to use goods without transfer of title, subject to the condition that GST is paid on supply of service covered by item 1(b) or 5(f) of Schedule II of the Central Goods and Service Tax Act, 2017.</p> <p>7. Fitment Committee recommends aligning of the notification to remove any ambiguity in terms of Para 6 above and for issuance of appropriate clarification for removal of doubt to the effect that these entries cover such supplies as are included in item 1(b) or 5(f) of schedule II of the CGST Act, 2017.</p>
8.	Spare parts temporarily imported by	8407/8411/	5%	Nil	1. The aircraft stores are covered under section 87 of the Customs Tariff Act, 1962, by virtue of which stores on board the aircraft do not attract customs duty and GST.

	Foreign airlines for their aircraft repair, while the aircraft is temporarily in India	8803			<ol style="list-style-type: none"> 2. As regards spares, Article 24 (b) of the Chicago Convention on Civil Aviation, 1944 states that spare parts and equipment imported into the territory of a contracting State for incorporation in or use on an aircraft of another contracting State engaged in international air navigation shall be admitted free of customs duty, subject to compliance with the regulations of the State concerned, which may provide that the supplies shall be kept under customs supervision and control. 3. In view of the above, Fitment Committee agreed in principle that the spare parts imported temporarily by Foreign airlines for repair of their aircraft, while in India in transit should be entitled to concession in terms of the said Convention. It was agreed that a detailed procedure be formulated for extending concession, in line with the Convention.
9.	Temporary import of ships and vessels for laying or repairing of under-sea cables	89	5%	Nil	<ol style="list-style-type: none"> 1. The service of laying or repairing of undersea cables requires the temporary movement of rigs, ancillary equipment, other specialized ships, vessels etc into Indian waters. GST is paid @ 18% on this cable repairing service. But IGST @ 5% is also charged on the movement of such rigs, ancillary equipment, other specialized ships, vessels to Indian waters, which amounts to double taxation. Further, ITC is also not available as the recipient of supply of service is paying the supplier only the value corresponding to the supply of service and not the value of ships or vessels temporarily imported for providing such services. 2. Fitment Committee in principle agreed that double taxation in this case be avoided. 3. Fitment Committee has recommended for either inclusion of this case in the exemption stated in Sl. No. 3 (Part C) or issuance of suitable clarification, keeping in view the provisions related to Customs. As such, the movement of such ships for provision of services does not entail supply of such ships.

Annexure II

Issues deferred by the Fitment Committee for further examination in relation to goods

S. No.	Description	HSN	Present GST Rate	Requested Rate	Comments
1.	Aircraft engines and other aircraft parts	8407, 8411, 8803	5% IGST on repair value of goods sent abroad for MRO	ITC of IGST so paid on the value of repair be allowed to airlines	<p><u>IGST on repair value of aircraft, aircraft engines and other aircraft parts sent abroad for MRO</u></p> <ol style="list-style-type: none"> <u>In Pre-GST regime</u>, Place of Provision of Service of repair of goods sent outside India was outside India and was thus, not liable to Service Tax. This situation continues in GST. However, re-import of goods exported for repairs abroad are subject to BCD and IGST. The transaction value of import is the fair cost of repairs carried out including cost of materials used in repairs (whether such costs are actually incurred for not), insurance and freight charges, both ways. <u>Thus, IGST</u> is payable at 5%. The 5% IGST is applicable on the value-added portion, after conducting such repairs abroad. Effectively, this implies that the applicable 5% IGST is only on maintenance and repair services, and <i>not on the value of parts (goods)</i>. Since the IGST applies on import of goods, no input credit would be taken on airlines. At the same time, if such parts are repaired within India, the domestic MRO service is subjected to 18% GST. Ministry of Civil Aviation has requested that ITC of IGST paid on repair of aircraft be allowed and simultaneously the GST on domestic MRO be reduced to 5%. This will put domestic MRO at a disadvantage. This issue was examined in Fitment in detail. It was felt that 5% on domestic MRO will deepen the inversion at the end. As regards ITC on IGST paid on reimport or exemption to the same, it was felt that this will put domestic MRO to disadvantage. Fitment Committee recommended that additional information is to be sought from Ministry of Civil Aviation as regards volume of domestic MRO and re-imports. The distinction in services is likely to cause inversion with domestic MRO if the GST rate is reduced to 5%.

S. No.	Description	HSN	Present GST Rate	Requested Rate	Comments
2.	Parts, inputs, raw material etc for aircraft	32,34 38,39 40,49 70,73 74,76 81,82 83,84 85,90 and 94	Applicable rate	5%	<ol style="list-style-type: none"> As recommended by the GST Council in its 23rd Meeting dated 10.11.2017, 5% IGST has been provided for exclusive parts of aircraft and aircraft engines, as under: - <ol style="list-style-type: none"> aircraft engines [8407 1000, 8411] aircraft tyres [4011 3000] aircraft seats [9401 1000] However, other parts which are not clearly identifiable, including consumable items attracts higher rate of IGST (12% - 28%). MoCA has now provided a list of such goods, which fall under different chapters namely 32, 34, 38,39, 40,49, 70, 73, 74, 76,81,82,83,84,85,90 and 94. List includes aircraft engines which fall under tariff line 8409 10 00 [specific entry] and retreaded tyre of aircraft is classified under 4012 13 00 [specific entry] and attracts 28% GST. Fitment Committee recommended that dual use items should not be considered for concessional rate/ exemption. To examine the issue, the Committee recommended that for single use items, more information is required like domestic capacity, revenue import volumes etc for further examination. Hence, deferred.
3	Cargo vessels, tankers, containers, LPG carriers (under 8901) [Ships >6500 DWT (Dead Weight Tonnage] and Dredgers (under 8905 1000)	8901, 8905 10 00	5%	Nil	<ol style="list-style-type: none"> The GST rate structure for ships and vessels and other floating structures was examined by the GST Council during its 14th meeting held on 18-19 May 2017, and a concessional 5% GST rate was approved, which would apply on imports of ships/ vessels/ dredger/ tankers (even though all inputs/ components used in manufacture of shipping vessels, in general attracted 18% GST). The Ministry of Shipping had stated that the shipping industry would not be in a position to utilize the ITC of IGST for a long period of time and that the new GST regime would put the Indian Shipping Industry at a disadvantageous position as foreign owners who brought ships to India were not burdened with the tax. The reference was examined and an Agenda Note was circulated for consideration of the GST Council in its 17th meeting held on 18.06.2017 which proposed two options: <ol style="list-style-type: none"> Allow ITC of GST paid on ships which would provide level playing field to shipping lines which go for outright purchase of vessels/ ships/ tankers or Exempt 5% CSGT and SGST/ IGST on ships/ vessels/ dredger/ tankers as recommended by the Ministry of Shipping. The Council in its 17th meeting recommended to allow ITC of GST paid on ships which provided level playing field to shipping lines which go for outright purchase of vessels/ ships/ tankers. Subsequently, fresh request for exempting import of ships and vessels from 5% IGST has been received. Ministry of Shipping has also recommended exemption from GST on the ships.

S. No.	Description	HSN	Present GST Rate	Requested Rate	Comments
					<p>6. This issue has been discussed in several meetings with the Ministry and DG Shipping. It was impressed upon in these meetings that exemption from GST to ships would adversely affect the domestic manufacturing of ships and thus would be against the Make in India initiative. Accordingly, Ministry of Shipping was requested to provide the details of ships which are not manufactured in India for placing the proposal, for exemption from GST on such ships, before the GST Council. Ministry of shipping recommended exemption to ships >6500DWT, and dredgers as these are not manufactured in India.</p> <p>7. In this context, earlier a request for NIL GST on (i) <u>Ships >6500 DWT</u> (Dead Weight Tonnage) [falling under HS 8901] and (ii) <u>Dredgers</u>, (falling under HS 89051000) was examined and placed before the 31st GST Council meeting. The GST Council did not recommend any change.</p> <p>8. The other vessels under HSN Code 8905 1000 i.e. <u>Tugs and pusher crafts</u>, as well as <u>Ships < 6500 DWT</u> are built by Indian ship-builders.</p> <p>9. Shipping Ministry has again reiterated in its recommendations to exempt (i) <u>Ships >6500 DWT</u> (Dead Weight Tonnage) [falling under HS 8901] and (ii) <u>Dredgers</u>, (falling under HS 89051000) from IGST.</p> <p>10. As stated, a 5% GST on ships is causing hardship to the Indian shipping companies on account of cash flow (as utilisation of ITC is short term is not feasible). This places Indian shipping at competitive disadvantage.</p> <p>11. Fitment Committee sought volumes of domestic production for last 3 years and likely import of the same in next 3 years, and recommended a detailed cost data analysis for further examination.</p>
4	Wind driven turbo-ventilator	8414 59 90	18%	Nil	<p>1. It is a wind driven exhaust fan which runs purely on wind energy.</p> <p>2. It uses renewable energy resources and saves energy.</p> <p>3. In the representation, domestic production data and import data is not provided.</p> <p>4. Further, as this product is being classified under 8414 59 90 which is "others" heading, data is not available with TRU.</p> <p>5. In absence of any data, it was decided to keep the existing rate till relevant data is received where after it shall be examined on merit.</p>
5	POS Machine	8470 90 10	18%	Nil	<p>1. POS machines classified under HS 8470 and attracts Nil BCD.</p> <p>2. Present GST rate on POS machines is 18%.</p> <p>3. As per MeiTY, POS machines are being manufactured in India. Some of the major manufacturers are Mswipe, Evolute and Vardhaman Technologies.</p> <p>4. Prior to July, 2017, CVD was exempted on POS machines in order to promote the digital payment in India.</p>

S. No.	Description	HSN	Present GST Rate	Requested Rate	Comments
					<p>5. As BCD is already exempted on POS machines, reduction in GST will put domestic manufacturers of POS at a disadvantageous position on account of inversion of duty (as parts will continue to attract 18% GST).</p> <p>6. GoM has recommended to incentivise the digital payment by providing the cash back of 20% GST paid with a cap of Rs. 100 on digital transaction.</p> <p>7. The Fitment Committee recommended to maintain the present rate as the details about the domestic capacity and import volumes of PoS machines were not available. Tamil Nadu gave supported the proposal of reduction of GST rate on POS machine.</p>
6	Compressed Bio Gas (CBG)	27	5%	Clarification	<p>1. Waste / Bio-mass sources like agricultural residue, cattle dung, sugarcane press mud, municipal solid waste and sewage treatment plant waste, etc. produce bio-gas through the process of anaerobic decomposition. The bio-gas is purified to remove hydrogen sulphide (H₂S), carbon dioxide (CO₂), water vapor and compressed as Compressed Bio Gas (CBG), which has methane (CH₄) content of more than 90%.</p> <p>2. CBG has calorific value and other properties similar to CNG and hence can be utilized as green renewable automotive fuel. Thus, it can replace CNG in automotive, industrial and commercial areas, given the abundance biomass availability within the country.</p> <p>3. CBG is purified compressed biogas, which is similar in composition to Compressed Natural Gas.</p> <p>4. However, Fitment deferred the issue, as it needs further examination.</p>
7	Cancer Drugs and Chemotherapy Medicines	30	12%	0%	<p>1. GST rate on medicines/ drugs is in line with pre -GST tax incidence. The total tax incidence was more than 13% including 6% excise duty, 5% weighted average VAT and 2.5% CST, entry tax Octroi Etc.</p> <p>2. Now the medicines/ drugs attract 12% GST in general and Drugs or medicines including their salts and esters, diagnostic test kits (about 230 in numbers) Medicaments (including veterinary medicaments) used in bio-chemic systems and not bearing a brand name and Diagnostic kits for detection of all types of hepatitis are attracting only 5% of GST.</p> <p>3. Fitment Committee deferred the issue till the specific list is recommended by the Department of Health and Family Welfare.</p>

S. No.	Description	HSN	Present GST Rate	Requested Rate	Comments
8	Keytruda (Pembrolizumab) (drug- used in cancer treatment)	30021500	12%	5%	<ol style="list-style-type: none"> 1. Concessional rate of 5% has been given to a number of medicines based on the pre-GST tax incidence. The pre-GST concessions were granted on the recommendations of the Ministry of Health and Family Welfare, from time to time. 2. The request has been referred to Ministry of Health and Family Welfare for their comments. 3. The matter was deferred by the Fitment Committee.
9	Korai Mat	4601	5%	Nil	<ol style="list-style-type: none"> 1. It is made with long silky Korai grass which grow mainly in Tamil Nadu, especially in Karur district. It has been argued that 5% GST rate is causing hardship to small traders as the buyer seek GST payment details even though this is manufactured by small traders. 2. The Fitment Committee was of the view that reverse charge be applied. Tamil Nadu would like to discuss with the manufacturers of Korai mat. Accordingly, the matter was deferred by the Fitment Committee.
10	Duty Credit scrips	4907	0%	Nominal tax	<ol style="list-style-type: none"> 1. Duty credit scrips fall under heading 4907. After the roll out of GST regime, duty scrips attracted concessional rate of 12% GST.] 2. The GST rate on the same was examined during 22nd GST Council meeting. Accordingly, on recommendation of GST Council, duty credit scrips were exempted from GST w.e.f 13.10.2017. 3. Consequently, the issue was clarified <i>vide</i> Circular No. 46/20/2018-GST dated 6th June, 2018, which inter-alia stated that “the duty credit scrips, however, attract Nil GST under S. No. 122A of notification No. 2/2017-Central Tax (Rate) dated 28.06.2017. 4. The request is to levy nominal levy on duty scrips so as to avoid reversal of input credit. 5. Fitment Committee recommended that the issue may be referred to the Law committee.

Annexure III

Issues where no change has been proposed by the Fitment Committee in relation to goods

S. No.	Description	HSN	Present GST Rate (%)	Requested GST rate (%)	Comments
1.	Live Horse	010121, 010129	12%	Nil	<ol style="list-style-type: none"> 1. Weighted average VAT rate on Live Horses was approx. 9%. 2. VAT rates on lives horses in states like Tamil Nadu, Maharashtra, Karnataka had VAT rates above the current rate of 12%. 3. A similar proposal was discussed in 23rd GST council meeting and Council did not recommend any change. 4. Fitment Committee does not recommend any reduction in present GST rate.
2.	UHT Milk	0401	5%	0%	<ol style="list-style-type: none"> 1. There is a substantial value addition in manufacturing UHT milk and is sold at a higher price. 2. Only dairy products consumed by common man such as fresh milk, curd or lassi are kept at nil GST rates and all value-added products which are sold at a premium such as UHT milk, butter, condensed milk etc. attract higher GST rates. 3. Exempting such products breaks ITC chain and leads to inversion. 4. The request has been considered in the GST Council (16th and 31st Meeting) but not recommended. 5. Fitment Committee does not recommend any reduction in present GST rate.
3.	Ghee	04059020	12%	5%	<ol style="list-style-type: none"> 1. Ghee is @ 12% as per the pre-GST tax incidence and most of the processed food items also attract 12% GST rate [7.96% weighted average VAT rate and 2.5% CST, Octroi etc.] 2. Desi ghee is sold in significant quantity by the organized sector such as Amul, Mother Dairy etc. 3. Small manufacturer could avail threshold exemption and composition. 4. The request to reduce rate on Ghee from 12% to 5% has been placed before the GST Council multiple times and has not been recommended. (25th, 28th and 31st Meeting). 5. Fitment Committee does not recommend any reduction in present GST rate.

4.	Cheese, Butter	04 05, 04 06	12%	5%	<p>1. Cheese</p> <p>a) Cheese is @ 12% as per the pre-GST tax incidence and most of the processed food items also attract 12% GST rate [7.96% weighted average VAT rate and 2.5% CST, Octroi etc.]</p> <p>b) Cheese is largely imported or sold by companies in the organised sector.</p> <p>c) Small manufacturer could avail threshold exemption and composition.</p> <p>d) The request to reduce rate on Cheese from 12% to 5% has been placed before the GST Council multiple times and has not been recommended. It was placed before the 16th and 23th Meeting.</p> <p>e) Fitment Committee does not recommend any reduction in present GST rate.</p> <p>2. Butter</p> <p>a) Butter is @ 12% as per the pre-GST tax incidence and most of the processed food items also attract 12% GST rate [7.96% weighted average VAT rate and 2.5% CST, Octroi etc.]</p> <p>b) Small manufacturer could avail threshold exemption and composition.</p> <p>c) The request to reduce rate on Butter from 12% to 5% has been placed before the GST Council multiple times and has not been recommended. (23rd, and 28th GST Council Meeting and 31st).</p> <p>d) Fitment Committee does not recommend any reduction in present GST rate.</p>
5.	Honey sold by Girijan Cooperative Cooperation Limited exempt from GST	0409	5%	0%	<p>1. Natural Honey (other than put up in a unit container and sold under a brand name) is already exempt from GST.</p> <p>2. Natural honey sold in a unit container and under a brand name is under the concessional GST rate of 5% as it is sold at a premium in the organised sector.</p> <p>3. Further, 5% GST enables such suppliers to avail the benefit of input tax credit on inputs such as preservatives etc. and input services used to manufacture, package, brand and transport honey and thus maintains the credit chain.</p> <p>4. This issue has been placed before the 25th GST Council meeting and was not recommended.</p>

					5. Fitment Committee does not recommend any organisation-based exemption in GST.
6.	Mahua Flowers, Gum, Honey, Medicinal Plants	4,6,14	5%	0%	<ol style="list-style-type: none"> 1. Fresh Mahua flower is exempt. Dried /Frozen flower is largely used for production of country spirit. Thus, exemption to dried Mahua flower is not desirable. 2. Further, area-based exemption is not possible in GST as GST is a destination-based consumption tax. 3. As ramification of rate changes affect the entire country, it is prudent that in order to effect area-based development, specific programs at local level may be initiated. 4. This issue was taken up to GST Council in connection with the request from Odisha (28th Meeting) for GST exemption on minor forest produce. While recommending reduction on other forest produce, the Council did not recommend any change in GST rate of duty on Mahua flower. 5. Fitment Committee does not recommend any reduction in present GST rate.
7.	Preparations of vegetables, fruits, nuts or other parts of plants	7,8	12%	5%	<ol style="list-style-type: none"> 1. Placed before the GST Council in its 31st meeting and no change was recommended. 2. The Fitment Committee's views were as follows: <ol style="list-style-type: none"> a) The Central Excise duty on these products was 6% and the weighted average VAT was around 5% and hence these goods have been kept at 12% GST rates. b) Further, as fruits and vegetable pulp is taken as an input by food processing industry to prepare processed goods which are also sold by registered brands under unit containers at significantly higher prices; the GST rate of 12% on this tariff item can be utilized as credit by such industry. c) No change recommended. 3. As the products are value added, Fitment Committee does not recommend any reduction in present GST rate.
8.	Branded Pulses and food grains (Rice etc)	0713, 10	5%	0%	<ol style="list-style-type: none"> 1. The GST Council discussed rate on food grains put up in unit container and bearing a brand name in great detail and recommended 5% GST rate on the same. 2. Subsequently, to check tax avoidance certain changes were made in the provision, including

					<p>that if a dealer foregoes an actionable claim against his brand name, no GST will apply.</p> <ol style="list-style-type: none"> 3. There is adequate protection in GST for small suppliers. Such small suppliers are covered under turnover threshold exemption from GST. Further, small suppliers can opt for the composition scheme and pay tax at the rate of 1% of the turnover. This limit for the composition scheme has been increased by GST Council to Rs 1.5 Crore. 4. Presently, due to the rate differential between branded and unbranded food items, the small and medium enterprises get some advantage and thus are benefitted. 5. Branded food is sold at a premium over the unbranded food items. 6. Fitment Committee does not recommend any reduction in present GST rate.
9.	Branded food products	-	5%	Nil	<ol style="list-style-type: none"> 1. A comparison of the prices of branded goods either with the retail prices as per Department of Consumer Affairs [DoCA], or with the lowest price of branded goods. It was found that branded goods are sold at much higher price compared to their non-branded retail price. 2. Further, organised sector involved in manufacture of such branded food products cannot avail ITC if such goods are exempted. 3. Thus, nominal GST rate of 5% was levied on such goods. 4. Unbranded goods cannot be charged at 5% as they are consumed even by poorest or the poor sections of the society. 5. Branded products cannot be exempted due to very significant revenue implications. 6. Further, voluntary foregoing of IP Rights of Trademarks and Copyrights can be checked by awareness campaigns to make branded product realize inherent advantages of retaining their IPR over the cost of nominal GST.
10.	All Dry Fruits	0801 to 0807	5%/12%	5%	<ol style="list-style-type: none"> 1. Dry fruits in general, including dates attract concessional GST rate of 12%. 2. The GST rate of 5% on cashew nut and walnut is an exception and was recommended by the Council keeping in view their significance to local economy in certain states.

					<ol style="list-style-type: none"> 3. 12% GST rate on dry fruits is same as the general GST rate on medicines and medical devices and processed foods. 4. The request to reduce GST rate on dry fruits has been placed before the GST Council multiple times. (17th, 28th and the 31st (Almond Kernel)) No change was recommended. 5. Fitment Committee does not recommend any reduction in present GST rate.
11.	Dry Singhara (chestnut)	0802, 0813	5%	0%	<ol style="list-style-type: none"> 1. As per the recommendation of the GST Council, fresh singhada (chestnut) is at Nil rate of tax whereas dried singhada (chestnut) was initially taxed at the rate of 12%. 2. The rate on dried Singhada was later reduced to concessional duty of 5% in the 18th GST Council Meeting. 3. Small Singhara suppliers would in any case be entitled to threshold exemption/composition. 4. Fitment Committee does not recommend any reduction in present GST rate.
12.	Dried Tamarind	0813	5%	0%	<ol style="list-style-type: none"> 1. GST rate on fresh Tamarind is Nil. 2. Dry Tamarind attracts 5% GST, at par with other spices and in line with pre-GST tax incidence on it. 3. 5% GST is also at par with many ingredients, like spices, used in making of food. 4. The item was at 12% earlier and was reduced to 5% during the 20th GST Council Meeting. 5. Threshold exemption and composition scheme should help small dealers. 6. This issue has been placed before the 22nd, 25th and 31st GST Council meeting and was not recommended by the Council. 7. As reduction of rate of dried tamarind will lead to similar requests from other goods in HS 0813 such as dried apples, dried prunes, dried apricots etc. 8. Fitment Committee does not recommend any reduction in present GST rate.
13.	Turmeric when sold by Girijan Cooperative Cooperation Limited exempt from GST	0910 30	5%	0%	<ol style="list-style-type: none"> 1. GST rate on fresh turmeric is Nil. 2. Turmeric other than in fresh form attracts 5% GST, at par with other items in heading 0910 like ginger and in line with pre-GST tax incidence on them 3. Small supplier can claim benefits of threshold exemption/ GST composition scheme.

					<p>4. The issue of rate reduction on turmeric has been placed before the 21st GST Council and was not recommended by the Council.</p> <p>5. This issue of GST exemption specific to The Girijan Cooperative Cooperation Limited was also placed before the GST Council in 25th GST Council Meeting and was not recommended by the Council.</p> <p>6. Fitment Committee does not recommend any organisation-based exemption in GST.</p>
14.	Coriander, Dry chillies, Anise, Chilli, Cumin, Mustard, Fenugreek, Dried Ginger, Turmeric and Pepper and their masala powders	0909	5%	Exemption	<p>1. GST rate on fresh Coriander, Tamarind, chilli, cumin, anise, Fenugreek and mustard is Nil.</p> <p>2. Dry Coriander, Tamarind, chilli, cumin, anise, Fenugreek and mustard attract 5% GST, at par with other spices and in line with pre-GST tax incidence on them</p> <p>3. Small supplier is entitled to threshold exemption/composition.</p> <p>4. These dried spices cannot be treated at par with fresh vegetables.</p> <p>5. The issue was placed before the GST Council (31st Meeting) but was not recommended.</p> <p>6. Fitment Committee does not recommend any organisation-based exemption in GST.</p>
15.	Spice, Roti, Wheat flour, Detergent [3402] made by Shri Mahila Griha Udyog	0910, 2106, 1101	Assorted	0%	<p>1. Spices</p> <p>a) Spices are at 5% at par with pre-GST incidence on them.</p> <p>b) Exemption to any specific entity may not be granted due to possible revenue leakages.</p> <p>2. Roti</p> <p>a) Prepared Roti is classifiable under heading 2106 (miscellaneous food item) It attracts 5% GST rate. Normally, these are packaged food commanding high price. Further, it is a value-added product. Therefore, exemption would lead to breakage of ITC chain.</p> <p>3. Wheat flour</p> <p>a) The unbranded wheat flour is already exempt.</p> <p>b) Branded wheat flour is produced by multi nationals which can take input tax credit. Exempting the item will break the credit chain.</p> <p>c) Exemption to any specific entity may not be granted due to possible revenue leakages.</p> <p>4. Detergent</p>

					<p>a) GST rate on detergent has been prescribed in line with Pre-GST tax incidence ie 12.5% Central Excise, 14.5% VAT and 2.5% CST etc.</p> <p>b) Further, ITC of inputs is available to the manufacturers.</p> <p>c) Further, small manufacturers may tax benefit of threshold exemption/composition scheme.</p> <p>d) Exemption to any specific entity may not be desirable.</p> <p>5. Grant of end used based exemptions to agencies such as KVIC would lead to similar demand from other such agencies which would be difficult to refuse.</p> <p>6. Fitment Committee does not recommend any reduction in present GST rate.</p>
16.	Fortified Staples, Staple Foods	10 & 11	5%	0%	<p>1. Branded goods including fortified staples are also supplied by companies in the organized sector.</p> <p>2. Exception would lead to inversion.</p> <p>3. Further, specific exemption to Fortified staples will be difficult to implement and may lead to leakages and misclassification.</p> <p>4. Fitment Committee does not recommend any reduction in present GST rate.</p>
17.	Sago	11081910	5%	0%	<p>1. All food items are at 5%/12%.</p> <p>2. GST rate is as per pre-GST tax incidence.</p> <p>3. Preparation of sago from Tapioca roots is done on industrial scale and requires substantial value addition. In this case, exempting the product will lead to breakage of input tax credit chain.</p> <p>4. Fitment Committee does not recommend any reduction in present GST rate.</p>
18.	Tapioca starch	11081400	12%	5%	<p>1. The matter of Tapioca starch was discussed in detail in the 25th GST Council meeting held on 18th January 2018 where the request was not accepted.</p> <p>2. Tapioca Starch is a value-added product made from cassava plant through a mechanized process. All starches under 1108 attract a uniform GST rate of 12%. Granting exemption to this product will lead to similar requests from other starches also.</p> <p>3. Fitment Committee does not recommend any reduction in present GST rate.</p>

19.	Oil Seeds	1201, 1202, 1204, 1205, 1206, 1207	5%	Nil	<ol style="list-style-type: none"> 1. Oilseeds of seed quality are exempt from GST. Oilseeds Seeds other than seed quality are used to produce vegetable oils (which is taxable at 5% in GST). Oil Cakes other than cotton oils seed cake are also taxable. Thus, oilseeds are a part of ITC chain and are intermediate. 2. It is pertinent to note that in case of Rice Bran (HS 2302), GST rate was increased from NIL to 5% vide notification No. 6/2018-Central Tax (Rate) dated 25th January 2018 due to the fact that Rice Bran Oil producing industry was not able to bear the entire 5% tax and many such units were on verge of closure. 3. In the 28th GST Council meeting dated 21st July 2018, the issue of rate reduction on Oil Seeds and Oil meals from 5% to Nil was rejected by the GST Council. In the 31st GST Council meeting on 22nd Dec 2018, the issue of rate reduction from 5% to Nil on Oil Seeds used in poultry sector was discussed and rejected by the GST Council. 4. Fitment Committee does not recommend any reduction in present GST rate.
20.	Guar Gum powder	13023230	18%	5%	<ol style="list-style-type: none"> 1. Guar gum powder mixed with Tamarind Kernel Powder as a binder is classified under CTH 13023230 as guar gum treated and pulverized. The GST rate on the same is the standard rate of 18% as per pre-GST tax incidence. 2. The entire heading 1302 is at 18% and thus has uniform tax treatment. Only Tamarind Kernel Powder is at 5%. 3. As stated, 99% of guar gum is exported. Therefore, 18% rate may not have any severe implication to domestic industry. 4. The issue has been discussed earlier (28th GST Council meeting and 31st GST Council meeting). No Change was recommended. 5. Fitment Committee does not recommend any reduction in present GST rate.
21.	Agar Agar	13023100	18%	Nil	<ol style="list-style-type: none"> 1. Agar Agar is a jelly-like substance, obtained from red algae. 2. Agar Agar is a substitute for Gelatin [HS 3523] which is also at 18% GST Rate. Hence, special treatment for Agar Agar may not be desirable. 3. Agar Agar is under sub heading [1302 31 00]. In GST, the entire heading 1302 is at 18% GST rate. Special treatment of Agar may not be desirable.

					4. Fitment Committee does not recommend any reduction in present GST rate.
22.	Kendu (Tendu) leaves	14049010	18%	5%	<ol style="list-style-type: none"> 1. Tendu leaves have been discussed in the 14th and 15th GST Council Meeting. 2. Fitment Committee had proposed the GST rate of 28% on Bidi taking into account the fact that the total tax incidence on Bidi was 25.68% (Central Excise duty - 3.72%; Weighted average VAT rate - 19.46%; CST, Octroi, etc - 2.5%). 3. Tendu leaves were decided by the GST council to be taxed at 18% in the 15th GST Council meeting. 4. This was done due to the fact that the entire quantity of tendu leaves was sold by the Forest Produce Corporation, a Government Undertaking, and if tendu leaves was taxed higher rate, a large part of tax would be collected at the first point of sale; otherwise a lot of tendu leaves would go to the unorganised sector and no revenue would accrue from such supplies. 5. As Tendu leaves are for Bidi, there may not be significant justification for reducing GST. As such it is part of ITC value chain. 6. Fitment Committee does not recommend any reduction in present GST rate.
23.	Sheekakai, Soapnuts	14049090	5%	0%	<ol style="list-style-type: none"> 1. Most goods under heading 1404 are under nominal GST rate of 5%. 2. Small dealers can avail threshold/composition scheme. 3. The request to reduce rate on soapnuts has been discussed in the Fitment Committee before 25th GST Council meeting and placed before the Council which did not recommend any change in rate. 4. Fitment Committee does not recommend any reduction in present GST rate.
24.	Katha for Paan Chewing	14049050	18%	Nil/ 5%	<ol style="list-style-type: none"> 1. Katha is a processed vegetable extract used as a food additive, astringent, tannin, and dye. It is extracted by boiling acacia tree wood in water and evaporating the extract. 2. GST rate on Katha is at par with GST rate on Tendu leaves at standard rate of 18%. Thus, it is not considered a demerit good but is at standard GST rate. 3. All items of heading [HS 1404 90] are at 5% except as under

					<p>a) [1404 90 10] (Bidi leaves) and [1404 90 50] (Katha) are at 18%.</p> <p>b) [1404 90 40] (Betel leaves) and [1404 90 60] (Coconut Shell, unworked) which are exempted from GST.</p> <p>4. Hence, there is similar treatment of Katha and Tendu Leaves. Katha is mainly used with pan and has limited application in ayurvedic medicine.</p> <p>5. Fitment Committee does not recommend any reduction in present GST rate.</p>
25.	<p>1. Superior Kerosene Oil supplied through PDS</p> <p>2. Palmolein Oil supplied through PDS</p>	27, 1511	5%	Nil	<p>1. Palmolein Oil attracts a GST rate of 5%.</p> <p>2. Supreme Kerosene Oil for Public Distribution System attracts a GST rate of 5% otherwise the GST rate is 18%.</p> <p>3. End used based exemptions under GST are generally not granted and SKO has been granted a concessional rate of 5%.</p> <p>4. Liquified Petroleum Gas for domestic consumers is at 5%. Both of them are similarly placed items. LPG is a cleaner fuel then Kerosene and the Government under the Pradhan Mantri Ujwala Yojna is promoting LPG for poor households.</p> <p>5. Fitment Committee does not recommend any reduction in present GST rate as concessional rate is already prescribed.</p>
26.	Margarine	1517	18%	5%	<p>1. Margarine is a high fat food that is made by processing of edible oils</p> <p>2. Margarine is considered as an unhealthy fat.</p> <p>3. Drop in consumption level of Vanaspati and other allied products i.e. Bakery Shortening and Margarine may be due to the change in consumer preferences for healthier alternatives.</p> <p>4. Reduction in GST rate to boost consumption of a high fat product is not advisable.</p> <p>5. The request to reduce rate on margarine was put up to the Council (28th Meeting) but was not recommended.</p> <p>6. GST Payable for the 2018-19 for the heading 1517 was about ₹1500 Cr.</p> <p>7. Fitment Committee does not recommend any reduction in present GST rate.</p>
27.	Palmyrah Sugar	1702 or 1704	5%	Exemption	<p>1. Sugar in general attracts 5% GST. Exemption creates distortion.</p> <p>2. The issue was discussed in the GST Council (31st Meeting) but was not recommended.</p>

					3. Fitment Committee does not recommend any reduction in present GST rate.
28.	Fruit Based Confectionery containing fruit Pulp including candied papaya	19	18%	5%	<ol style="list-style-type: none"> 1. Confectionary had pre-GST tax incidence of 23.81%. 2. This issue has earlier been taken by the GST Council in the 16th meeting and no change was recommended. 3. Considering items like biscuits also attract 18%, similar rate on confectionary may be reasonable. 4. Items like chakki, gajak etc. are already at 5%. 5. Fitment Committee does not recommend any reduction in present GST rate.
29.	Food items made from Khandsari like mishri, batasha, bura	1704	5%	0%	<ol style="list-style-type: none"> 1. Bura, Mishri and Batasha are kept at nominal 5% at concessional rate whereas other sugar products at 18%. 2. These items are value added products made out of khandsari sugar which is exempt from GST. Their production is done in organised scale. 3. Further, small manufacturers may tax benefit of threshold exemption/composition scheme. 4. Fitment Committee does not recommend any reduction in present GST rate.
30.	Vermicelli, Pasta and Macaroni	1902	12%	5%	<ol style="list-style-type: none"> 1. Pasta has been kept at 12% based on the pre-GST tax incidence of 6% Central Excise duty and 5% VAT (earlier Pasta was at 18%) 2. Production of Pasta and Macaroni requires substantial value addition and thus, market price of 1 kg of Pasta/Macaroni is much higher than market price of 1 kg of constituent food grains. 3. The request to reduce GST rate on pasta has been placed before the GST Council (31st Meeting). No recommendation to change GST rate was made. 4. Fitment Committee does not recommend any reduction in present GST rate.
31.	Breakfast cereals	1904	18%	12%	<ol style="list-style-type: none"> 1. The issue was discussed in the Fitment Committee meeting and the recommendations were placed before the GST Council in its 28th and 31st meeting. 2. The Fitment at that time made the following recommendations: <ol style="list-style-type: none"> a. Processed food items, in general, are kept at 18% based on their pre-GST tax incidence. b. Inputs for making breakfast cereal such as Wheat, Maize, and other cereals are generally at nil rate of duty.

					<p>c. There is a substantial value addition in value in making breakfast cereals.</p> <p>d. Hence, Fitment Committee did not recommend any reduction in present GST rate</p> <p>3. The above recommendations were accepted by the GST Council.</p> <p>4. Fitment Committee does not recommend any reduction in present GST rate.</p>
32.	Bakery products	1905	18%	5%	<p>1. Bread is already Nil rated.</p> <p>2. Rusk is at 5%.</p> <p>3. Biscuits like cakes are produced by organised industry are at par at 18%.</p> <p>4. The request to reduce GST on bakery products was discussed in the 17th GST Council meeting where Council did not agree to reduce the already approved rate of 18% for cakes as benefit of reducing rates would go to organised bakery industry which was not warranted.</p> <p>5. This issue has been deliberated extensively earlier. (25th and 28th Meeting of GST Council) But no change was agreed to.</p> <p>6. As per FSSAI guidance document regarding food safety and management systems with respect to Bakery and Bakery products, market size of bakery Industry in India was \$7.5 Billion (or Rs 48750 Cr at then exchange rate) in 2015.</p> <p>7. Any change in GST rate on bakery products would lead to request for rate reduction in biscuits industry too.</p> <p>8. Fitment Committee does not recommend any reduction in present GST rate.</p>
33.	Biscuit	1905	18%	12%	<p>1. The GST Council had discussed the issue of GST rates in detail and recommended 18% GST rates on them.</p> <p>2. Under the Central Excise regime, biscuits were taxed at two rates.</p> <p>a. The low-priced biscuits (per kg equivalent Retail Sale Price not exceeding Rs. 100 per kg.) were exempted. However, such biscuits had embedded excise duty and service tax. This attracted VAT at the rate of 14.5% and with CST, Entry Tax, Octroi; etc. The tax incidence was about 20.6% with Octroi etc. and 18.1 % without Octroi etc.</p> <p>b. Biscuits, for which retail sale price exceeded Rs.100 per Kg, the Central Excise</p>

					<p>duty was 6% provided no CENVAT credit is taken. Considering the tax incidence of Central Excise duty of 6%, VAT of 14.5% and adding embedded tax on account of post-clearance Service Tax (about 0.14%), tax on inputs (ITC not allowed) and CST, Entry Tax, Octroi, etc. (about 2.50%), the tax incidence came out to about 23.11 %.</p> <ol style="list-style-type: none"> 3. The GST council had discussed the issue of GST rates in detail and recommended 18% GST rates on them. 4. Unlike Central Excise where the duty was collected at the place of removal usually factory gate, GST is a multistage tax and such price-based values would be difficult to administer. 5. The issue of reducing the GST rates on these products was discussed in the GST Council (20th, 21st, 22nd, 25th, 28th and 31st Meeting but the change was rate was not recommended by the Council. 6. Biscuits are manufactured in the organized sector as well as by bakeries etc. Having two different slabs for biscuits based on the selling price will be prone to evasion. 7. Fitment Committee does not recommend any reduction in present GST rate.
34.	Rusk	19054000	5%	Nil	<ol style="list-style-type: none"> 1. The matter of Rusk was discussed in detail in the 25th GST Council meeting held on 18th January 2018 and the Fitment Committee did not accept the requests on the following grounds: - <ol style="list-style-type: none"> a. In order to achieve the larger goal of a single rate GST, it may not be appropriate to tweak GST rates of goods which are already at 18% or below. b. Rusk is already at 5%. c. No change. 2. Fitment Committee does not recommend any reduction in present GST rate as rusks unlike bread are not a staple dietary item.
35.	Preserved Mushroom	2003	12%	0%	<ol style="list-style-type: none"> 1. Mushroom provisionally preserved under heading 0711 are exempt from GST. 2. Only Mushroom in heading 2003, which refers to Mushroom and truffles, prepared or preserved otherwise than by vinegar or acetic acid, is at concessional GST rate of 12%.

					<p>3. This is in line with tax on other processed food items in chapter 20 (2001 to 2009) all of which are at 12% concessional GST rate.</p> <p>4. Fitment Committee does not recommend any reduction in present GST rate.</p>
36.	Pickles, different Chatni powders, Vadagama and Vathal	20	12%/5 %	Nil	<p>1. Pickles and Chatni powders</p> <p>a) In the 14th GST Council Meeting held on 18th – 19th May, 2017, it was decided to levy 18% GST rate on pickles.</p> <p>b) Thereafter the GST Council again discussed the matter of GST rates on pickles in 16th GST Council Meeting held on 11 June 2017 and recommended 12% GST on pickle along with other goods based on the pre-GST tax incidence.</p> <p>c) Pickle industry has significant organised players in urban areas.</p> <p>d) The issue of reduction of GST rate on pickle has also been discussed in the GST Council (31st Meeting) and was not accepted by the GST Council.</p> <p>e) The products like pickle was exempted under erstwhile KVAT Act and Chatni powders were liable to tax at 5.5% under VAT.</p> <p>f) Small manufacturers can make use of threshold exemption and composition scheme.</p> <p>g) Fitment Committee does not recommend any reduction in present GST rate.</p> <p>2. Vadagam and Vathal</p> <p>a) Unbranded edible preparation, in general, attract 5% GST.</p> <p>b) Vadagam and Vathal already attract concessional GST rate of 5%</p> <p>c) The issue of GST exemption to Vadagam and Vathal was tabled before the 31st GST Council Meeting dated 22nd Dec 2019 and was not recommended by the GST Council.</p> <p>d) Fitment Committee does not recommend any reduction in present GST rate.</p>
37.	All Fruits and Vegetables based food products	20	12%	5%	<p>1. Processed foods under chapter 20 in general attract 12% GST rate. This rate has been decided based on the pre-GST tax incidence of such items.</p> <p>2. The Central Excise duty on these products was 6% and the weighted average VAT was around</p>

					<p>5% and hence these goods have been kept at 12% GST rates.</p> <p>3. As inputs like fruits and vegetables are out of GST, the cost of such inputs to the processing industries is less than what it would have been have they been under levy of GST. Further, the industries involved in manufacturing processed food products can still utilize credit of input services used to make such products.</p> <p>4. The issue of rate reduction of processed food items has already been deliberated by the fitment committee before the GST council (31st meeting). GST rate reduction was not recommended.</p> <p>5. Fitment Committee does not recommend any reduction in present GST rate.</p>
38.	Coffee when sold by Girijan Cooperative Cooperation Limited exempt from GST.	210111, 210112	18%	0%	<p>1. Coffee beans, not roasted is already exempt from GST.</p> <p>2. Coffee, roasted including husks, skins and substitutes under chapter 0901 is at minimum GST bracket of 5%.</p> <p>3. Roasted chicory and other roasted coffee substitutes, and extracts, essences and concentrates thereof are at concessional rate of 12%.</p> <p>4. GST on Extract, essence and concentrates of coffee has already been reduced from 28% to standard GST rate of 18% by the Council (21st Meeting).</p> <p>5. Reducing the GST rate any further, of Extract, essence and concentrates of coffee under chapter 21 may not be desirable as such coffee is primarily sold by multinational brands and the benefit of lower tax rate might not get passed on to the consumers. Also extract, essence and concentrates of tea are also taxed at 18%.</p> <p>6. Further, most goods in chapter 21 are taxed at 18% except a few specific items like diabetic foods, chicory coffee, namkeen, soya-bari etc which are at concessional rate of 12%. This is because such items are primarily produced by small scale industry.</p> <p>7. This issue has been placed before the GST Council (25th meeting) and was not recommended by the Council.</p> <p>8. Fitment Committee does not recommend any organisation based exemption in GST.</p>

39.	Pre-mixed coffee	21011110, 21011120	18%	5%	<ol style="list-style-type: none"> 1. GST on Extract, essence and concentrates of coffee has already been reduced from 28% to standard GST rate of 18% by the Council (21st Meeting). 2. Reducing the GST rate any further, of Extract, essence and concentrates of coffee under chapter 21 may not be desirable as such coffee is primarily sold by multinational brands and the benefit of lower tax rate might not get passed on to the consumers. Also extract, essence and concentrates of tea are also taxed at 18%. 3. Further, most goods in chapter 21 are taxed at 18% except a few specific items like diabetic foods, chicory coffee, namkeen, soya-bari etc which are at concessional rate of 12%. This is because such items are primarily produced by small scale industry. 4. Fitment Committee does not recommend any reduction in present GST rate.
40.	Baker's Yeast	21021020	12%	5%	<ol style="list-style-type: none"> 1. Baker's yeast is a commercial preparation consisting of dried cells of one or more strains of the fungus <i>Saccharomyces cerevisiae</i>, used as a leavening in baking. It is produced on industrial scale. It is already at concessional GST rate of 12%. 2. The GST rate has been fixed on the pre-GST tax incidence on these goods. 3. Further, all goods in [HS 2102] attract 12% GST. 4. The request to reduce GST on baker's yeast has already been put before the GST Council (28th and 31st meeting) and has not been recommended. 5. Fitment Committee does not recommend any reduction in present GST rate.
41.	Fried Gram	2106	5%/12 %	0%	<ol style="list-style-type: none"> 1. Fried gram is a ready to consume value added product unlike pulses, which are used by common man as a staple food item. 2. Fried gram is also being marketed as a namkin by major brands. 3. There is a substantial value addition in making fried gram by way of mechanical processes, which change the physical character of the input. 4. Similar products like Namkeens, bhujia, mixture, chabena and similar edible preparations in ready for consumption form

					<p>attract 12% GST when sold in a unit container bearing a registered brand name and 5% GST rate otherwise.</p> <ol style="list-style-type: none"> 5. Fried gram cannot be equated with puffed rice or parched rice. 6. This issue of exemption for fried gram was placed before the GST Council (25th meeting), which decided that for sake of uniformity same rate may be considered on both fried and roasted grams and before proceeding further. 7. Further, the request to reduce GST on fried gram was again placed before the GST Council in the GST Council (31st meeting), however the council did not recommend the change in rate. 8. Fitment Committee does not recommend any reduction in present GST rate.
42.	Roasted Groundnut	2008	12%	5%	<ol style="list-style-type: none"> 1. All processed food products in chapter 20 are at 12% rate. 2. Present GST rate on Roasted groundnut is as per pre-GST tax incidence. 3. There is adequate protection in GST for small suppliers. Such small suppliers are covered under turnover threshold exemption from GST. Further, small suppliers can opt for the composition scheme and pay tax at the rate of 1% of the turnover. This limit for the composition scheme has been increased by GST Council to Rs 1.5 Crore. 4. Fitment Committee does not recommend any reduction in present GST rate.
43.	Nannari Sarbath	21069011	18%	12%	<ol style="list-style-type: none"> 1. Nannari Sarbath is a drink made from Nannari, lemon juice, sugar and water. Nannari Syrups are also commercially available. 2. Nannari also known as Hemidesmus indicus, Indian sarsaparilla, is a shrub that is found in different parts of India. 3. The product is classified as a Sherbet and would be classifiable under 21069011. This tariff item is at 18% rate as per serial No 23 of schedule III of notification 1/2017-Central Taxes (rate) dated 28.06.2017 (except some specific items like khakra, roti, sweetmeats etc. which are at lower rate. 4. Fitment Committee does not recommend any reduction in present GST rate.
44.	Malabar Parantha	2106	18%	5%	<ol style="list-style-type: none"> 1. The Council in 22nd meeting recommended 5% GST on Khakra and Roti. This brought these

					<p>products at par with rusk, pizza bread, Seviyan, sabudana.</p> <ol style="list-style-type: none"> Khakra is a thin cracker, made from mat bean, wheat flour and oil' and ingredients are similar to Malabar parantha. However, unlike "Khakra, Chapathi or Roti", the Malabar Parantha is also sold by organized sector in frozen form. Fitment Committee does not recommend any reduction in present GST rate.
45.	All Convenience Instant food mixes such as – Idli Mix, Vada Mix, Dosa Mix, Gulab Jamoon Mix, Thandai mix, Payasam Mix, Uma Mix, etc.	21 06	18%	5%	<ol style="list-style-type: none"> The present rate structure for chapter 21 has evolved after several deliberations in the GST Council meetings. The processed food items in general attract 12%. Few processed items including instant food mixes attract 18% in view of nature of such items. These items are mainly consumed by better off section of the society who can afford the standard rate of GST. GST on Idli Dosa Batter has already been reduced from 18% to 12% in the 28th GST Council meeting. Further, instant food mix products are manufactured by large corporations and any reduction in rate may not be passed on to consumers but may lead to profiteering. The issue was discussed in the Fitment Committee meeting and the recommendations were placed before the GST Council in its 16th, 25th and 31st meeting. The Fitment made the following recommendations: <ol style="list-style-type: none"> These have been kept at 12%/18% based on the pre-GST tax incidence. Hence, Fitment Committee does not recommend any reduction in present GST rate. The above recommendations were accepted by the GST Council Fitment Committee does not recommend any reduction in present GST rate as these are value added products.
46.	Texturized vegetable protein (Soya Bari)	2106	12%	Nil	<ol style="list-style-type: none"> Processed foods in general attract 12% GST rate. All pulse baris like Soyabari and Mungodi are already at concessional 12% GST based on the fitment committee recommendation before 16th

					<p>GST Council Meeting which was accepted by the Council.</p> <ol style="list-style-type: none"> Small supplier is entitled to threshold exemption/composition. With regards to malnutrition in poorer section is concerned, there is no GST on unbranded pulses and minimal GST rate of 5% on branded pulses which can be directly consumed by poorer section for protein deficiency. Other semi processed vegetable products which are made by small scale industry like namkeen, Sauces, Chicory Coffee are also at 12% rate. Reduction in rate of soyabadi will also lead to requests for reduction of other similar items at 12% rate as well. Fitment Committee does not recommend any reduction in present GST rate.
47.	Chips, Mixture, Murukku (unbranded)	2106	12%	5%	<ol style="list-style-type: none"> Mixture and murukku already at 5% Chips is high value commercial finished goods The issue was placed before the GST Council (31st meeting) but was not recommended. Hence Fitment Committee does not recommend any change in present GST.
48.	Sweet Scented Supari	21069030	18%	5%	<ol style="list-style-type: none"> Pre-GST supari attracted Central Excise duty at the rate of 12.5%. The weighted average VAT rate was around 5%. Therefore, based on the pre-GST tax incidence the rate for supari was kept at 18%. Reducing the GST rates on betel nuts (supari) would reduce protection to the domestic suppliers vis-à-vis the imports. The same request has not been considered by the GST Council (31st Meeting) Fitment Committee does not recommend any reduction in present GST rate.
49.	Fruit based Sauces, Fruit Syrups	2103, 21069040	12%	5%	<ol style="list-style-type: none"> Processed foods in general attract 12% GST rate. The rates were fixed based on the pre-GST tax incidence on these articles. Most similarly placed goods have been placed at a uniform rate of 12%. Further, reduction will result in request for other goods also. Fitment Committee does not recommend any reduction in present GST rate.
50.	Purified Water	2201	12/ 18	Nil or 5%	<ol style="list-style-type: none"> Mineral water caters only to affluent section of the society which can afford to pay tax on the product.

					2. Fitment Committee does not recommend any reduction in present GST rate.
51.	Ice cubes for use in the fisheries industry	22019010	5%	Nil	<ol style="list-style-type: none"> 1. The GST rates have been fixed on the basis of pre-GST tax incidence. The commodity attracted nil Central excise duty and 5% VAT. Therefore, the GST rates have been fixed accordingly. 2. Ice Cubes have other applications also and granting end used based exemption for the marine industry would be difficult to administer and may lead to evasion. 3. 5% rate is beneficial for the industry as they can pass through the input taxes. Nil tax distorts tax structure. 4. The issue was placed before the council (31st meeting) but was not recommended. 5. Fitment Committee does not recommend any reduction in present GST rate.
52.	Carbonated beverage with fruit juice	220210	28%+cess	12% as fruit juice	<ol style="list-style-type: none"> 1. Average pre-GST tax incidence on such goods was about 40%. 2. Keeping in view the pre-GST tax rates, the Council has recommended 28% GST rate and 12% Compensation Cess on Aerated waters containing added sugar or other sweetening matter or flavoured (including lemonade). 3. Earlier, the Committee of Secretaries (CoS) in a meeting held on 29.08.2016 did not agree to the proposal of MoFPI to provide concessional rate of excise duty @ 6% for aerated drinks having fruit juice content of not less than 5% procured from domestic manufacturers. 4. The issue regarding separate classification was earlier examined during the 28th GST Council meeting but the Fitment Committee did not agree with the proposal keeping in mind the domestic fruit processing Industry. 5. Fitment Committee does not recommend any reduction in present GST rate.
53.	Unbranded aerated drinks	220210	28%+12%	12%	<ol style="list-style-type: none"> 1. These items fall under High Fat, Salt and Sugar (HFSS) category for which a reference has been received from the Ministry of Health for increase in GST rates. 2. WHO has urged global action and to curtail consumption and health impacts of sugar drinks. 3. Hence, the highest GST rate of 28% and cess on sugar sweetened drinks is in line with the global as well as national policy on such items. Items

					<p>like mineral water are at 18% hence, as this is a value-added product, higher rate is justified.</p> <ol style="list-style-type: none"> Small manufacturers can avail benefit of threshold exemption / Composition scheme. Fitment Committee does not recommend any reduction in present GST rate.
54.	Other Flavoured Water	22021090	28% + 12% Cess	28%	<ol style="list-style-type: none"> The issue has been discussed in the fitment committee to the 31st GST Council Meeting and was placed before the GST Council which did not recommend any change in rates of unbranded beverages. These items fall under High Fat, Salt and Sugar (HFSS) category for which a reference has been received from the Ministry of Health for increase in GST rates. This proposal has significant revenue implication. Fitment Committee does not recommend any reduction in present GST rate.
55.	Fruit Pulp or Fruit Juice based drinks	22029920	12%	5%	<ol style="list-style-type: none"> Fruit Pulp or fruit juice-based drinks are already at concessional rate of 12%. These products are produced by many multinational companies also, which are involved in manufacturing and marketing these products. These fall under High Fat, Salt and Sugar (HFSS) category for which a reference has been received from the Ministry of Health for increase in GST rates. Even coconut water (branded) which is at par with these products is at 12% GST rate. This proposal has significant revenue implication. Fitment Committee does not recommend any reduction in present GST rate.
56.	Flavoured Milk	22029030	12%	5%	<ol style="list-style-type: none"> The product is already at concessional GST rate of 12% at par with nutritional products such as soya milk drinks, fruit juice and branded coconut water. The request for GST rate reduction had been placed before the Council (31st Meeting) but was not agreed to. Fitment Committee does not recommend any reduction in present GST rate.
57.	Coconut Water	2202 9090	12%	5%	<ol style="list-style-type: none"> Coconut water not in Unit container at nil GST Otherwise it attracts a concessional GST rate of 12%

					<ol style="list-style-type: none"> 3. Pre-GST tax incidence is 6% excise + 5% Vat + 2% CST = 13% 4. Small manufacturers may take benefit of composition scheme/ GST Threshold limit. 5. This has been placed before the GST Council (31st Meeting) but not agreed to. 6. Fitment Committee does not recommend any reduction in present GST rate.
58.	Extra Neutral Alcohol (ENA)	2207	18%	12% or 5%	<ol style="list-style-type: none"> 1. The state of UP requested that the issue of the applicability of GST on ENA be clarified. 2. The issue is before the GST Council for a final decision. 3. In the interim period, the states may go by the decision of the GST Council as recorded in the minutes.
59.	Rice-bran	2302	5%	0%	<ol style="list-style-type: none"> 1. Rice bran is basic raw material for rice bran oil. 2. Oil seeds and vegetable oils attract 5% GST. 3. Differential rates on rice bran, depending on intended use, is prone to misuse. 4. Fitment Committee before the 25th GST Council meeting recommended: <ol style="list-style-type: none"> a. 5% GST on rice bran (as rice bran is an intermediate product for oil) and b. Nil GST on de-oiled rice bran 5. This recommendation was accepted by the GST Council in its 26th meeting. 6. Further, in most states, rice bran was not exempt in pre-GST period. 7. Nil GST will break the ITC chain and increase costs. 8. Issue of rate reduction was discussed in GST Council (31st meeting) and was not recommended for duty reduction. Fitment Committee does not recommend any reduction in present GST rate.
60.	Soya bean Oil cake and cake	2304	Oil Cake taxable at 5% De-oiled cake exemption	Exempt	<ol style="list-style-type: none"> 1. Oil cakes are taxed at nominal GST rate of 5% whereas de-oiled cakes are exempted. 2. Oilseeds are also taxed under the GST. 3. Allowing exemption on Oilseeds and Oil Cakes, which are inputs on the Edible Oil Industries is not desirable and has significant revenue implication. 4. The issue of exemption to oil cakes was placed before the GST Council (31st Meeting) but was not recommended. 5. Fitment Committee does not recommend any reduction in present GST rate.

61.	Aqua feed supplements- vitamins, vitamins and hormones	2936	18%	Nil	<ol style="list-style-type: none"> 1. The issue has been clarified by issuance of the circular No. 80/54/2018-GST dated 31.12.2018. 2. HS code 2936 covers vitamins and provitamins which are medicinal in nature and have much higher concentration of active substance. 3. These items have much higher volume of usage outside their use as supplements in animal feeds and thus cannot be exempt as such. 4. Fitment Committee does not recommend any reduction in present GST rate.
62.	Cotton seed oil cake	2306	Nil	5%	<ol style="list-style-type: none"> 1. Pre-GST, States levied 5% VAT on oil cakes in general, irrespective of its use, except in case of cotton seed oil cake which attracted Nil VAT. 2. Cotton seed oil cake is generally used as cattle feed. Thus, in the 21st GST Council meeting, rate on cotton seed oil cake was reduced from 5% to Nil based on various representations from trade. 3. Fitment Committee does not recommend any reduction in present GST rate.
63.	Neem oil cake	23069018	5%	Nil	<ol style="list-style-type: none"> 1. Neem cake is used as a cattle feed and as an organic fertilizer (Manure). 2. Currently all oil cakes under Chapter 23 attract a GST rate of 5%. Granting exemption to this particular oil cake will lead to similar requests for other oil cakes. 3. Small scale suppliers can avail benefits of threshold exemption and composition scheme. 4. Fitment Committee does not recommend any reduction in present GST rate.
64.	Tobacco Stalk, bud, midrib and lamina	2401	5%	Clarification	<ol style="list-style-type: none"> 1. As per entry 13 of IV Schedule of notification No 1/2017-Central Tax (Rate) dated 28.06.19, Unmanufactured tobacco and tobacco refuse [other than tobacco leaves] is at 28% GST. The definition of tobacco leaves was clarified vide Sl. No. 42 of F.No.332/2/2017-TRU dated Dec 2017 wherein it was clarified as under <i>“for GST rate of 5% tobacco leaves means, leaves of tobacco as such or broken tobacco leaves or tobacco leaves stems.”</i> Thus, GST rate for tobacco refuse (except tobacco leaves) is 28%. 2. Fitment Committee does not recommend further clarification on the issue.
65.	Natu Tobacco Cheroot [2402]		28% GST +21% or Rs.	28% GST	<ol style="list-style-type: none"> 1. It is a tobacco product. GST rates has been prescribed on the basis of pre-GST incidence,

			4170 per thousand, whichever is higher (Cess)		<p>where they attracted central excise duty on par with Cigarettes.</p> <ol style="list-style-type: none"> This is product injurious to health and thus are demerit goods. The proposal to reduce rate on Cheroot was placed before the 23rd GST Council meeting while conducting a review of list of goods to be revise from 28% rate. However, the Council did not propose any reduction in rate. Further, the proposal was again placed before the GST Council in its 25th Meeting and 31st meeting on and the Council did not approve any reduction in duty. Fitment Committee does not recommend any reduction in present GST rate.
66.	Bidi	24031921, 24031929	28%	18%	<ol style="list-style-type: none"> Cess on bidi was deliberated in detail in the 15th GST council meeting. Hon'ble Ministers from Madhya Pradesh, West Bengal, Kerala, Telangana, Odhisa, Jharkhand had opposed cess on bidi. Hon'ble Minister from Karnataka said no difference should be made in the tax rate for cigarette and bidi. Chairperson suggested that tendu leaves could be taxed at the rate of 18% under reverse charge and bidi could be taxed at the rate of 28%. The Council agreed to this suggestion. Further, rate of GST on bidi has been deliberated in detail in the 15th GST council meeting and it is as per the pre-GST tax incidence of about 25.68%. 28% with no cess is the lowest rate for any tobacco product. Considering the nature of the product there may not be much justification to reduce it below 28%. The request to reduce rate on Bidi from 28% to 18% has been examined by Fitment Committee before the GST Council (25th and 31st meeting) and rejected by the Fitment Committee. This recommendation was placed before the GST Council and was accepted. Any rate reduction will have significant revenue implication. Fitment Committee does not recommend any reduction in present GST rate.
67.	LPG supplied by Madras Gas	2711	5%	Nil	<ol style="list-style-type: none"> The GST rate on LPG cylinders is a concessional 5%. Exemption from GST has not

	Agency to its customers				<p>been even granted to consumers below the Poverty line.</p> <ol style="list-style-type: none"> LPG is already heavily subsidized and the revenue implication per family would be very little and can be afforded by the army personnel. Further end use-based exemptions such as this if given to the Madras Gas Agency would lead to similar requests from other such organizations. Fitment Committee does not recommend any reduction in present GST rate. 						
68.	Marble Rubbles	2515 11 00	5% w.e.f 1.1.19	5% [1.7.17 to 31.12.18]	<ol style="list-style-type: none"> The request was placed before the GST council during its 31st meeting held on 22nd December, 2018. However, the Council granted prospective exemption only. Grant of such exemptions from a retrospective date may lead to similar requests for other goods. Fitment Committee does not recommend any reduction in present GST rate. 						
69.	Coal	2701	Compensation Cess at Rs. 400 PMT	Nil/ Levy on ad-valorem basis instead of specific basis	<ol style="list-style-type: none"> Compensation Cess @ Rs. 400 PMT on coal was fixed on the basis of earlier Clean Energy Cess incidence at similar rate. This amount was fixed on the recommendation of the GST Council. The details of Compensation Cess payable for the last two financial years is as follows: <table border="1" data-bbox="885 1265 1412 1400"> <thead> <tr> <th>Item</th> <th>2017-18</th> <th>2018-19</th> </tr> </thead> <tbody> <tr> <td>Compensation Cess on Coal</td> <td>30520</td> <td>35523</td> </tr> </tbody> </table> There does not seem to any difference with regard to the cost of coal from the pre-GST period due to this Compensation Cess. Fitment Committee does not recommend any reduction in present GST rate. 	Item	2017-18	2018-19	Compensation Cess on Coal	30520	35523
Item	2017-18	2018-19									
Compensation Cess on Coal	30520	35523									
70.	Stone, Granite and Marble Blocks and Finished tiles	6802	12%/18 %	5%/12%	<ol style="list-style-type: none"> The present GST rates on Marble and Granite blocks is at 12% while finished Marble and Granite slabs attract 18% rate. These rates were fixed, taking into consideration the pre-GST tax incidence. The BCD on marble blocks and slabs is presently at 40%, while granite blocks and slabs attract 40% and 20% BCD respectively. There is already substantial differential in favour of domestic producers. 						

					4. Fitment Committee does not recommend any reduction in present GST rate.
71.	Supply of LPG by refiners/fractionators to OMC for Domestic Use	2711	5%	Clarification	<ol style="list-style-type: none"> 1. The issue is sub judice vide SCA No. 2699 of 2019 in Gujarat High Court and therefore it is not proper to issue a further clarification at this stage against Show Cause Notice issued by Gujarat State Commercial Tax Department. 2. Fitment Committee does not recommend issue of any clarification.
72.	Solid biofuel pellets	Any Chapter	5%	0%	<ol style="list-style-type: none"> 1. Biofuel pellets already attract nominal GST rate of 5% vide notification No. 18/2018- Central Tax (Rate) dated 26.07.2018. 2. They can be used as fuels for power generation, commercial or residential heating, and cooking. The user of these products can take input tax credit on these products. 3. Fitment Committee does not recommend any reduction in present GST rate.
73.	Transfer of intermediate streams like Vacuum Gas Oil (VGS) / Reformates	27	18%	0%	<ol style="list-style-type: none"> 1. The issue was discussed in 31st GST Council meeting and the request was not considered. 2. This issue has arisen because the final product is not covered under the GST regime and therefore the ITC of input would become part of the cost of the final product. 3. As the issue could be resolved only if concession for this particular item is given when supplied to distinct person and end-user-based exemption will be very difficult to administer. 4. The revenue implication as far as OMCs are concerned is not significant. This distortion will be resolved when petroleum products would be brought under GST. 5. Fitment Committee does not recommend any reduction in present GST rate.
74.	Bunker Fuel	27	5%	Nil	<ol style="list-style-type: none"> 1. The GST rates on Bunker fuels IFO 180 and IFO 380 was reduced on the recommendations of the GST Council from 18% to 5%. 2. The issue was discussed during the 31st meeting of the GST Council but it was not accepted as it was felt that the product already attracted a low GST rate of 5%. 3. Data/ info received from IOCL, BPCL and HPCL does not indicate any change in pattern of sale. The total supply of Bunker Fuel to coastal vessels has increased from 202 Thousand MT

					<p>(TMT) to 259 TMT in 2017-18 and 320 TMT in 2018-19 respectively. Similarly, the total supply of Bunker Fuel to Foreign run vessels has increased from 382 TMT in 2016-17 to 394 TMT in 2017-18 and to stabilised around 374 to 2019-20.</p> <p>4. Reduction of GST from 5% to Nil would entail reversal of ITC. Thus, additional cost to companies.</p> <p>5. Therefore, Fitment Committee does not recommend any reduction in present GST rate.</p>
75.	Liquid Nitrogen	28043000	18%	5%	<p>1. Liquid Nitrogen is used in industrial applications and in cryo preservation also. It is also utilized in food preparation such as making ultra-smooth ice cream.</p> <p>2. Thus, liquid Nitrogen is significantly used in a number of industries with very little usage for preserving semen. Therefore, granting end use base exemption will be difficult to administer.</p> <p>3. Further, exempting liquid nitrogen is not possible without exempting Nitrogen gas itself as HS [28043000] includes nitrogen gas in all states.</p> <p>4. This proposal was examined by Fitment Committee before 31st GST Council Meeting and was not accepted by the Fitment Committee.</p> <p>5. Therefore, Fitment Committee does not recommend any reduction in present GST rate.</p>
76.	Methanol	290511 00	18%	5%	<p>1. Methanol is used for various downstream industries such as Acetic acid, Formaldehyde, Dimethyl ether, Methyl Tertiary Butyl Ether, Gasoline.</p> <p>2. Methyl Alcohol (Methanol) is a basic feedstock finding applications in paints, resin, adhesives, pigments and dyes.</p> <p>3. Input Tax Credit (ITC) is available for the manufacturers using methanol as raw material.</p> <p>4. All Chemicals are at 18% GST rate and lowering GST rates for methanol will lead to similar requests for GST concession to other intermediary goods and this will lead to distort GST rate chain.</p> <p>5. Hence, Fitment Committee does not recommend any reduction in present GST rate.</p>

77.	Disinfectant Fluids (Phenyl)	29071190	18%	12%	<ol style="list-style-type: none"> 1. Disinfectant Fluid (Phenolic Type Schedule 'O') is classified under tariff item 2907 11 90 (other) and applicable rate of GST is 18%. 2. GST rate for the product has been prescribed in the line of pre-GST tax incidence (Central excise 12.5%+ weighted average VAT-5%). 3. All the organic chemicals are prescribed at GST rate of 18%. Reduction of rate may not be justified merely on the ground that the product is also used in hospitals. End used based exemptions for hospitals would be difficult to administer under GST. 4. Hence, Fitment Committee does not recommend any reduction in present GST rate.
78.	Pharmaceutical products	30	12%	5%	<ol style="list-style-type: none"> 1. GST rate on medicines/ drugs is in line with pre-GST tax incidence. The total tax incidence was more than 13% including 6% excise duty, 5% weighted average VAT and 2.5% CST, entry tax Octroi Etc. 2. All essential drugs as recommended by the Ministry of Health and Family Welfare, attract 5% GST, other medicaments attract 12% GST which is a reasonable rate. Lowering of GST rate further would lead to deepening of inversion. 3. Hence, Fitment Committee does not recommend any reduction in present GST rate.
79.	Nicotine Replacement Therapy products [30]	30	18%	12%	<ol style="list-style-type: none"> 1. During the 28th GST Council, Gujarat had raised the issue of reduction of GST rates on NRT products. Further, the matter was discussed and not recommended in the 31st GST Council meeting. 2. Pre-GST tax incidence was around 11-12%, with the Central Excise rate being 6% and VAT rates being around 5-6%. The product is classified under CTH 3004 90 99. Even lifesaving drugs are at 5% GST rate, therefore, granting exemption to this product would not be proper. 3. Reducing the tax rates would tantamount to promoting the product and even though the product prevents the user from consuming tar it still makes him addicted to nicotine and when the similar products are recommended for prohibition alternative products doing the same thing cannot be promoted by virtue of tax reduction.

					4. Hence, Fitment Committee does not recommend any reduction in present GST rate as the product contains nicotine.
80.	Bandage and Gauze	3005	Clarification		<ol style="list-style-type: none"> 1. Bandage and Gauze are medical dressing items and fall under HSN 3005 (specific entry) and attract 12% of GST rate. 2. Hence, Fitment Committee does not recommend any clarification to be issued.
81.	Chemical Fertilizers	31	5%	Request to consider collection of GST on Chemical Fertilizers at first point sale only.	<ol style="list-style-type: none"> 1. GST is a multistage tax system, wherein tax is collected at multi levels. 2. End use of fertilizers cannot be monitored, if being used in industry then it will disturb ITC chain. 3. Hence, Fitment Committee does not recommend the proposal made.
82.	Organic agriculture inputs	3101	5%	Nil	<ol style="list-style-type: none"> 1. Organic manure other than put up in unit containers and bearing a registered brand name attracts Nil GST rate. 2. Organic manure put up in unit containers and bearing a registered brand name attracts 5% GST rate. 3. Branded organic manure is a value-added product wherein the GST incidence on various input supplies such as advertising, sales, promotions etc. will be available as input tax credit (ITC) for set off against GST payable on output supplies. Even food grains [put up in unit container and bearing a brand name attract 5% of GST. 4. Hence, Fitment Committee does not recommend any reduction in present GST rate.
83.	Perfume (<i>Itra</i>)	3303	18%	5%	<ol style="list-style-type: none"> 1. Cottage industries are entitled to threshold bound exemption if their turnover is less than Rs. 40 lakhs in a financial year. Further, units having turnover up to 1.5crore are entitled to composition scheme wherein tax is prescribed at the rate of 1% of the turnover. 2. Further, the GST rate on perfume has been reduced with effect from 14.11.2017 on the recommendation of the GST Council from 28% to 18%. 3. Segregation between <i>Itra</i> and other perfumes is difficult and grant of concession to <i>itra</i> may result in similar demands from other perfumes.

					4. Hence, Fitment Committee does not recommend any reduction in present GST rate.
84.	Henna-based hair colour and Simple Mehndi	3305	18%	5%	<ol style="list-style-type: none"> 1. Henna leaves (14049090) and Henna powder (12119029) are at 5%. The previous tax incidence was about 13%. 2. Henna paste in cones attract 5% GST but henna-based powder for hair colour is at 18%, as cosmetics (3305 90 40), All the cosmetic items are attracting 18% of GST. 3. Small manufactures are entitled to threshold exemption or composition as the case may be. 4. Hence, Fitment Committee does not recommend any reduction in present GST rate.
85.	Handmade soaps/Soap for washing clothes	3401/3402	18%	5%	<ol style="list-style-type: none"> 1. Soaps and shampoos in general attract 18% GST. Having different rate for same product, based who manufactured it or some specific ingredients, will be difficult to administer in a multi stage tax. 2. Hence, Fitment Committee does not recommend any reduction in present GST rate.
86.	Candles [3406]	3406	12%	0%	<ol style="list-style-type: none"> 1. Mostly raw materials namely wax is at 18% GST rate so any reduction will lead to duty inversion. 2. Candles are already at 12%. Small manufacturers are entitled to threshold exemption or composition as the case may be. 3. Further reducing the GST rates would make the imports of these items cheaper and resulting in loss to domestic manufacturers [as inputs for candle making are all at 18%]. 4. Hence, Fitment Committee does not recommend any reduction in present GST rate.
87.	Fireworks	3606	18%	5%	<ol style="list-style-type: none"> 1. The GST rate on fireworks is in line with pre-GST tax incidence. The pre-GST tax incidence on fireworks included central excise duty of 12.5%, VAT of 14.5% in general and tax incidence on account of CST, Octroi, entry tax, etc. 2. Thus, the pre-GST tax incidence on fireworks was more than 28%. However, the GST rates on Fireworks was reduced to 18% from 28% in 23rd GST council meeting 3. MSMEs can avail Composition scheme, up to Rs. 1.5 crore turnover. 4. Fireworks are demerit goods. 5. Hence, Fitment Committee does not recommend any reduction in present GST rate.

88.	Agricultural Defence Chemicals [Pesticides/ Insecticides etc.]	3808	18%	12%	<ol style="list-style-type: none"> 1. Pesticides in general attract 18% GST, which is as per pre-GST tax incidence [12.5% Central Excise duty + 5% VAT +other taxes]. 2. Specified bio-pesticides attract concessional 12% GST. 3. Micronutrient and plant growth regulators attract 18% GST in line with pre-GST tax incidence. 4. Organic fertilizers (other than put up in unit container and bearing a brand name) attracts Nil GST, organic fertilizers (put up in unit container and bearing a brand name) attracts 5% GST and chemical fertilizers also attract 5% GST rate. 5. There is a significant production of chemical as well as bio-pesticides and insecticides in the country. Imports are also significant. The raw materials used for making insecticides and pesticides would in general attract 18% GST rates. Reducing the GST rates on pesticides and insecticides would place the domestic manufacturers at a disadvantage. 6. Similar requests had been received earlier and were placed before the fitment committee but were rejected. 7. Lower rate lead to inversion (beside revenue loss) inviting request to reduce rates on inputs which are difficult to resist. 8. Hence, Fitment Committee does not recommend any reduction in present GST rate.
89.	Biodiesel	3826	12%	5%	<ol style="list-style-type: none"> 1. 12% is a reasonable rate. Reducing the rate to 5% would bring in the issue of inversion. All manufactured items at 5% are facing the same issue. Such rate structure benefits the importer more than the domestic manufacturer. 2. The entire tax burden of GST on biodiesel gets passed on to the customer. In fact, as the average price of diesel is fixed state wise by the Oil PSUs, the biodiesel which is cheaper than diesel gets priced higher. Therefore, reducing the GST rates on biodiesel would not benefit blending of biodiesel with diesel. 3. Hence, Fitment Committee does not recommend any reduction in present GST rate.
90.	Waste plastic	39	5%	0%	<ol style="list-style-type: none"> 1. All type of plastics items is at 18%. Their raw materials, bulk plastics are also at 18%.

					<ol style="list-style-type: none"> 2. On plastic scrap, GST rate has already been reduced from 18% to 5% to promote re-cycling. 3. Further reduction in the GST rate may not be desirable considering that plastic waste attracts GST at the rate of 5%. 4. Hence, Fitment Committee does not recommend any reduction in present GST rate.
91.	<ol style="list-style-type: none"> 1. Products manufactured out of Re-processed plastic [3915]. 2. Plastic Pipe made out of plastic waste [3917] 	39	18%	5%	<ol style="list-style-type: none"> 1. All type of plastics items is at 18%. Their raw materials, bulk plastics are also at 18%. 2. On plastic scrap, GST rate has already been reduced from 18% to 5% to promote re-cycling. 3. It is not desirable to have differential tax rates on virgin plastic and recycled plastic products as it would be prone to misuse and lead to litigation. 4. Further, these items are intermediate goods and industry can claim ITC. 5. End use-based exemptions are difficult to monitor and prone to evasion. <p>Hence, Fitment Committee does not recommend any reduction in present GST rate.</p>
92.	Goods and services supplied by Board of Radiation and Isotope Technology (BRIT) under Department of Atomic Energy	As applicable	As applicable	Nil	<ol style="list-style-type: none"> 1. Board of Radiation and Isotope Technology (BRIT) supplies goods and services mainly in relation to three sectors namely Food, Health care and Industrial Sector. 2. These may be supported through Budgetary grants. 3. Hence, Fitment Committee does not recommend any reduction in present GST rate.
93.	Silk yarn and silk fabric	5004 to 5007	5%	Nil	<ol style="list-style-type: none"> 1. 5% rate applies to fabrics in general including cotton fabrics. 2. Nil rate will break ITC chain, increase cost of domestic goods and put them to disadvantage vis-a-vis imports. 3. Fitment committee did not recommend any change in GST rate.
94.	Raw cotton	5201	5% [RCM]	Withdraw RCM	<ol style="list-style-type: none"> 1. The GST Council after detailed examination in its 23rd meeting held on 10th November, 2017 recommended to include raw cotton in the specified category of goods the supply of which will be taxed based on reverse charge by way of notification under section 9(3) of the GST act to reduce the differential tax burden between composite units and standalone units.

					2. Fitment committee recommended that status quo may be maintained.
95.	Handloom Sector	Ch.50-55 and 60	Applicable rates	Nil	<ol style="list-style-type: none"> 1. Handloom fabrics already attract lowest GST rate of 5% or nil rate, which was recommended by the GST council keeping in view the sensitivity of the handloom sector. 2. However, some representations have been received in the Ministry of Finance for exempting handloom textiles. 3. Exempting Handloom would require exempting Hank yarn. However, as previous stages are taxed, this would lead to distortion. 4. The threshold exemption for small taxpayers has been increased to Rs. 40 lacs per annum and the limit for availing composition scheme has also been increased to Rs. 1.5 crores per annum to provide relief to small taxpayers like the weavers in handloom sector. 5. Fitment committee recommended no change in GST rate.
96.	Entire Textile sector	Ch. 50-63	Applicable rate	0%	<ol style="list-style-type: none"> 1. The GST rate structure for the textile sector was discussed in detail in the GST Council meeting held on 3rd June, 2017, wherein the Council recommended the detailed rate structure for the textile sector. 2. Nil GST on any manufactured goods puts domestically manufactured goods at a disadvantage vis-à-vis imported goods, as it: - <ol style="list-style-type: none"> (a) Breaks the input tax credit chain, and (b) Results in zero rating of imported goods, while domestic goods continue to bear the burden of input taxes. 3. Also, the threshold exemption for small taxpayers has been increased to Rs. 40 lacs per annum and the limit for availing composition scheme has also been increased to Rs. 1.5 crores per annum to provide relief to small taxpayers like the weavers in handloom sector. 4. Fitment committee recommended no change in GST rate.
97.	Manmade Fibre and MMF raw materials such as Purified Terephthalic Acid (PTA), Monoethylene	5501 to 5509 29053100 29173600	18%	5%	<ol style="list-style-type: none"> 1. In the pre-GST regime Man-Made fibres were already suffering a combined tax incidence of around 18.82% and therefore the GST council decided to fix the rate of GST on Man-made fibre at 18%. 2. To make the textile chain competitive by reducing the input tax accumulation, the GST

	Glycol (MEG) etc.				<p>rate on MMF yarns was reduced from 18% to 12% in October, 2017. Further, in a major step to promote textiles, the restriction on refund of ITC at fabric stage was removed from 1st August, 2018.</p> <ol style="list-style-type: none"> The GST rate on chemicals like PTA, MEG etc. used in manufacturing of polyester fibres was suffering a pre-GST incidence of more than 18%. Therefore, the current rate of GST of 18% on these chemicals is at par with all other chemicals. Fitment committee had a view that the GST rates on MMF sector may be reviewed when the rate structure of entire textile sector is reviewed and no change was recommended by the committee in the present GST rate structure of textiles on MMF and its inputs.
98.	Polyester Staple Fibre and Fibre filled Finished Goods	5503 2000 9404	18%	5%	<ol style="list-style-type: none"> The pre-GST tax incidence on polyester staple fibres was more than 18%. Accordingly, the GST Council recommended a GST rate of 18% on polyester staple fibres. These fibres are mostly produced by large scale units and there are no small-scale units in this commodity. These fibres are not end-use items and are used as inputs by other industries and the GST rate on most intermediate goods is 18%. The user industry can seek refund of accumulated ITC if their final products attract lower GST rate. Fitment committee recommended no change in GST rate.
99.	Fishnets, fishnet fabrics	5608	5%	Nil	<ol style="list-style-type: none"> The GST rate on fishing nets under tariff heading 5608 was initially recommended at 12% by the GST Council on the basis of pre-GST incidence of taxes. However, to support the fishing industry, the GST Council in its meeting held on 10th November, 2017 recommended reduction of GST rate to 5%. Exempting fishing nets would distort the tax structure and place domestic manufacturers at a disadvantage. Fitment committee recommended no change in GST rate.
100.	Twine of jute, other jute bags and containers	5607, 6305	5%	0%	<ol style="list-style-type: none"> Exemption to twine of jute, other jute bags and containers would result in zero rating of imports while the domestic manufacturers will

					<p>continue to suffer input taxes which will increase their cost and make their products uncompetitive. Therefore, exempting Twine of jute, other jute bags and containers would not be desirable.</p> <ol style="list-style-type: none"> For the benefit of the farmers, raw jute fibre is exempted from GST. However, jute bags and jute twine are value added products and hence were not exempted. Fitment committee recommended no change in GST rate.
101.	Bhavani carpet and Bhavani mat	57	12%	Nil	<ol style="list-style-type: none"> The GST rate on made-up articles like carpets were recommended by the GST Council on the basis of pre-GST tax incidence on these goods. The GST rate on certain handicraft items were reduced by the GST Council as per the report of handicraft committee. The committee on handicrafts submitted its report for the consideration of the GST Council in its 25th meeting held on 18th January, 2018 wherein the classification of handicrafts has been proposed by the committee. After detailed deliberations the GST Council in its 27th meeting held on 21st July, 2018 recommended reduction of GST on handicraft items. In these recommendations the GST rate on handmade carpets and durries was reduced from 12% to 5%. The Fitment Committee recommended that no change may be made in the GST rate on these carpets.
102.	Inter-lining fabrics/Coated fabrics	5903	12%	5%	<ol style="list-style-type: none"> The GST rate structure for the textile sector was discussed in detail in the GST Council meeting held on 3rd June, 2017, wherein the Council recommended the detailed rate structure for the textile sector. In the meeting it was discussed that since apparel fabrics didn't attract taxes in the pre-GST regime but suffered embedded taxes, therefore the lowest GST rate of 5% shall be levied on fabrics to enable suppliers to claim ITC and to maintain the ITC chain. However, in the same meeting it was also decided that the GST rate on technical textiles and specialised fabrics of chapters 56 to 59 shall attract GST at the rate of 12% as these fabrics attracted more than 13% tax incidence

					<p>in pre-GST regime. Accordingly, the GST rate on all specialised fabrics including coated fabrics</p> <p>4. Fitment committee recommended no change in GST rate.</p>
103.	Clothes	61, 62	12%	5%	<p>1. The GST rate structure for the textile sector was discussed in detail in the GST Council meeting held on 3rd June, 2017, wherein the Council recommended the detailed rate structure for the textile sector.</p> <p>2. The rate structure on garments was recommended by the GST Council on the basis of pre-GST tax incidence.</p> <p>3. Fitment committee deliberated in this issue, including as regards request for reduction of GST rate on lehnga Choli having value of more than Rs 1000, and recommended no change in GST rate.</p>
104.	Palmyra Fibre and Palmyra stalks	4601	5%	Nil	<p>1. Already lower GST rate of 5% is prescribed.</p> <p>2. Small suppliers may avail benefit of threshold exemption/composition scheme</p> <p>3. Hence, Fitment Committee does not recommend any reduction in present GST rate</p>
105.	Tyre for Power Trillers, Combine Harvesters and Animal Driven Vehicle	4011	28%	Reduction of GST rate.	<p>1. Auto-parts in general attract 28% GST.</p> <p>2. Many different rates for tyre would lead to classification disputes.</p> <p>3. Prima facie there is no distinguishing feature of such tyres.</p> <p>4. Hence, Fitment Committee does not recommend any reduction in present GST rate.</p>
106.	Rubber products like Plates, sheets, threads, cords, tubes, pipes etc.	4005-4009, 4014, 4016, 4017	18%	5%	<p>1. Plates, sheets, threads, cords, tubes, pipes etc. are finished goods and attract standard GST rate of 18%, as per pre-GST tax incidence.</p> <p>2. Hence, Fitment Committee does not recommend any reduction in present GST rate</p>
107.	Timber	4403, 4404 & 4407	18%	5%	<p>1. Most of the furniture items are currently at 18% GST.</p> <p>2. Small domestic traders may avail benefit of threshold exemption/composition scheme.</p> <p>3. Reduction in GST based on nature of wood will be prone to misuse and duty evasion</p> <p>4. The reduction in GST rate on timber was not found feasible in 28th GST Council meeting.</p> <p>5. Pre-GST even VAT was 15%.</p> <p>6. Hence, Fitment Committee does not recommend any reduction in present GST rate.</p>

108.	1. Bamboo Mat Board 2. Bamboo Corrugated Sheets 3. Bamboo Mat Ridge Caps 4. Resin bonded bamboo mat bond	44	18%	12%	<ol style="list-style-type: none"> 1. Mats, Mattings, basketwork of bamboo falling under heading 4601 and 4602 attracts 5% GST rate. 2. Further, bamboo flooring, bamboo wood building joinery, bamboo furniture attracts 12% GST rate. 3. Bamboo mat board, with or without veneer in between is distinct from items mentioned above and are classifiable under Chapter 44 and has been consciously kept in 18% GST rate slab. Separate dispensation for such goods made of bamboo, may lead to classification disputes. 4. The issue was considered by 31st GST Council meeting and no change was recommended. 5. Hence, Fitment Committee does not recommend any reduction in present GST rate
109.	Paper and Paperboard	48	5%/12%/18%	12%	<ol style="list-style-type: none"> 1. All types of Paper in general are kept at a uniform rate of 12%. 2. Paper products in general attract 18% GST. 3. The GST duty structure on Paper and paperboard has been discussed in 25th, 28th, 31st GST Council meetings and recommended no change 4. Hence, Fitment Committee does not recommend any reduction in present GST rate
110.	Egg Trays	4823	12%	0%	<ol style="list-style-type: none"> 1. Egg trays falling under Chapter heading 4823 attract concessional GST rate of 12%. 2. It attracts same rate as other packing material 3. Lowering of GST on one item will lead to similar request on other items. Further, multiple rates on similar items will lead to distortion. 4. Hence, Fitment Committee does not recommend any reduction in present GST rate
111.	Envelops, letter pads, etc. and other Printed goods	4817, 4820, 4821	18%	12%	<ol style="list-style-type: none"> 1. Lower GST rate has been provided on goods normally used in education 2. Printed books including Braille books, Children's picture, drawing or colouring books, etc. attract NIL GST rate 3. Exercise book, graph book, & laboratory note book etc. attract 12% GST rate 4. Items like Envelopes, Diaries etc. attract standard rate of 18% 5. 31st GST Council meeting had examined this proposal and was not agreed to. 6. Hence, Fitment Committee does not recommend any reduction in present GST rate

112.	Renewable energy certificates	4907	12%	0%	<ol style="list-style-type: none"> 1. Renewable Energy Certificate (REC) fall under heading 4907 and attract 12% GST. 2. The GST Council re-examined GST rates on items falling under heading 4907 in its 23rd GST Council meeting. 3. On recommendation of Council, duty scrips were exempted from GST on the grounds to encourage exports and incentivise entitlements through scrips. 4. Hence, Fitment Committee does not recommend any reduction in present GST rate
113.	Footwear	64	18%	12%	<ol style="list-style-type: none"> 1. The GST Council in its 28th meeting discussed rate structure of footwear in detail. 2. The matter was once again discussed in 31st GST Council meeting and the Council recommended that rate of 5%/18% be applied based on transaction value as is the case for garments and hotels, the two other cases where differential rate exists based on the value of supply. 3. The present GST rates on footwear which has evolved after several discussions in GST Council is as under: <ol style="list-style-type: none"> (a) 5% GST on footwear with sale value upto Rs. 1000. (b) 18% on other footwear and parts of footwear 4. Hence, Fitment Committee does not recommend any reduction in present GST rate.
114.	Stone products	68	18%	12%	<ol style="list-style-type: none"> 1. The stone products are covered under Chapter 68. 2. The GST Council has examined certain sensitive items of stone recommend concessional rate of 12% and 5%. 3. Other stone products are goods of final consumption goods and GST rates have been prescribed, as per pre – tax incidence. 4. GST rate on these items was reduced to 18% in the 23rd GST council meeting. Hence, Fitment Committee does not recommend any reduction in present GST rate
115.	Ceramic Tiles	6907	18%	12%	<ol style="list-style-type: none"> 1. At the time of GST roll out, Ceramic tiles attracted 28% GST. 2. The GST rates on said goods have already been reduced to 18% in 23rd GST Council meeting 3. Similar articles used in construction also attract 18% GST rate.

					Hence, Fitment Committee does not recommend any reduction in present GST rate
116.	Glass Beads/Chatons	7018 10 20	5%	3%	<ol style="list-style-type: none"> 1. Glass beads fall under heading 7018. 2. It already attracts lowest GST rate slab of 5%. 3. The 3% GST rate is exclusively for gems and jewellery sector. <p>Hence, Fitment Committee does not recommend any reduction in present GST rate</p>
117.	Tableware/Kitchen-ware of Glass	7013	18%	12%	<ol style="list-style-type: none"> 1. Tableware/Kitchen-ware of glass falls under heading 7013 and attracts 18% GST. 2. GST rates on ceramic tableware kitchenware was reduced from 28%/18% to 12% as they are handicraft items and produced by poor artisans. 3. However, glass Tableware/Kitchen-ware are industrial produced item. 4. Glass products are high value items of conspicuous consumption and have consciously kept at standard GST rate of 18%. 5. The Fitment Committee does not recommend reduction in GST.
118.	Glass products like float glass, safety glass, bottles, flasks etc.	7003-7007,7010 and 7013.	18%	12%	<ol style="list-style-type: none"> 1. During the roll out of GST, the glass articles attracted 18%/28% GST. The GST rates were rationalised in 23rd GST Council meeting. 2. Consequently, the glass articles in general attract 18% GST. 3. All such goods are goods of conspicuous consumption. <p>Hence, Fitment Committee does not recommend any reduction in present GST rate</p>
119.	Gold/Silver/Platinum imported by RBL Bank Ltd. And Industrial & Commercial Bank of China Ltd	71	3%	0%	<ol style="list-style-type: none"> 1. ICBC and RBL Bank Ltd are not included in list 34 to notification No. 50/2017-Cus which has been referred to provide GST exemption in relevant Customs and GST notifications. 2. The issue of inclusion of the aforesaid two banks in said list 34 has not been examined by the export committee. <p>Fitment Committee did not recommend inclusion of. ICBC and RBL Bank Ltd.</p>
120.	Silver anklet, silver toe ring and silver waist cord, Mangalsutra and similar items of wedlock	71	3%	0%	<ol style="list-style-type: none"> 1. GST does not envisage end use based exemption which are difficult to administer. 2. 3% rate is the one of the lowest rates. 3. GST Council in its 31st meeting examined the proposal and did not recommend any change. <p>Hence, Fitment Committee does not recommend any change.</p>

121.	Handicrafts, Seashell handicraft, Articles used for temples like vahaganam, temple car, tiruvatchi (decorative arch),	-	Varied	0%	<ol style="list-style-type: none"> 1. The Handicraft Committee's report was in 28th GST Council meeting. 2. Accordingly, a rate revision was recommended for handicraft. 3. Hence GST Council examined the issue again in 31st meeting and did not recommend any change. 4. Hence, Fitment Committee does not recommend any change.
122.	Artworks – Paintings, Sculptures, Drawings	97	12%	0%	<ol style="list-style-type: none"> 1. Artworks – Paintings, Sculptures, Drawings fall under Chapter 97 and attract 12% GS. 2. Art material does not attract 28% GST. 3. Artists are liable to pay GST if his aggregate turnover in a financial year exceeds Rs. Forty lakhs. 4. Hence, Fitment Committee does not recommend any reduction in present GST rate
123.	Cranial Prosthesis wigs	6704	18%	0%/5%	<ol style="list-style-type: none"> 1. At the time of GST roll out, wigs were kept at 28% GST. 2. On recommendation of 23rd GST Council meeting, the GST rate was reduced to 18%. 3. Further, creating differential rates on wigs based on end-use will lead to disputes and revenue leakage. 4. Hence, Fitment Committee does not recommend any reduction in present GST rate
124.	Brass & Copper utensils	7418	12%	5%	<ol style="list-style-type: none"> 1. GST rate on utensils made of iron and steel, copper, brass and aluminum are all at 12%. GST rate on cutlery has also been reduced to 12%. Inputs are all at 18% 2. 5% GST on manufactured goods results in negative protection for the domestic goods, and thus goes against 'Make in India' policy. 3. The 12% rate of GST is on the basis of pre-GST tax incidence of 12.99%. 4. Fitment committee recommended no change in GST rate.
125.	Aluminium Scrap	7602	18%	5%/12%	<ol style="list-style-type: none"> 1. The GST Council in its 22nd Meeting held on 6.10.2017 had recommended to reduce the GST rate to 5% on Plastic scrap, Paper scrap (Waste paper), Rubber scrap and Glass scrap. 2. However, metal scrap continues to attract 18% GST. Metal scrap stands on a different footing than plastic or paper scrap. 3. Metal scrap is fully recyclable and easily available in national/international market. It is

					<p>preferred input in the metal industry, particularly Aluminium and Iron and Steel.</p> <p>4. Hence, Fitment Committee does not recommend any reduction in present GST rate.</p>
126.	Hand Sprayers, Battery operated sprayers & Mechanical sprayers	8424	12%	Nil	<p>1. There is already duty inversion as the raw material i.e. brass, steel and aluminium attracting 18% GST. Further, exemption from GST rate will lead to cascading of input taxes.</p> <p>2. Exemption from GST on manufactured goods will result in negative protection to domestic manufacturers vis-a-vis imports.</p> <p>3. Fitment committee does not recommend any change in GST.</p>
127.	Mechanical appliances (whether or not hand-operated) for projecting, dispersing or spraying liquids or powders; fire extinguishers, whether or not charged; spray guns and similar appliances; steam or sand blasting machines and similar jet projecting machines.	8424	18%	5%	<p>1. Reduction in GST will leads to duty inversion as the raw material i.e. brass, Steel and Aluminium attracting 18% GST. Further, lowering rate from GST rate will lead to cascading of input taxes and lower GST rate will result in refund of accumulated ITC with associated carrying cost.</p> <p>2. Lowering rate from GST on manufactured goods will result in negative protection to domestic manufacturers vis-a-vis imports.</p> <p>3. Fitment committee does not recommend any change in GST.</p>
128.	Electric motor; cable, used in Submersible pump set, for agriculture.	8413	18%	12%	<p>1. Submersible pumps are classified under heading 8413 and attracts 12% GST rate.</p> <p>2. GST rate on parts suitable for submersible pumps was reduced from 28% to 18% in the 22nd GST Council Meeting held on 6th October, 2017.</p> <p>3. Cables and the electric motor may be used for some other purposes also. However, if we reduce GST rate on electric motors and cables from 18% to 12% (for use in submersible pumps only) it will be very difficult to monitor and prone to misuse. There will be duty inversion also.</p> <p>4. Lowering rate from GST rate will lead to cascading of input taxes and lower GST rate will result in refund of accumulated ITC with associated carrying cost.</p>

					<p>5. Lowering rate from GST on manufactured goods will result in negative protection to domestic manufacturers vis-a-vis imports.</p> <p>6. Fitment committee does not recommend any change in GST.</p>
129.	Power Driven Pumps Primarily Designed for handing water, namely, centrifugal pumps (Horizontal and Vertical), Deep Tube-well Turbine pumps, submersible pumps, axial flow and mixed flow vertical pumps.	8413	12%	5%	<p>1. Power driven pumps are classified under heading 8413 and attracts concessional GST rate of 12% with effect from 1.07.2017 [with inception of GST].</p> <p>2. In the 22nd GST Council Meeting held on 6th October, 2017, GST rate on parts suitable for these pumps was reduced from 28% to 18%.</p> <p>3. Raw materials for these machineries like iron steel, plastic, and other metals, in general, attract 18% GST and further reduction in GST from existing 12% to 5% will deepen the duty inversion.</p> <p>4. Lowering rate from GST rate will lead to cascading of input taxes and lower GST rate will result in refund of accumulated ITC with associated carrying cost.</p> <p>5. Lowering rate from GST on manufactured goods will result in negative protection to domestic manufacturers vis-a-vis imports.</p> <p>6. Fitment committee does not recommend any change in GST.</p>
130.	Hoofs of Horses and Ox type animals	7326	18%	Nil	<p>1. Hoofs of horses and Ox type animals are generally made of iron and steel and classified under heading 7326 and will attract 18% GST.</p> <p>2. Full exemption from GST will break the input tax credit chain and the tax on inputs will be embedded in selling price of the goods.</p> <p>3. A small supplier of such goods having turnover of less than Rs. 40 lakhs in a year is not required to pay GST. A supplier of goods having turnover up to Rs. 1.5 crore is entitled to composition scheme and is required to pay only 1% of the taxable value of supplies.</p> <p>4. Fitment committee does not recommend any change in GST.</p>
131.	(a) Agricultural, Horticultural or forestry machinery for soil preparation or cultivation; lawn or sports	8432 / 8433 / 8436	12%	5%	<p>1. All these goods related to agriculture and horticulture are falling under Chapter headings/ tariff item 8432, 8433, 8436 attract concessional GST rate of 12%. Parts of such goods also attract the same concessional rate as the goods.</p> <p>2. Considering the need for farm mechanization, the agricultural machinery attracts lower tax rate.</p>

	<p>– ground rollers,</p> <p>(b) Harvesting or Threshing machinery, Machines for cleaning, sorting or grading Eggs</p> <p>(c) Other Agricultural, Horticultural, Forestry, Poultry-Keeping Or Bee-Keeping Machinery, poultry Incubators and Brooders.</p>				<p>However, raw materials for these machineries like iron steel, plastic, and other metals, in general, attract 18% GST and further reduction in GST from existing 12% to 5% will deepen the duty inversion.</p> <p>3. Lowering rate from GST rate will lead to cascading of input taxes and lower GST rate will result in refund of accumulated ITC with associated carrying cost.</p> <p>4. Lowering rate from GST on manufactured goods will result in negative protection to domestic manufacturers vis-a-vis imports.</p> <p>5. Fitment committee does not recommend any change in GST.</p>
132.	Self-loading or self-unloading trailers for agricultural purposes and its spare parts and accessories	8716 20 00	12%	5%	<p>1. Raw materials for these machineries like iron steel, plastic, and other metals, in general, attract 18% GST and further reduction in GST from existing 12% to 5% will deepen the duty inversion.</p> <p>2. Lowering rate from GST rate will lead to cascading of input taxes and lower GST rate will result in refund of accumulated ITC with associated carrying cost.</p> <p>3. Lowering rate from GST on manufactured goods will result in negative protection to domestic manufacturers vis-a-vis imports.</p> <p>4. Fitment committee does not recommend any change in GST.</p>
133.	Composting machines	8479	12%	5%	<p>1. Raw materials for these machineries like iron steel, plastic, and other metals, in general, attract 18% GST and further reduction in GST from existing 12% to 5% will deepen the duty inversion.</p> <p>2. Lowering rate from GST rate will lead to cascading of input taxes and lower GST rate will result in refund of accumulated ITC with associated carrying cost.</p> <p>3. Lowering rate from GST on manufactured goods will result in negative protection to domestic manufacturers vis-a-vis imports.</p> <p>4. Fitment committee does not recommend any change in GST.</p>

134.	All machinery	84	18%	5%	<ol style="list-style-type: none"> 1. If duty on all machineries i.e. Capital goods (of chapter 84) will reduce from 18% to 5%, there will be duty inversion as the raw material i.e., iron and steel, brass and aluminium attracting 18% GST. 2. Lowering rate from GST rate will lead to cascading of input taxes and lower GST rate will result in refund of accumulated ITC with associated carrying cost. 3. Lowering rate from GST on manufactured goods will result in negative protection to domestic manufacturers vis-a-vis imports. 4. Fitment committee did not recommend any change in GST.
135.	Micro Irrigation Component	8424	18/12 %	Nil	<ol style="list-style-type: none"> 1. Sprinklers; drip irrigation system including laterals; mechanical sprayers are classifiable under 8424, and already attract GST rate of 12%. 2. Further, Nozzles for drip irrigation equipment or nozzles for sprinklers also attract 12% GST. 3. Other components like PVC pipes of these devices may have multiple uses, and the suggested concession would thus require an end based concession, which in a multi stage tax like GST are extremely difficult to administer and prone to misuse. 4. Exemption from GST on manufactured goods will result in negative protection to domestic manufacturers vis-a-vis imports. Exemption from GST will lead to cascading of input taxes. 5. Hence, Fitment Committee does not recommend any change in GST rate.
136.	Textile Machinery Parts	8444-8452	18%	5%	<ol style="list-style-type: none"> 1. Reduction from 18% to 5%, there will be duty inversion as the raw material i.e., iron and steel, brass and aluminium attracting 18% GST. 2. Lowering rate from GST on manufactured goods will result in negative protection to domestic manufacturers vis-a-vis imports. 3. Further, lowering rate from GST rate will lead to cascading of input taxes and lower GST rate will result in refund of accumulated ITC with associated carrying cost. 4. Fitment committee did not recommend any change in GST.
137.	Handmade Locks and Iron safe	8301, 8303	18%	5% or Nil	<ol style="list-style-type: none"> 1. Reduction in GST will lead to duty inversion as the raw material i.e iron, steel brass and aluminium attracting 18% GST and will result in refund of accumulated ITC with associated carrying cost.

					<ol style="list-style-type: none"> Exemption from GST on manufactured goods will result in negative protection to domestic manufacturers vis-a-vis imports. Hence Fitment Committee does not recommend any change in present GST.
138.	Electronics calculator	8470	18%	5%	<ol style="list-style-type: none"> GST rate on calculators was fixed keeping in view the pre GST tax incidence. 5% GST rate may lead to duty inversion and adversely impact the domestic manufacturers. Further, Import of Calculators attracts only IGST as BCD on calculators are Nil. The GST Council in its 31st meeting did not recommend any change. Accordingly, Fitment Committee did not recommend any change in the rate.
139.	WTE plants (Compressed bio-gas) [84 and 85]	Any Chapter	28%/18%/12%	5%	<ol style="list-style-type: none"> Water to energy plants (BioCNG) attracts concessional BCD rate of 5% as per notification No. 81/2005-Cus. The equipment used in such plants for GST purpose attracts their applicable rate as end use based concessional rate is not provided for these plants. In GST regime, as a policy decision, end use-based exemption/concessional rate is being discouraged as it creates distortions in credit chain. Further, cases of mis-use have also been reported. Therefore, request to create a separate line for these items and provide a concessional rate to items used in WTE (Bio CNG) is not recommended. The matter has already been discussed in 31st GST Council meeting and it was decided to clarify the issue as to what all machines are eligible for concessional GST of 5% and the same was clarified vide Circular No. 80/54/2018-GST dated 31st December, 2018. Accordingly, Fitment Committee did not recommend reduction in rate stating that the end use based exemption is not desirable in GST.
140.	Mobile Handset Accessories	Any Chapter	12%	Modification in description of goods in the notfn.	<ol style="list-style-type: none"> Mobile Handset attracts GST at 12%. All the parts used for the manufacture of Cellular Mobile Phones also attracts GST at 12%. Therefore, there is no inverted duty structure. The GST rate on these accessories was kept at 18% keeping in view the pre-GST tax incidence.

					<p>5. In any case refund is allowed in case of inverted duty structure.</p> <p>Accordingly, Fitment Committee did not recommend reduction in rate stating that the refund is available in case of inverted duty structure.</p>
141.	All Electric Products	85	18%	5%	<p>1. Electrical products attract mainly 18% GST which is lower than the pre-GST tax incidence.</p> <p>2. GST rate on parts of electrical products is also 12% or 18% and hence, reducing GST rate on electrical product from 18% to 5% will result into inversion.</p> <p>Accordingly, Fitment Committee did not recommend rate change.</p>
142.	UPS along with batteries	8504	18%/28%	Issue clarification that the supply of UPS along with batteries not in built is naturally bundled and will constitute a composite supply.	<p>1. UPS are classifiable under HS 8504 as static convertors which converts the direct current into alternating current.</p> <p>2. UPS can be broadly classified into two categories (a) UPS with inbuilt battery and (b) UPS with external batteries.</p> <p>3. There is no dispute regarding GST rate on UPS with inbuilt battery. However, due to ruling of west Bengal authority of advanced rulings (AAR) in which it was ruled that the supply of UPS and Battery is mixed Supply as they are supplied under a Single Contract at a combined Single Price.</p> <p>4. In view of the above, Fitment Committee felt that it is not required to intervene in the matter.</p>
143.	Lead Acid Batteries	8507	28%	18%	<p>1. Rechargeable Batteries are classified under HS 8507 and attracts 28% GST (except Lithium ion batteries).</p> <p>2. GST rates on batteries have been fixed based on the pre-GST tax incidence except for the concessional rates.</p> <p>3. Rechargeable batteries (other than Lithium ion batteries) may continue at 28%, and their rate be reviewed at the time of comprehensive review of 28% rate.</p> <p>4. Accordingly, Fitment Committee did not recommend rate change.</p>
144.	Monitors	8528	28%	18%	<p>1. The GST rate has already been reduced on computer monitor having screen upto 68 cm to</p>

					<p>18% GST to bring the GST rate on Monitors in parity with TV in 31st GST Council meeting held on 22.12.2018. The monitor and TVs above these sizes attract GST @28%.</p> <p>2. Trade has represented that computer monitors are important parts of personal computers and keeping the rate as high as 28% on such products is not only hampering the industry but also the aim of the Government of digital India.</p> <p>3. This matter has already been discussed in the GST council and GST rate on Monitors used by small and medium assemblers and traders (upto 68 cms) has already been reduced to 18%. Accordingly, Fitment Committee did not recommend rate change.</p>
145.	TV (screen size more than 32 inches)	8528	28%	18%	<p>1. 28% GST on television was prescribed based on pre-GST tax incidence.</p> <p>2. The list of goods attracting 28% GST was reviewed by 23rd GST Council meeting and decided that white goods will continue to attract 28% GST.</p> <p>3. 28th GST Council recommended reduction in GST from 28% to 18% on television of size screen up to 68 cms</p> <p>4. Any reduction shall have significant revenue implication. Accordingly, Fitment Committee did not recommend rate change.</p>
146.	Optical fibre/ optical fibre cable	8544/9001	18%	12%/5%	<p>1. Optical Fibre Cable falls under either HS 8544 or 9001 based on whether fibres are individually sheathed or not.</p> <p>2. Present GST rate on OFC is 18%.</p> <p>3. The rate on OFC was determined based on pre-GST tax incidence which was 12.5% Excise duty + 5% VAT.</p> <p>4. These products are intermediary products used in Broadband services and GST paid on cables is available to service providers as ITC.</p> <p>5. Therefore, GST rate on OFC doesn't impact the cost of broadband or telecommunication services. Accordingly, Fitment Committee did not recommend rate change.</p>
147.	Surgical and Medical items	9018/9019/9021/9022	18%	5%	<p>1. Medical equipments fall under HS 9018, 9019, 9021 and 9022 and attracts 12% GST.</p>

					<ol style="list-style-type: none"> 2. The rate of 12% is revenue neutral rate considering 6% Excise Duty and 5-12% VAT in pre-GST era. 3. Goods which attracts 18% GST are of general use like Hot water bottles and similar products. Providing concessional rate of 12% on these items based on end use goes against the philosophy of GST and will be prone to misuse and evasion. 4. Apparatus based on X-Rays for medical, surgical and similar uses attracts 12% GST. 5. Reduction of GST to 5% will deepen the inversion of duty and will be detrimental to domestic manufacturers. <p>Accordingly, Fitment Committee did not recommend rate change.</p>
148.	Transcatheter Aortic Valve Replacement System (TAVRS)	9018	12%	5%	<ol style="list-style-type: none"> 1. Present GST rate on the surgical and medical goods falling under 9018, 9019, 9021 and 9022 are at 12%. 2. The rate of 12% is revenue neutral rate considering 6% Excise Duty and 5-12% VAT in pre-GST era. 3. 12% GST rate is concessional GST rate provided that the maximum number of goods falls under 18% bracket. 4. 5% GST would put domestic industry at disadvantage on account of deepening of inversion. <p>Accordingly, Fitment Committee did not recommend rate change.</p>
149.	Support items for the handicapped persons i.e knee pads, ankle pads, lumbar support etc.	90	5%	0%	<ol style="list-style-type: none"> 1. All the assistive and rehabilitation devices attract concessional rate of 5% GST. 2. If the assistive devices will be exempted from GST, the manufacturers will not be able to get Input Tax Credit and cost of these devices will increase as these accumulated credits will become cost of production. 3. Presently, all the raw materials used in manufacturing of these devices attracts 12%/18% GST and hence on account of inversion of duty, manufacturers of assistive devices are eligible to get refund of accumulated credit and thus cost of these items gets reduced. 4. Accordingly, Fitment Committee did not recommend rate change.
150.	Radiation machine	9022	12%	Nil	<ol style="list-style-type: none"> 1. Radiation Machines are classified under HS 9022 and attracts concessional GST of 12%.

					<ol style="list-style-type: none"> 2. GST rate on these machines is less than the pre-GST tax incidence on these machines. 3. GST rate on all kind of surgical and medical instruments/machines are kept at concessional rate of 12% to make healthcare affordable. 4. Further, reducing GST rate from 12% to Nil will result into inversion. Accordingly, Fitment Committee did not recommend rate change.
151.	Gadgets and Teaching Aids	9023	18%	Not specified	<ol style="list-style-type: none"> 1. GST rate on Science Gadgets and Teaching aids was reduced from 28% to 18% in 23rd GST Council meeting. 2. Accordingly, Fitment Committee did not recommend rate change.
152.	LED Lamps & products.	9405	12%	5%	<ol style="list-style-type: none"> 1. LED lights or fixtures including LED lamps and LED (light emitting diode) driver & MCPCB (Metal Core Printed Circuit Board) attract 12% IGST (S. No. 226 and 227 of Schedule-II respectively). 2. LED parts [other than LED driver & MCPCB] would attract 18% IGST / GST. A manufacturer using these parts for manufacture of LED lights or fixtures including LED lamps will be eligible for input tax credit of IGST / GST paid on such parts. 3. Reduction in GST from 12% to 5% will deepen the inversion in duty. 4. Accordingly, Fitment Committee did not recommend rate change.
153.	Motor vehicles	8701 to 8705	28%+ compensation cess	18% 12% [hybrid vehicles]	<p>GST rate on Motor Vehicles</p> <ol style="list-style-type: none"> 1. Motor cars attract 28% GST, in addition to compensation cess at varying rates (depending on engine capacity, fuel, length and ground clearance). 2. The compensation cess rates on motor vehicles have been fixed keeping in view the pre-GST tax incidence. In general, the compensation cess rates effective from 01.07.2017 along with 28% GST was lower than the total pre-GST tax incidence. However, the Council reviewed and recommended: - <ol style="list-style-type: none"> a) to increase the rate of Compensation cess on specified segment of cars b) not to make any change in rate of Compensation cess in small motor vehicles and hybrid cars.

				<p>3. Furthermore, concessional GST and C. cess rate has been provided on Buses for public transport running exclusively on bio-fuels (18%), Cars for physically handicapped persons (18%), All Electrically operated vehicles (5%), Agricultural tractors (< 1800 CC) -12%.</p> <p>4. Overall, the present tax incidence on motor vehicles in GST is lower than pre-GST tax incidence.</p> <p>GST rate on Hybrid Vehicles:</p> <p>1. In the pre-GST era, Hybrid vehicles (irrespective of size and capacity of engine) attracted 12.5% central excise duty and 1% NCCD and VAT at standard rate, i.e. 14.5% or 15% or 20%. As against this, similar internal combustion engine (ICE) cars attracted central excise duty of 24%/27%/30% (depending on length of vehicle and/or engine capacity), 1% NCCD and 2.5% or 4% Infrastructure Cess, and VAT at standard rate of 14.5% or 15% or 20%. In addition, in some States these vehicles attracted Octroi/entry tax upto 4.5%.</p> <p>2. The issue of GST Rates on hybrid cars has been deliberated by the GST Council on several occasions, wherein no change was recommended:</p> <p>3. In general, hybrid cars are made in the large segment, and they have a tax advantage of 5% over similar normal ICE cars.</p> <p>5. Further, any reduction in GST on motor vehicles will necessarily entail a reduction in the GST rates on the auto-parts and components as well.</p> <p>6. Fitment Committee does not recommend any reduction in present GST rate, on account of huge revenue implications, besides the fact that several other factors also have impact on the demand like liquidity crunch, crisis affecting NBFC, axle load increase, abolition of checkposts after introduction of GST, cyclic nature of the industry, structural changes like BS-IV to BS-VI. Moreover, reduction in the GST rate would enhance the compensation requirement for the Centre.</p>
--	--	--	--	--

154.	Automobile Spare Parts/ Motor Vehicle	4011, 4012, 8407, 8408, 8409, 8421, 8483, 8507, 8511, 8512, 8539, 8706, 8707, 8708, 8709, 8714, 8716	28%	12%/18%	<ol style="list-style-type: none"> 1. Generally, auto-parts and components for use in the manufacture of automobiles also attract 28%/18% GST. The auto-parts which are classified under chapter-40, 84, 85, 87 attract 28% GST. 2. Auto-parts/ components which are classified under other chapters in general attract 18% GST. 3. The issue of GST reduction on motor vehicles and auto-parts has been deliberated during the 23rd GST Council dated 10.11.2017, and thereafter on many occasions. It has been decided that the rationalization of 28% GST rate slab will be taken up once the GST revenues stabilize, and there is no pressure from the revenue front. 4. A reduction in the GST rates on the auto-parts and components will involve substantial revenue implications. 5. Fitment Committee does not recommend any reduction in present GST rate, on account of huge revenue implications. Moreover, non-OEM supply of auto-parts is significant, and reduction in the GST rate would enhance the compensation requirement for the Centre
155.	Parts and Accessories of the tractors	8708, 4011, 4012, 8407, 8408, 8409, 8421, 8483, 8706, 8707, 8708	18%	12%	<ol style="list-style-type: none"> 1. The rate of GST on many tractor parts was reduced from 28% to 18% based on the decisions taken in the 20th meeting of the GST Council on 05.08.2017. 2. Further, parts like rubber hoses (HSN code 4008 / 4009) and screws and nuts & bolts (HSN code 7318) also attract a concessional rate of GST @18%. 3. Reduction in GST from 18% to 12% would create inversion in duty as raw material attracts 18% GST. 4. Fitment Committee does not recommend any reduction in present GST rate, on account of huge revenue implications. Moreover, reduction in the GST rate would create inversion in duty, and would enhance the compensation requirement for the Centre.
156.	BMW High Security Vehicle, for use of the Hon'ble	8703	28% + cess	Nil	<ol style="list-style-type: none"> 1. The exemption on import of the said vehicle is only in respect of the Basic Customs Duty which was granted in terms of Clause 9 of the

	Governor of Gujrat				<p>G.O.I. (Governor's Allowances and Privileges) Order, 1950 dated 1.1.1950.</p> <p>2. However, no such exemption has been granted from IGST by the GST Council. Accordingly, it was clarified to the Gujarat Government that exemption from IGST was not available in this case. The vehicle was cleared on payment of IGST.</p> <p>3. Fitment Committee does not recommend granting of any retrospective exemption from GST for BMW High Security Vehicle, for use of the Hon'ble Governor of Gujrat as such carving out of specific exceptions will create distortion.</p>
157.	Fishermen boats	8902	5%	0%	<p>1. The fishermen boats fall under Heading 8902, and attract GST @ 5%.</p> <p>2. The GST rates on fishermen boats have been prescribed on the recommendations of the GST Council based on the pre-GST tax incidence, which <i>inter-alia</i> included VAT and other taxes.</p> <p>3. There is no recommendation from the GST Council to lower the GST rates on these products.</p> <p>4. Other items related to the fishing industry like fishing hooks, fishing rods, fishing ropes, fishing twines, fishing tackles etc attract GST @ 5%-12% which is based on the pre-GST tax incidence.</p> <p>5. Fitment Committee does not recommend any reduction in GST rate.</p>
158.	Revolver and Pistols	9302	28%	18%	<p>1. Military weapons other than revolvers and pistols, falling under heading 9301 attract merit rate of 18% GST, for strategic considerations.</p> <p>2. On the other hand, revolvers and pistols, other than those of heading 9303 or 9304 and classified under Tariff item 9302 00 00, attract 28% GST.</p> <p>3. In the 23rd GST Council, certain goods were recommended to be retained at 28% GST rate which included <i>inter-alia</i> Revolvers, TVs etc.</p> <p>4. In view of the above, Fitment Committee does not recommend any reduction in GST rate.</p>
159.	Coir mattresses (rubberized)	9404 2920	18%	5%	<p>1. The GST rate on mattresses is 18%. Rubber also attracts 18% GST.</p> <p>2. GST rate based on constituent material will be difficult to monitor and prone to misuse.</p>

					Accordingly, Fitment Committee does not recommend any reduction in GST rate.
160.	Pen and stationery products.	9608, 9609	12% / 18%	5%	<ol style="list-style-type: none"> 1. Pens (other than stylograph and fountain pens) falling under heading 9608; Pencils (including propelling or sliding pencils), crayons, pastels, drawing charcoals and tailor's chalk falling under heading 9609 attract 12% GST, whereas Fountain pens and stylograph pens falling under heading 9608 attract 18% GST. 2. Further, Slate pencils and chalk sticks falling under heading 9609 attract Nil GST. 3. 5% GST will create inversion in duty and it will result in refund. 4. Fitment Committee does not recommend any reduction in GST rate.
161.	Helmets	6506	18%	12%/ 5%	<ol style="list-style-type: none"> 1. Helmets fall under HSN 6506 under safety headgear and attract 18% GST at present. 2. In the 15th GST Council meeting held on 03.06.2017, it was discussed that as per the combined incidence of tax, Helmet should be in the 28% rate slab, but as the inputs for the product would be taxed at the rate of 18%, the rate of tax on helmet was kept at 18% GST. 3. The issue was discussed by the Fitment Committee for the 16th meeting of the GST Council, wherein no change was recommended. 4. The issue was again discussed by the Fitment Committee for the 20th meeting of the GST Council. It was argued that even 18% GST rate is lower than pre-GST tax incidence of about 28%. GST rate on helmets was discussed specifically in the Council, and taking into consideration that users of helmet can bear the tax, the rate of 18% was decided. 5. All inputs of helmets are at 18% GST, and reduction to 12% may result in their manufacturers seeking refund of unutilised ITC, with associated financial and administrative costs. 6. Fitment Committee does not recommend any reduction in GST rate.
162.	Goods consumed onboard Cruise ships while they are on coastal run.		As applicable	Nil	<ol style="list-style-type: none"> 1. Main goods of revenue implication under GST which are consumed on board a ship are cigarettes. In case of supply of goods on board as per section 10(1)(e) of IGST Act, the place of supply shall be where the goods are taken on

					<p>board. In case of services provided on board by international cruise operator are as per section 13(11) of IGST Act, provided in India, i.e. shall be the first scheduled point of departure of that conveyance for the journey. This provision has been made with the recommendation of GST Council. Therefore, GST paid on supply of goods to cruise lines shall become the ITC available with the cruise line which can be used to discharge GST liability on taxable supplies of passenger transport and those arising out of consequent supplies made on board the cruise.</p> <ol style="list-style-type: none"> 2. As regards exemption to goods consumed on board the cruise while they are on coastal run, it has been felt that such exemptions would lead to similar request on onshore travel, say by Railways (which at present attract GST). 3. However, Cruise ships has tremendous potential to grow in India. 4. Fitment Committee does not recommend any reduction in GST rate as it is high end, conspicuous consumption and therefore does not deserve lesser rate. This supply is also comparable to Palace on Wheels, Ist AC Express etc. therefore, also on the ground of likely domino effect on, should not be considered.
163.	All goods imported under Project imports	9801	18%	5%	<ol style="list-style-type: none"> 1. Various projects in the infrastructure sector require goods falling under different chapters, which need to be imported or domestically procured. Since different chapters attract different GST rates, clearance of such items leads to problems in assessment and litigations. 2. Hence, the Project Imports regulations have been borrowed from Customs to provide for uniform assessment in GST for imports of goods used in infrastructure projects under 9801, where all goods being imported (which fall under different chapters) are cleared at a uniform rate of 18%. 3. Reducing the rate from 18% to 5% under Project Imports for Metro projects will prompt such requests from other projects in the Infrastructure sector. 4. Fitment Committee does not recommend any reduction in GST rate.

164.	Parts of Cycle	8714	5% / 12%/ 18%	5%	<ol style="list-style-type: none"> 1. Bicycles fall under heading 8712 and attract 12% GST. 2. Most of the parts of bicycles fall under heading 8714, which attracts 12% GST. 3. Only a few raw materials (eg. screws, nuts, bolts, hooks, rivets etc) falling under chapters 73 and 84 and used in the manufacture of parts of cycles, attract 18% GST. 4. On the other hand, tyres and tubes of bicycles, cycle rickshaws, falling under heading 4011 and 4013 attract a concessional GST of 5%. 5. In view of the above, Fitment Committee does not recommend any reduction in GST rate.
165.	Button	9606	18%	5% / 12%	<ol style="list-style-type: none"> 1. It is stated that all inputs of the garment industry, such as Fabrics (HSN 53 54 @ 5%), Knits (HSN 60 @ 5%), Velcro / Tape (HSN 5806 @ 5%), Zippers (HSN 9607 @ 12%), Embroidery (SAC 998821 @5%) are currently being taxed @ 5% / 12% GST, while only Buttons (HSN 9606) have been left out of the entire harmonized supply chain. 2. Fitment Committee does not recommend any reduction in GST rate.
166.	Goods imported or domestically procured by the Dedicated Freight Corridor Corporation of India Limited (DFCCIL) or its contractors or sub-contractors	As applicable	As applicable	Nil	<ol style="list-style-type: none"> 1. Project specific exemptions are in the nature of end use exemptions and in a multi stage tax like GST would distort the entire ITC chain and would be difficult to monitor. 2. DFCCIL and its contractors/sub-contractors can take input tax credit of these inputs. 3. This gives rise to the kind of issues that are being faced in case of wagons and other railway wagons.
167.	Central Police Canteen	As applicable	As applicable	Grant of 50% exemption from GST to Central Police Canteen (CPC) on the same line of CSD to Defence Forces.	<ol style="list-style-type: none"> 1. The GST Council in its 15th Meeting held on 3.6.2017 where after discussion, the Council agreed to limit the benefit to CSD canteens only. 2. Thereafter the request for GST exemption to Central Police Canteens were discussed during the 25th and 28th meeting of the GST Council. 3. Fitment Committee did not agree to the request on the grounds if such concession are granted to Central Armed Police Forces then similarly placed organisations at the State level may also need the same treatment. This would have large revenue implications.

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

Sl. No.	Proposal	Justification	Fitment Committee Recommendation
1	<p>To reduce GST on job work on diamonds from-</p> <p>(a) 5 % to 1%-2% (Gujarat; Surat Diamond Association);</p> <p>(b) from 5% to 0.25% (GJEPC).</p> <p>Reference:</p> <ol style="list-style-type: none"> 1. Gujarat 2. Surat Diamond Association 3. The Gems and Jewellery Export Promotion Council & Surat Diamond Brokers' Association 4. Laghu Udyog Bharti 5. Sh. Parshottam Rupala, MoS (Agriculture & Farmers Welfare) 6. Sh. Mansukh 	<p>Due to 5% GST on job work, there is a huge blockage of ITC due to inverted duty structure. While job work of cutting and polishing attracts GST @ 5%, finished diamonds attract GST @ 0.25%. The value addition by job work process is not sufficient to absorb the tax differential between 5% and 0.25%.</p>	<p>Recommendation:</p> <p>The rate of GST on job work services on diamonds may be reduced from 5% to 1.5%.</p> <p>Analysis:</p> <p>The rate of 5% on job work on all products falling under Chapter 71 in the First Schedule to the Customs Tariff Act, 1975 [Natural or cultured pearls, precious or semi-precious stones, precious metals, metals clad with precious metal, and articles thereof; imitation jewellery; coin] was recommended by Fitment Committee, as the GST rate on supply of finished diamonds was 3%. At this rate, value addition in the industry would have led to ITC getting utilized and no ITC getting accumulated on account of differential GST rate applicable on finished diamonds (3%) and on job work (5%).</p> <p>However, subsequently, the GST rate on finished diamonds was reduced to 0.25% on grounds of cash flow problem, which has led to accumulation of ITC on account of 5% rate on Job Work services by way of processing of diamonds.</p> <p>Therefore, there is a case for reduction of GST on job work on diamonds from 5% to 1.5%.</p> <p>However, reduction of GST rates on job work services may result in inversion of duty structure for the job worker on account of GST payable at 18% on inputs (for e.g. grinding wheel, tools etc.) and input services (for e.g. renting of premise, man power supply etc.) used for job work. This will result in shifting of inversion from supplier of diamonds to the job worker.</p> <p>Revenue Implication: Rs. 400 crore approximately per year. This amount shall shift as liability from job-worker to the principal and is therefore not a loss of revenue.</p>

Sl. No.	Proposal	Justification	Fitment Committee Recommendation
	Mandaviya , MoS (Shipping)		
2	<p>i. Reduce GST rate for engineering job work from 18% to 5%.</p> <p>Reference: Vellore District Small & Tiny Industries Association.</p> <p>ii. All kind of job work may be charged at uniform rate of 5%.</p> <p>Reference: Laghu Udyog Bharti</p>	<p>i. To bring engineering job work at par with leather & textile job work.</p> <p>ii. Most job workers belong to small and medium scale sector and varying rates create problem in compliance and managing challans. Further, in job work credit flows from principal and job workers. It is revenue neutral exercise.</p>	<p>Recommendation:</p> <p>The rate of GST on all job work services, which are not currently eligible for the 5% rate may be reduced to 12%.</p> <p>Analysis:</p> <p>The rate of job work services has been reduced to 5% mainly where the final product attracts GST @ 5% or lower, such as textile sector, processing of hides, skin, leather and footwear, printing of books and newspapers, diamond cutting and polishing, manufacture of handicraft goods, tailoring services etc.</p> <p>The GST applicable on job work services in other major sectors such as manufacturing of industrial goods, automobiles, chemicals, pharmaceuticals, heavy engineering goods, machines and instruments, steel and other metals is 18%.</p> <p>Job workers in the engineering and automobile sector have substantial ITC. The inputs and input services used by job workers in these sectors attract GST @ 18%. Out of the total tax payable on job work services, 71% was paid through ITC. Reducing the rate on job work services in this sector from 18% to 5% will result in inversion at the level of Job worker.</p> <p>Placing the job work services under RCM will also result in blocking of ITC of the job worker and increasing of the costs of the job worker and the principal.</p> <p>The rate reduction to 5% would lead to demand of refund at the hand of job-worker. Therefore, instead of reducing the rate on job work services in the engineering and automobile sector from 18% to 5%, the same may be reduced to 12%.</p>

Sl. No.	Proposal	Justification	Fitment Committee Recommendation
			<p>The rate of GST on all job work services, which are not currently eligible for the 5% rate may be reduced to 12%. However, the rate of GST applicable on Bus Body Building shall remain at 18% as inputs used for bus body building are at higher rate of 28%/18%.</p> <p>Revenue Implication of the proposal is Rs. 1100 Crores approximately. This amount shall shift as liability from job-worker to the principal and is therefore not a loss of revenue.</p>
3	<p>Request to reduce GST rate on outdoor catering services to 5% without ITC.</p> <p>Reference: Cabinet Secretariat, Shri Prahlad Joshi, Minister of Parliamentary Affairs</p>	<p>As an integral part of Indian Culture, all events under Outdoor Catering from birth to death, be it baby shower, marriage or prayer meeting, all are of necessity and not for luxury for 99% people. For rest 1%, the luxurious events are held at mostly five star hotels. GST on food and beverages is currently at 5% for hotels and restaurants where as it is 18% for outdoor catering / banquet halls. As outdoor catering is the same food industry, rate should be reduced to 5%.</p> <p>Customers are not paying high GST of 18% for food served at marriages and other family functions. This is resulting into revenue loss to govt and also making catering business unviable.</p> <p>It provides employment on large scale to uneducated and unskilled sector which includes mostly lower income group. It also provides large scale employment to women.</p>	<p>Recommendation:</p> <p>GST on outdoor catering services other than in premises having daily tariff of unit of accommodation of Rs. 7500 and above may be reduced to 5% without ITC.</p> <p>The rate shall be made mandatory for all kinds of catering.</p> <p>Catering in premises with daily tariff of unit of accommodation is Rs. 7500/- and above shall remain at 18%.</p> <p>Analysis:</p> <p>The GST Council in its 28th meeting held at New Delhi on 21.07.2018 has fixed GST rate on supply of food and drinks in Conferences, Marriage Halls etc. at 18%. This essentially prescribed GST rate for outdoor catering services. Large number of outdoor service caterers are small service providers and sector is prone to evasion.</p> <p>2. In order to avoid payment of tax on such outdoor catering supplies covering functions which are event based and occasional in nature, the suppliers are resorting to reflecting such supplies as sale of prepared food article and charging 5% GST or not reporting the transactions.</p>

Sl. No.	Proposal	Justification	Fitment Committee Recommendation
			<p>This is leading to revenue loss and distortion in trade practice.</p> <p>3. Food and drinks in premises other than having declared tariff of Rs 7500/- per unit per day are charged to GST of 5%. Further, GST on supply of food to institutions and passenger in trains, which is also treated as an outdoor catering, has been reduced to 5% without ITC. Even occasional fine dining at many upmarket places, localities and malls is charged to GST at 5% without ITC whereas food supply in many mandatory socio-religious functions country over such as child naming ceremony, mundan, betrothal, ring, marriage, funeral, uthala ceremonies etc. is treated as outdoor catering and is charged to GST at 18%. The payment of GST@18% is being evaded by outdoor caterers by opening a small restaurant in the corner of banquet hall. Catering is being billed as restaurant service on which GST is being paid@5% instead of 18% legally payable.</p> <p>4. Thus, in order to address this differential tax treatment for same nature of supply and to provide uniform rate of tax on catering at all other places except in premises having declared tariff of Rs.7500/- or more per unit per day, we may prescribe GST rate of 5% without ITC for outdoor catering services. As a consequence, all kind of catering would get taxed at 5% without input tax credit, except in star hotels having tariff of Rs.7500/- and above.</p> <p>5. The rate of taxation for composite supply of renting of a premise and catering therein may also be reduced to 5% without ITC from 18%</p> <p>6. Though proposal is expected to lead to revenue loss of appx. Rs.397 crores but will result in gain in future due to better tax compliance. Revenue in pre-GST era was Rs. 567 Crores when rate of tax was 15%. In GST era, revenue from services has fallen 25% to 19% of the total collection and therefore, rate reduction may improve compliance leading to minimal loss of revenue.</p>

Sl. No.	Proposal	Justification	Fitment Committee Recommendation								
			<p>7. Therefore, GST on outdoor catering services other than in premises having daily tariff of unit of accommodation of Rs. 7500 and above may be reduced to 5% without ITC. Catering in premises with daily tariff of unit of accommodation is Rs. 7500 and above shall remain at 18%.</p>								
4	<p>Request to reduce GST from 28% to 18% on hotel accommodation service where daily tariff per unit of accommodation is Rs 7500 and above</p> <p>Ref: PMO, CM of Goa, HAI</p>	<p>Tourism industry is getting affected due to high rate of 28% GST on hotel accommodation where daily tariff is Rs 7500 and above.</p> <p>During the current tourist season, there is a drop in arrival of domestic and international tourists in Goa by a whopping 30%. This trends also exists in other tourist destinations in the country.</p> <p>In the pre-GST era, tax burden on accommodation service was 21% [Luxury tax of 15% and Service Tax of 6%]. Hence, as per the fitment principle of nearest rate, it should have been fixed at 18% in GST.</p> <p>GST on hotels is 5% in China, 0% in Hongkong, 7% in Singapore and Thailand. High rate of 28% in GST is making Indian hospitality industry not competitive for both domestic and international tourists.</p>	<p>Recommendation:</p> <p>Fitment directed that pre-GST tax incidence be clearly brought out and presented before GST Council for taking appropriate decision. (Pre- GST rate was higher than 28%).</p> <p>As an alternative option, feasibility of increasing threshold of Rs 7500/- for 28% rate to Rs 10,000/ may be examined.</p> <p>Analysis:</p> <p>India ranks 133 out of 136 nations in the number of hotel rooms available per 100 population. Between July 2017 to March 2018, Rs 4898 Crores GST is payable by Indian hospitality sector by sales of lodging/accommodation of rooms as per Hotelivate estimates. Rs 6,530 Crores is the approx. GST payable in a financial year by the hotel accommodation sector.</p> <p>The existing GST rate on hotel accommodation are as under: -</p> <table border="1" data-bbox="794 1771 1369 2018"> <thead> <tr> <th>Daily Tariff (Rs)</th> <th>GST Rate</th> </tr> </thead> <tbody> <tr> <td>1000 and less</td> <td>Nil</td> </tr> <tr> <td>1001 to 2500</td> <td>12%</td> </tr> <tr> <td>2501 to 7499</td> <td>18%</td> </tr> </tbody> </table>	Daily Tariff (Rs)	GST Rate	1000 and less	Nil	1001 to 2500	12%	2501 to 7499	18%
Daily Tariff (Rs)	GST Rate										
1000 and less	Nil										
1001 to 2500	12%										
2501 to 7499	18%										

Sl. No.	Proposal	Justification	Fitment Committee Recommendation									
			7500 and above	28%								
<p>As per the data received from trade, Rs 1,100 Crores is the GST paid both in cash and credit for hotel accommodation service where tariff is Rs 7500/- and more attracting GST@28%. If GST rate is reduced to 18%, revenue will be Rs. 707 Crores. This implies GST revenue loss of Rs 392 Crores. Data shows nearly 60% of the GST payment in this segment is in cash. Therefore, effective GST loss in cash is Rs 235 Crores.</p>												
<p>Pre-GST tax incidence on renting of rooms in hotels was more than 28% [ST @9% with ITC of input services only + embedded VAT on inputs and capital goods=10.8% (27%*40%) + Luxury tax@9% (all India weighted average incidence)].</p>												
<p>The Prime Minister during Independence speech on 15th August 2019 observed “As a Tourist Destination, India can become a wonder in the world. All Indians should promote tourism, because tourism sector provides more jobs with less investments and also strengthens economy” and also tweeted “India has much to offer. I know people travel abroad for holidays but can we think of visiting at least 15 tourist destinations across India before 2022, when we mark 75 years of freedom”.</p>												
<p>There has been a trend to visit neighboring countries like Thailand, Maldives, Singapore etc. for holidays as tour packages are attractive from these countries. One of the reasons for cost effectiveness of tourism is low rates of GST on accommodation in foreign countries. The rates of GST on hotel accommodation in foreign countries is as below: -</p>												
<table border="1"> <thead> <tr> <th data-bbox="793 1789 1139 1845">Country</th> <th data-bbox="1144 1789 1484 1845">GST Rate</th> </tr> </thead> <tbody> <tr> <td data-bbox="793 1852 1139 1908">China</td> <td data-bbox="1144 1852 1484 1908">9%</td> </tr> <tr> <td data-bbox="793 1915 1139 1971">Thailand</td> <td data-bbox="1144 1915 1484 1971">7%</td> </tr> <tr> <td data-bbox="793 1977 1139 2033">Singapore</td> <td data-bbox="1144 1977 1484 2033">7%</td> </tr> </tbody> </table>					Country	GST Rate	China	9%	Thailand	7%	Singapore	7%
Country	GST Rate											
China	9%											
Thailand	7%											
Singapore	7%											

Sl. No.	Proposal	Justification	Fitment Committee Recommendation	
			Mauritius	15%
5	<p>Request for clarification on GST related to 'export of services' in pharmaceutical sector</p> <p>Ref: Association of Biotechnology Led Enterprises (ABLE)</p>	<p>Pharma sector in India is made to pay GST of 18% on services given to foreign clients due to lack of clarify on place of supply of pharma R&D Services.</p> <p>Indian pharma companies are losing competitiveness as pharma R&D services given to foreign clients are not treated as exports. This has led to loss in export contracts as other countries service providers are cost effective.</p> <p>Govt is also losing export revenue of Rs 170 Crores per year.</p>	<p>Recommendation:</p> <p>A notification may be issued under Section 13(13) of IGST Act, to notify that the place of supply of specific R&D services as listed in para 2 when provided by Indian pharma companies to foreign service recipients, shall be the place of effective use and enjoyment of a service i.e location of the service recipient.</p> <p>Analysis:</p> <p>Indian pharmaceutical industry supplies various kinds of R&D services to recipients located outside India against consideration received in foreign exchange. Some of the example of such services are integrated discovery and development services (involving research, development, prototype and manufacturing arrangements), Integrated Development (involving in-house development of molecule/ substance and subsequent process including testing), processing and testing, in vivo and assay evaluation services, drug metabolism and pharmacokinetics research, safety assessment/ toxicology, analytical testing, bio equivalence and bio availability studies, clinical trials etc. However, these services are performed in India and the reference materials for the above services are made available by foreign recipient in India. The specific R&D Services rendered by Indian Pharma sector to foreign clients are not treated as 'export of service' as place of supply is</p>	

Sl. No.	Proposal	Justification	Fitment Committee Recommendation															
			<p>place of performance of service i.e India as per Section 13(3)(a) of IGST Act.</p> <p>2. Following are R&D services provided by Pharma companies to foreign clients: -</p> <table border="1" data-bbox="791 564 1461 1998"> <thead> <tr> <th data-bbox="791 564 871 663">Sl. No</th> <th data-bbox="877 564 1072 663">Type of R&D Services</th> <th data-bbox="1078 564 1461 663">Description</th> </tr> </thead> <tbody> <tr> <td data-bbox="791 667 871 801">1</td> <td data-bbox="877 667 1072 801">Integrated discovery and development</td> <td data-bbox="1078 667 1461 801">This process involves discovery and development of molecules. Steps include Designing of compound,</td> </tr> <tr> <td data-bbox="791 806 871 1070">2</td> <td data-bbox="877 806 1072 1070">Integrated development</td> <td data-bbox="1078 806 1461 1070">evaluation of the drug metabolism, biological activity, manufacture of target compounds, stability study and long-term toxicology impact</td> </tr> <tr> <td data-bbox="791 1075 871 1675">3</td> <td data-bbox="877 1075 1072 1675">Evaluation of the efficacy of new chemical/ biological entities in animal models of disease</td> <td data-bbox="1078 1075 1461 1675">This is in vivo research (i.e. within the animal) and involves develop of customized animal model diseases and administer of novel chemical in doses to animals to evaluate the gene and protein expression in response to disease. In nutshell this process tries to discover if a novel chemical entity that can reduce or modify the severity of diseases. The novel chemical is supplied by the client.</td> </tr> <tr> <td data-bbox="791 1680 871 1998">4</td> <td data-bbox="877 1680 1072 1998">Evaluation of biological activity of novel chemical/ biological entities in in-vitro assays</td> <td data-bbox="1078 1680 1461 1998">This is in vitro research (i.e. outside the animal). An assay is first developed and then the novel chemical is supplied by the client and is evaluated in the assay under optimized conditions.</td> </tr> </tbody> </table>	Sl. No	Type of R&D Services	Description	1	Integrated discovery and development	This process involves discovery and development of molecules. Steps include Designing of compound,	2	Integrated development	evaluation of the drug metabolism, biological activity, manufacture of target compounds, stability study and long-term toxicology impact	3	Evaluation of the efficacy of new chemical/ biological entities in animal models of disease	This is in vivo research (i.e. within the animal) and involves develop of customized animal model diseases and administer of novel chemical in doses to animals to evaluate the gene and protein expression in response to disease. In nutshell this process tries to discover if a novel chemical entity that can reduce or modify the severity of diseases. The novel chemical is supplied by the client.	4	Evaluation of biological activity of novel chemical/ biological entities in in-vitro assays	This is in vitro research (i.e. outside the animal). An assay is first developed and then the novel chemical is supplied by the client and is evaluated in the assay under optimized conditions.
Sl. No	Type of R&D Services	Description																
1	Integrated discovery and development	This process involves discovery and development of molecules. Steps include Designing of compound,																
2	Integrated development	evaluation of the drug metabolism, biological activity, manufacture of target compounds, stability study and long-term toxicology impact																
3	Evaluation of the efficacy of new chemical/ biological entities in animal models of disease	This is in vivo research (i.e. within the animal) and involves develop of customized animal model diseases and administer of novel chemical in doses to animals to evaluate the gene and protein expression in response to disease. In nutshell this process tries to discover if a novel chemical entity that can reduce or modify the severity of diseases. The novel chemical is supplied by the client.																
4	Evaluation of biological activity of novel chemical/ biological entities in in-vitro assays	This is in vitro research (i.e. outside the animal). An assay is first developed and then the novel chemical is supplied by the client and is evaluated in the assay under optimized conditions.																

Sl. No.	Proposal	Justification	Fitment Committee Recommendation		
			5	Drug metabolism and pharmacokinetics of new chemical entities	This process is involved to investigate whether a new compound synthesized by supplier can be developed as new drug to treat human diseases in respect of solubility, stability in body fluids, stability in liver tissue and its toxic effect to body tissues. Promising compounds are further evaluated in animal experiments using rat and mice.
			6	Safety Assessment/ Toxicology	Safety assessment involves evaluation of new chemical entities in laboratory research animal models to support filing of investigational new drug and new drug application. Toxicology team analyses the potential toxicity of a drug to enable fast and effective drug development.
			7	Stability Studies	Stability studies are conducted to support formulation development and safety and efficacy of a new drug. It is also done to ascertain the quality, shelf life of the drug in their intended packaging configuration.
			8	Bio Equivalence and Bio Availability Studies	Bioequivalence is a term in pharmacokinetics used to assess the expected in vivo biological equivalence of two proprietary preparations of a drug. If two products are said to be bioequivalent it means that they would be expected to be, for all intents and purposes, the same. Bioavailability is a measurement of the rate and

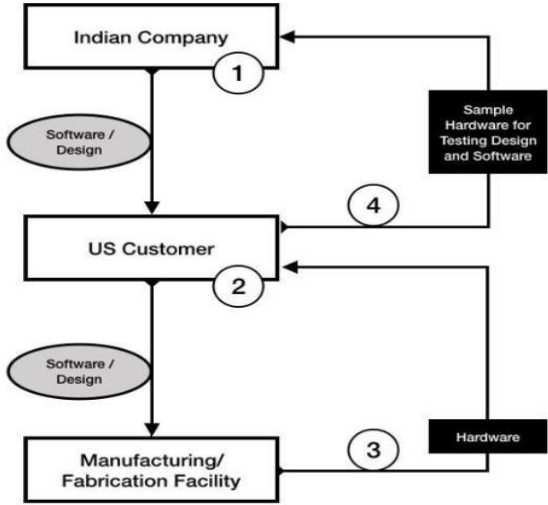
Sl. No.	Proposal	Justification	Fitment Committee Recommendation		
					extent to which a therapeutically active chemical is absorbed from a drug product into the systemic circulation and becomes available at the site of action.
			9	Clinical trials	Every drug that is developed for human consumption would undergo human testing to confirm its utility and safety before being registered for marketing. The trials help in collection of information related to drugs profile in human body such as absorption, distribution, metabolism, excretion and interaction. It allows choice of safe dosage.
			10	Bio analytical studies	Bio analysis is a sub-discipline of analytical chemistry covering the quantitative measurement of drugs and their metabolites, and biological molecules in unnatural locations or concentrations and macromolecules, proteins, DNA, large molecule drugs, metabolites in biological systems.
<p>3. Clarification is needed whether pharma R&D services provided to foreign clients falls within Section 13(3)(a) of the IGST Act, 2017, the place of supply where the location of the recipient is outside India, shall be the location where the services are actually performed.</p> <p>Section 13(3)(a) of IGST Act is as below :-</p>					

Sl. No.	Proposal	Justification	Fitment Committee Recommendation
			<p><i>The place of supply of the following services shall be the location where the services are actually performed, namely:—</i></p> <p><i>(a) services supplied in respect of goods which are required to be made physically available by the recipient of services to the supplier of services, or to a person acting on behalf of the supplier of services in order to provide the services:</i></p> <p><i>Provided that when such services are provided from a remote location by way of electronic means, the place of supply shall be the location where goods are situated at the time of supply of services:</i></p> <p><i>Provided further that nothing contained in this clause shall apply in the case of services supplied in respect of goods which are temporarily imported into India for repairs or for any other treatment or process and are exported after such repairs or treatment or process without being put to any use in India, other than that which is required for such repairs or treatment or process;</i></p> <p>4. In pharma R&D services, client provides reference materials, sample drugs, reagent etc. All these R&D services are administered on the materials supplied at the laboratory of the pharmaceutical industry. Further it is to say that, such materials supplied by the client gets consumed in the process.</p> <p>5. It is important to determine whether service provided fall within the meaning of “goods that are made physically available, by the receiver to the service provider”, under section 13(3)(a) of IGST Act, 2017. Education Guide of Service Tax released by CBEC answers the questions as below: -</p>

Sl. No.	Proposal	Justification	Fitment Committee Recommendation
			<p><i>Services that are related to goods, and which require such goods to be made available to the service provider or a person acting on behalf of the service provider so that the service can be rendered, are covered here. The essential characteristic of a service to be covered under this rule is that the goods temporarily come into the physical possession or control of the service provider, and without this happening, the service cannot be rendered. Thus, the service involves movable objects or things that can be touched, felt or possessed. Examples of such services are repair, reconditioning, or any other work on goods (not amounting to manufacture), storage and warehousing, courier service, cargo handling service (loading, unloading, packing or unpacking of cargo), technical testing/inspection/certification/ analysis of goods, dry cleaning etc. It will not cover services where the supply of goods by the receiver is not material to the rendering of the service e.g. where a consultancy report commissioned by a person is given on a pen drive belonging to the customer. Similarly, provision of a market research service to a manufacturing firm for a consumer product (say, a new detergent) will not fall in this category, even if the market research firm is given say, 1000 nos. of 1 kilogram packets of the product by the manufacturer, to carry for door-to-door surveys.</i></p> <p>6. The above clarification implies that samples given by foreign clients to Indian pharma companies should be goods and such goods should temporarily come into the physical possession or control of the service provider, and without this happening, the service cannot be rendered.</p> <p>7. As is evident from judicial precedents [Vikas Sales Corporation Vs. Commissioner of Commercial Taxes], in order to be considered “goods”, the article under consideration shall be a “marketable commodity”, i.e. having the following features – (i) It should have an intrinsic value; (ii) It should be freely transferable. As samples provided by oversea clients are in the nature of chemical or biological molecules which are not marketable commodities. Such samples are consumed in order to develop final product by the foreign clients. Even if we consider such sample molecules as goods, as per the</p>

Sl. No.	Proposal	Justification	Fitment Committee Recommendation
			<p>Education Guide of Service Tax, provision of a market research service to a manufacturing firm for a consumer product (say, a new detergent) will not fall in the category of Section 13(3)(a) of IGST Act, even if the market research firm is given say, 1000 nos. of 1 kilogram packets of the product by the manufacturer, to carry for door-to-door surveys.</p> <p>8. Prima facie, few samples given by foreign clients to Indian pharma do not make place of supply of specific R&D services as location of service provider as per Section 13(3)(a) of IGST Act and hence such specific services rendered by Indian pharma qualify as ‘export of services’</p> <p>9. On 27.04.2018, the Finance Secretary observed in the file F.No. 345/58/2018-TRU that <i>“We must follow the best international practice in this. We must change IGST law for this if need be. India has a great potential for service export and we must not let it lose competitive edge. Please find a way out.”</i> An OM dated 14.05.2018 was sent from TRU to GST Policy Wing accordingly. But no reply has been received on the matter.</p> <p>10. Section 13(3)(a) was amended vide IGST(Amendment) Act, 2018 to exclude goods ‘for any other treatment or process’ without being put to use in India other than required for such treatment or process. Sample molecules used in pharma R&D are sent by foreign clients but used in the process of R&D activities undertaken by Indian pharma companies. Such sample molecules are not used in India for any other purpose.</p> <p>11. Instead of tweaking IGST Act which may have implication for place of supply of other intermediary services too, as there is a provision under Section 13(13) of IGST Act which empowers the Central Government to notify any service or circumstances in which the place of supply shall be the place of supply of effective use or enjoyment of service in order to prevent double taxation or non-taxation of the supply of service, we may issue a</p>

Sl. No.	Proposal	Justification	Fitment Committee Recommendation
			notification under Section 13(13) of IGST Act, to notify the place of supply of specific R&D services as listed in para 2 when provided by Indian pharma companies to foreign service recipients, to be the place of effective use and enjoyment of a service i.e. location of the service recipient.
6	<p>Request to clarify place of supply of Service under GST & Service Tax related to R&D design services of semiconductor chips to foreign clients.</p> <p>Ref: Joint Secretary, Meity, India Electronics & Semiconductor Association (IESA)</p>	<p>A number of companies that are part of the growing Electronics Semi-conductor and Design Manufacturing (ESDM) industry in India are engaged in the process of developing software and designing integrated circuits electronically for customers located overseas - an activity that may be regarded as exporting of IT software development services.</p> <p>The broad steps normally involved are as follows –</p> <ul style="list-style-type: none"> The client/customer electronically provides Indian development and design companies with design requirements and Intellectual Property blocks (“IP blocks”, reusable units of software logic and design layouts that can be combined to form newer designs). Based on these, the Indian company digitally integrates the various IP blocks to develop the software and the silicon or hardware design. These designs are communicated abroad (in industry standard electronic formats) either to the customer or (on behest of the customer) a manufacturing 	<p>Recommendation:</p> <p>It may be clarified by way of a circular that the place of supply of chip design software R&D services provided by Indian companies to foreign clients by using sample test kits in India is the location of the service recipient and section 13(3)(a) of IGST Act, 2017 is not applicable for determining the place of supply in such cases.</p> <p>Analysis:</p> <p>Indian companies provide chip design services to foreign clients where chip design software is transmitted electronically to clients. In the process of such export of software design services, chip design is tested in a hardware lab by using few sample hardware kits provided by the clients in order to ensure quality of the chip design software. Diagram depicting the provision of services between different entities in different tax jurisdictions is as below:</p>

Sl. No.	Proposal	Justification	Fitment Committee Recommendation
		<p>facility for the manufacture of hardware based on such designs. In addition, the software developed is also integrated upon or customized to this hardware.</p> <ul style="list-style-type: none"> On some occasions, samples of such prototype hardware are then provided back to the Indian development and design companies to test and validate the software and design that has been developed to ensure that it is error free. The purpose of this step is to test the software and electronic design developed in India, and not the hardware that is received. The design is embedded upon the hardware (eg. physical microchip or graphics card), however this hardware is simply the medium on which the design or software is integrated. The primary contention of the Service Tax department in such cases has been that the provision of hardware prototypes and samples lends these services the character of performance-based services in respect of “goods required to be made physically available by the recipient to the provider”. However, the essential character of these services is one of export of IT Software Services involving development and design. <p>Information technology software services can thus include such designs and</p>	 <pre> graph TD IC[Indian Company 1] -- "Software / Design" --> UC[US Customer 2] UC -- "Software / Design" --> MF[Manufacturing/ Fabrication Facility 3] MF -- "Hardware" --> UC UC -- "Sample Hardware for Testing Design and Software 4" --> IC </pre> <p>Clarification is sought whether provision of hardware prototypes and samples lends software R&D services the character of performance-based services in respect of “goods required to be made physically available by the recipient to the provider” under GST and Service Tax. This is essential to determine place of supply of such services under GST and Service Tax.</p> <p>Section 13(3)(a) of IGST Act is as below :-<i>The place of supply of the following services shall be the location where the services are actually performed, namely:—</i></p> <p>(a) <i>services supplied in respect of goods which are required to be made physically available by the recipient of services to the supplier of services, or to a person acting on behalf of the supplier of services in order to provide the services:</i></p> <p><i>Provided that when such services are provided from a remote location by way of electronic means, the place of supply shall be the location where goods are situated at the time of supply of services:</i></p> <p><i>Provided further that nothing contained in this clause shall apply in the case of services supplied in respect of goods which are temporarily imported into India for repairs or for any other treatment or process and are</i></p>

Sl. No.	Proposal	Justification	Fitment Committee Recommendation
		<p>software for the development of hardware, with such design and software being installed, incorporated or integrated into the hardware via a separate manufacturing process.</p>	<p><i>exported after such repairs or treatment or process without being put to any use in India, other than that which is required for such repairs or treatment or process;</i></p> <p>It is important to determine whether chip design service provided fall within the meaning of “goods that are made physically available, by the receiver to the service provider”, under section 13(3)(a) of IGST Act, 2017. Education Guide of Service Tax released by CBEC answers the questions as below: -</p> <p><i>Services that are related to goods, and which require such goods to be made available to the service provider or a person acting on behalf of the service provider so that the service can be rendered, are covered here. The essential characteristic of a service to be covered under this rule is that the goods temporarily come into the physical possession or control of the service provider, and without this happening, the service cannot be rendered. Thus, the service involves movable objects or things that can be touched, felt or possessed. Examples of such services are repair, reconditioning, or any other work on goods (not amounting to manufacture), storage and warehousing, courier service, cargo handling service (loading, unloading, packing or unpacking of cargo), technical testing/inspection/certification/ analysis of goods, dry cleaning etc. It will not cover services where the supply of goods by the receiver is not material to the rendering of the service e.g. where a consultancy report commissioned by a person is given on a pen drive belonging to the customer. Similarly, provision of a market research service to a manufacturing firm for a consumer product (say, a new detergent) will not fall in this category, even if the market research firm is given say, 1000 nos. of 1 kilogram packets of the product by the manufacturer, to carry for door-to-door surveys.</i></p> <p>The main activity of Indian service providers is software development. Few prototype hardware is provided by foreign clients to the Indian development and design companies to test and validate the software and design</p>

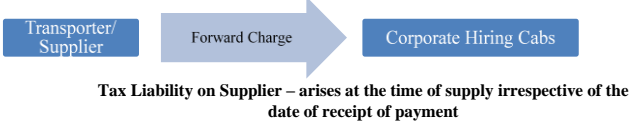
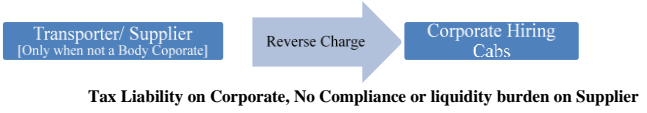
Sl. No.	Proposal	Justification	Fitment Committee Recommendation
			<p>that has been developed to ensure that it is error free in the process of delivery of chip design.</p> <p>The chip design is the principal supply of the service provider whereas testing of the developed software using the sample hardware forms the ancillary service as service provider is not involved in software testing full time. The testing of design software is only to improve the quality of software developed.</p> <p>Section 13(3)(a) was amended vide IGST(Amendment) Act, 2018 to exclude goods ‘for any other treatment or process’ without being put to use in India other than required for such treatment or process as below:</p> <p><i>Provided further that nothing contained in this clause shall apply in the case of services supplied in respect of goods which are temporarily imported into India for repairs or for any other treatment or process and are exported after such repairs or treatment or process without being put to any use in India, other than that which is required for such repairs or treatment or process</i></p> <p>Therefore, place of supply of chip design software services provided by Indian companies to foreign clients by using sample test kits in India becomes location of the service recipient and section 13(3)(a) of IGST Act, 2017 is not applicable for determining the place of supply in such cases. Place of supply will be location of the recipient of service as the principal supply is “export of service”.</p>
7	Request to exempt intermediary services when both supplier and recipient of goods are	Intermediary service providers are affected as their services to clients abroad are not treated as export of services. This is affecting the competitiveness of exports and affecting the intermediary service.	<p>Recommendation:</p> <p>IGST exemption may be provided for GST on the supply of intermediary services when location of supplier of goods and location of recipient of goods is outside the taxable territory subject to conditions and safeguards prescribed in this regard.</p>

Sl. No.	Proposal	Justification	Fitment Committee Recommendation
	<p>outside the taxable territory</p> <p>Ref: Fitment Committee on 14.12.2018</p>		<p>Analysis:</p> <p>Supply of goods/ from a place in non-taxable territory to another place in the non-taxable territory without such goods entering into India is neither a supply of goods nor a supply of services [Entry No. 7 of Schedule III of CGST Act w.e.f. 01.02.2019 refers]. However, intermediary services provided in such supply are still taxable in India as place of supply is in India as per Section 13(8)(b) of IGST Act.</p> <p>The request from IGST exemption on such intermediary services was taken to Fitment Committee meeting held on 14.12.2018. Fitcom deferred the matter for want of safeguards to ensure exemption is not misused by the trade. As directed by FITCOM, discussions were held with the trade and suggestions on safeguards/conditions required for granting exemption (when both the supplier and receiver of goods are outside India) and measures to avoid any potential misuse were deliberated and the suggestions on same are as below:</p> <p>Indian based intermediary should maintain following documents as proof that both the supplier and receiver of goods are outside India. These documents are not required to be submitted or produced before any authority for claiming exemption. However, they must be kept in record for a minimum duration of 5 years for statutory audit by the GST/Custom authorities. The documents are:</p> <ol style="list-style-type: none"> 1) Copy of Bill of Lading (that shows details of Load Port, Discharge Port, Shipper/Supplier and Receiver/Consignee/Notify Party) 2) Copy of executed Contract between Supplier/Seller and Receiver/Buyer 3) Copy of Commission Debit Note raised by Indian Intermediary on foreign Principals that clearly states

Sl. No.	Proposal	Justification	Fitment Committee Recommendation
			<p>Name of Foreign Supplier, Name of Foreign Receiver, Contract Number</p> <p>4) Copy of Certificate of Origin issued by Foreign Supplier</p> <p>5) Declaration Letter from Indian Intermediary on company letter head confirming that Commission Debit Note raised relates to Contract when both supplier and receiver of goods are outside India</p> <p>This exemption may be considered on two grounds: -</p> <p>(i) The suggested safeguards are adequate</p> <p>(ii) Taxing of such services lead to business shifting out of India to any other location where it is not taxed</p>
8	<p>A detailed list of products may be given which shall not fall under the definition of 'agricultural produce'.</p> <p>Reference: Laghu Udyog Bharti</p> <p>Clarify that processes done outside agricultural farm, which do not alter the essential characteristics of agricultural produce but make it only marketable for primary market also should be exempted.</p>	<p>In 2002, agricultural produce for storage and warehousing service was defined as <i>any produce resulting from cultivation or plantation, on which either no further processing is done or such processing is done as is usually done by a cultivator like tending, pruning, cutting, harvesting, drying which does not alter its essential characteristics but make it only marketable and includes all cereals, pulses, fruits, nuts and vegetables, spices, copra, sugarcane, jaggery, raw vegetable fibres such as cotton, flax, jute etc., indigo, unmanufactured tobacco, betel leaves, tendu leaves, rice, coffee and tea but does not include manufactured products such as sugar, edible oils, processed food, processed tobacco.</i></p>	<p>Recommendation:</p> <p>Services by way of storage or warehousing of cereals, pulses, fruits, nuts and vegetables, spices, copra, sugarcane, jaggery, raw vegetable fibres such as cotton, flax, jute etc., indigo, unmanufactured tobacco, betel leaves, tendu leaves, rice, coffee and tea may be exempted.</p> <p>Analysis:</p> <p>Loading, unloading packing, storage or warehousing of agricultural produce is exempt from GST. Similarly, services by any Agricultural Produce Marketing Committee or Board or services provided by a commission agent for sale or purchase of agricultural produce are also exempt. [Notification No. 11/2017-Central Tax (Rate), Sl. No. 24 and notification No. 12/2017-Central Tax (Rate), Sl. No. 54, dated 28th June 2017]. Further, agricultural produce has been defined under GST as under:</p> <p><i>“any produce out of cultivation of plants and rearing of all life forms of animals, except the rearing of horses, for food, fibre, fuel, raw material or other similar products, on which either no further processing is done or such processing is done as is usually done by a cultivator or producer which does</i></p>

Sl. No.	Proposal	Justification	Fitment Committee Recommendation
	<p>Reference: Tamil Nadu Chamber of Commerce & Industry</p>	<p>However, in GST regime, 'agricultural produce' has been narrowly defined as <i>any produce out of cultivation of plants and rearing of all life forms of animals, except the rearing of horses, for food, fibre, fuel, raw material or other similar products, on which either no further processing is done or such processing is done as is usually done by a cultivator or producer which does not alter its essential characteristics but makes it marketable for primary market.</i></p> <p>Further, a Circular No. 16/16/2017-GST dated 15.11.2017 has been issued clarifying <i>that processed products such as tea (i.e. black tea, white tea etc.), processed coffee beans or powder, pulses (de-husked or split), jaggery, processed spices, processed dry fruits, processed cashew nuts etc. fall outside the definition of agricultural produce and therefore the exemption from GST is not available to their loading, packing, warehousing etc. and that any clarification issued in the past to the contrary in the context of Service Tax or VAT/ Sales Tax is no more relevant.</i></p>	<p><i>not alter its essential characteristics but makes it marketable for primary market".</i></p> <p>To remove any confusion, a Circular No. 16/16/2017-GST dated 15.11.2015 has been issued, wherein, it has been clarified that processed products such as tea (i.e. black tea, white tea etc.), processed coffee beans or powder, pulses (de-husked or split), jaggery, processed spices, processed dry fruits, processed cashew nuts etc. fall outside the definition of agricultural produce given in notification No. 11/2017-CT(Rate) and 12/2017-CT(Rate) and corresponding notifications issued under IGST and UGST Acts and therefore the exemption from GST is not available to their loading, packing, warehousing etc. and that any clarification issued in the past to the contrary in the context of Service Tax or VAT/ Sales Tax is no more relevant.</p> <p>Request of Laghu Udyog Bharati is essentially to extend these exemptions to processed agricultural products such as Jaggery, Tea, processed spices etc.</p> <p>Further, it is also relevant to mention here that in the positive list regime of Service Tax prior to 2012, the storage and warehousing of agricultural produce was not taxable, where the definition of 'agricultural produce' was as under:</p> <p><i>Agricultural produce means any produce resulting from cultivation or plantation, on which either no further processing is done or such processing is done as is usually done by a cultivator like tending, pruning, cutting, harvesting, drying which does not alter its essential characteristics but make it only marketable and includes all cereals, pulses, fruits, nuts and vegetables, spices, copra, sugarcane, jaggery, raw vegetable fibres such as cotton, flax, jute etc., indigo, unmanufactured tobacco, betel leaves, tendu leaves, rice, coffee and tea but does not include manufactured products such as sugar, edible oils, processed food, processed tobacco.</i></p>

Sl. No.	Proposal	Justification	Fitment Committee Recommendation
		<p>This is causing genuine hardship to the cold storage industry.</p> <p>Para 4.6 of Education Guide on service tax stated that activities like the processes carried out in agricultural farm would also be covered if the same are performed outside the agricultural farm provided such processes do not alter the essential characteristics of agricultural produce but only make it marketable in the primary market. Therefore, cleaning of wheat would be covered in the negative list entry even if the same is done outside the farm.</p> <p>Hence it is requested the same clarification be continued in GST regime too.</p>	<p>In the interest of the SME sector, it is proposed that services by way of storage or warehousing of cereals, pulses, fruits, nuts and vegetables, spices, copra, sugarcane, jaggery, raw vegetable fibres such as cotton, flax, jute etc., indigo, unmanufactured tobacco, betel leaves, tendu leaves, rice, coffee and tea may be exempted.</p> <p>In the negative list regime post 2012, 'Agricultural produce' means any produce of agriculture on which either no further processing is done or such processing is done as is usually done by the cultivator or producer which does not alter its essential characteristics but make it marketable for primary market. 'Agriculture' was defined as the cultivation of plants and rearing of all life forms of animals, except the rearing of horses, for food, fibre, fuel, raw material or other similar products.</p> <p>For this period, Service Tax wing has been requested to examine issuing a notification under section 11 C of central Excise act in view of the definition of 'agricultural produce' in 2002 RoD.</p>
9	<p>GST should be paid by the corporate business entities under reverse charge mechanism in case of renting of vehicle service provided</p> <p>Reference: Dr. Kirit Somaiya, Ex-MP forwarding</p>	<p>During the pre-GST regime the service tax was payable on the rent-a-cab services under RCM by the corporate entities where the said service was provided by non-corporate entities. The said mechanism was adopted for two-fold purposes. The small service providers were required to make simple tax compliance with improved liquidity on account of delayed payments by service recipients. It becomes very difficult for the small operators to pay the tax amount upfront on the</p>	<p>Recommendation:</p> <p>RCM to suppliers paying GST @ 5% on renting of vehicles, with ITC only of input services in the same line of business, when providing services to corporate entities may be considered.</p> <p>Analysis:</p> <p>In GST regime, the tax rate for renting of vehicles is 5% with ITC of input services in the same line of business or 12% with full ITC.</p> <p>In Service Tax (ST) regime, the effective tax rate was 6% with ITC of input services in the same line of business or 15% with full ITC. Further, 100% RCM was applicable on renting of vehicles on abated value to any person who is</p>

Sl. No.	Proposal	Justification	Fitment Committee Recommendation
	<p>the representation of Bus and Car Operators Confederation of India</p> <p>Gujarat, forwarding representation of Akhil Gujarat Tourist Vehicle Operators Federation</p>	<p>services provided and the payment for the same is received by them after 6 months or even more in same of cases. On the other hand, it has created positive impact for revenue on tax collection, compliance and admiration. During the GST regime, some of services have been already brought under the RCM. For e.g. Goods Transport Agency services, Security services. Also, there are cases where the payment of the renting of motor vehicle is made by the corporates after 6 months to 1 year. It becomes very difficult for the small operators to pay the GST amount upfront on the services provided and the payment for the same is received by them after 6 months to 1 year. Majority of service providers in this category are small and scattered service providers. The RCM will reduce the GST compliance and will improve the liquidity for them. At the same time, the Government will get more revenue with lesser tax collection cost.</p>	<p>not engaged in the similar line of business. However, in GST regime RCM option for the service of renting a vehicle had been discontinued.</p> <p>We may allow RCM facility to operators (not body corporates) paying GST at 5% with ITC of input services in the same line of business only when the services are provided to corporate entities.</p>  <p>“Renting of Vehicles” Services</p>  <p>This would provide relief to the suppliers which are small businesses and are transport service providers.</p>
10	<p>Clarification on Scope of Services of Exploration, Mining or Drilling of Petroleum Crude or Natural Gas or both.</p>	<p>As per amendment to Sl. No. 24 of Notification No. 8/2017-IGST (Rate) dated 28.06.2017, the Services of Exploration, Mining or Drilling of Petroleum Crude or Natural Gas or both attracts 12% GST Rate. However, GST rate on Support service to mining other than above is 18%.</p>	<p>Recommendation:</p> <p>Circular may be issued to clarify that scope of the entry “services of exploration, mining or drilling of petroleum crude or natural gas or both” shall be governed by the explanatory notes to heading 9986 and 9983 in the scheme of classification of services and necessary changes may be made in the notification entries.</p> <p>Analysis:</p>

Sl. No.	Proposal	Justification	Fitment Committee Recommendation
	Reference: FIPI	<p>Since the scope of term Exploration, Mining or Drilling has not been defined under GST Law, it is apprehended that field formations may raise demand @18% on various petroleum operations carried out by E&P Sector treating such activities as Support Services to Mining. As for example, exploration starts from survey, data acquisition, data interpretation etc. Similarly, Mud Services, Cementing Services, Logging Services are the integral part of drilling activities. In order to avoid litigation, the scope of Exploration, Mining and Drilling activities should be defined.</p>	<p>Technically there are 3 distinct stages of operations associated with economic exploitation of hydrocarbons such as petroleum crude and natural gas, namely, Exploration, Appraisal, Development and production.</p> <p>Model Production Sharing Contract under NELP IX Round, defines exploration, appraisal, development and production operations in oil and gas sector in Article 1 as under:</p> <p>“Exploration Operations” means operations conducted in the Contract Area pursuant to this Contract in searching for Petroleum and in the course of an Appraisal Programme and shall include but not be limited to aerial, geological, geophysical, geochemical, paleontological, palynological, topographical and seismic surveys, analysis, studies and their interpretation, investigations relating to the subsurface geology including structural test drilling, stratigraphic test drilling, drilling of Exploration Wells and Appraisal Wells and other related activities such as surveying, drill site preparation and all work necessarily connected therewith that is conducted in connection with Petroleum exploration.</p> <p>“Appraisal Programme” means a programme, carried out following a Discovery in the Contract Area for the purpose of appraising Discovery and delineating the Petroleum Reservoirs to which the Discovery relates in terms of thickness and lateral extent and determining the characteristics thereof and the quantity of recoverable Petroleum therein.</p> <p>“Development Operations” means operations conducted in accordance with the Development Plan and shall include, but not be limited, to the purchase, shipment or storage of equipment and materials used in developing Petroleum accumulations, the drilling, completion and testing of Development Wells, the drilling and completion of Wells for Gas or water injection, the laying of gathering lines, the installation of offshore platforms and installations, the installation of separators, tankages, pumps, artificial lift and other producing and injection facilities required to produce, process and transport Petroleum into main Oil storage or Gas processing</p>

Sl. No.	Proposal	Justification	Fitment Committee Recommendation
			<p>facilities, either onshore or offshore, including the laying of pipelines within or outside the Contract Area, storage at Delivery Point(s), the installation of said storage or Gas processing facilities, the installation of export and loading facilities and other facilities required for the development and production of the said Petroleum accumulations and for the delivery of Crude Oil and/ or Gas at the Delivery Point and also including incidental operations not specifically referred to herein but required for the most efficient and economic development and production of the said Petroleum accumulations in accordance with modern oilfield and petroleum industry practices.</p> <p>“Production Operations” means all operations conducted for the purpose of producing Petroleum from the Development Area after the commencement of production from the Development Area including the operation and maintenance of all necessary facilities therefore.</p> <p>However, during the discussion in fitment Committee meeting held on 9th – 10th July, 2018 it was observed that the definitions of exploration, appraisal, development and production operations in the NELP IX model production sharing contract are very open ended and would include all activities. Therefore, the matter was deferred for further examination with following observation by the fitment Committee.</p> <p><i>Needs further study. More information and details may be collected from ONGC, AOGO regarding individual activities and the rates which in their interpretation apply to those individual activities in relation to contract signed under NELP IX. The present definitions under NELP IX contract are very open ended.</i></p> <p>Inputs from ONGC, AOGO and Reliance Industries limited have been received. All the three have submitted different lists with different descriptions of services. The lists run into several pages, are too technical and granular and cannot be accepted as a general guide.</p> <p>Explanatory Notes to the Scheme of Classification of Services adopted for the purposes of GST, which is based on the United Nations Central Product Classification</p>

Sl. No.	Proposal	Justification	Fitment Committee Recommendation
			<p>describe succinctly the activities associated with exploration, mining or drilling of petroleum crude or natural gas under heading 9983 and 9986. While most of the activities associated with <i>exploration, mining or drilling of petroleum crude or natural gas fall under heading 9986, a few particularly technical and consulting services relating to exploration also fall under heading 9983.</i></p> <p>The relevant Explanatory Notes are as follows:</p> <p>998341 Geological and geophysical consulting services</p> <p><i>This service code includes provision of advice, guidance and operational assistance concerning the location of mineral deposits, oil and gas fields and groundwater by studying the properties of the earth and rock formations and structures; provision of advice with regard to exploration and development of mineral, oil and natural gas properties, including pre-feasibility and feasibility studies; project evaluation services; evaluation of geological, geophysical and geochemical anomalies; surface geological mapping or surveying; providing information on subsurface earth formations by different methods such as seismographic, gravimetric, magnetometric methods & other subsurface surveying methods</i></p> <p><i>This service code does not include test drilling and boring work, cf. 995432</i></p> <p>998343 Mineral exploration and evaluation</p> <p><i>This service code includes mineral exploration and evaluation information, obtained on own account basis</i></p> <p><i>Note: This intellectual property product may be produced with the intent to sell or license the information to others.</i></p> <p>998621 Support services to oil and gas extraction</p> <p><i>This service code includes derrick erection, repair and dismantling services; well casing, cementing, pumping, plugging and abandoning of wells; test drilling and exploration services in connection with petroleum and gas extraction; specialized fire extinguishing services; operation of oil or gas extraction unit on a fee or contract basis</i></p>

Sl. No.	Proposal	Justification	Fitment Committee Recommendation
			<p><i>This service code does not include:</i></p> <ul style="list-style-type: none"> - geological, geophysical and related prospecting and consulting services, cf. 998341 <p>998622 Support services to other mining n.e.c.</p> <p><i>This service code includes draining and pumping of mines; overburden removal and other development and preparation services of mineral properties and sites, including tunneling, except for oil and gas extraction; test drilling services in connection with mining operations, except for oil and gas extraction; operation of other mining units on a fee or contract basis</i></p> <p><i>This service code does not include:</i></p> <ul style="list-style-type: none"> - mineral exploration and evaluation services, cf. 998343 - geophysical services, cf. 998341 <p>Therefore, it is proposed that:</p> <ol style="list-style-type: none"> a) An entry corresponding to the entry “<i>services of exploration, mining or drilling of petroleum crude or natural gas or both</i>” which appears under 9986 with GST rate of 12%, may be inserted under heading 9983 with the following description at the same rate of GST of 12%;- <ul style="list-style-type: none"> “(ia) <i>Other professional, technical and business services relating to exploration, mining or drilling of petroleum crude or natural gas or both</i>” b) Further, since the description of the overall heading at the 4-digit level 9986 is “Support services to agriculture, ...mining”, the description of the entry at Sl. No. 24 of Notification No. 11/2017-CGST (Rate) dated 28.06.2017, may be corrected from “<i>services of exploration, mining or drilling of petroleum crude or natural gas or both</i>” to “Support services of exploration, mining or drilling of petroleum crude or natural gas or both” c) Circular may be issued that the scope of the said entry at 9986 (ii) and proposed entry (ia) under 9983 shall be governed by the explanatory notes to 998341, 998343, 998621 and 998622 to the scheme of classification. The services which do

Sl. No.	Proposal	Justification	Fitment Committee Recommendation
			not fall under heading 9983 and 9986 of the scheme of classification of services shall be classified in their respective headings and taxed accordingly.
11	<p>Request to amend the effective date of notification No. 17/2018-CTR dated 26.07.2018 whereby explanation was inserted in notification No. 11/2017- CTR dated 28.06.2017 that the activities or transactions under taken by Government and Local Authority are excluded from the term 'business'</p> <p>Reference: CCT west Bengal</p>	<p>With effect from 21.09.2017, a new entry was inserted in notification No. 11/2017-CT (Rate) dt. 28.06.2017 prescribing concessional rate of GST of 12% for works contract service provided to Government, Local Authority and Government Authority. The said entry at Sl. No. 3(vi)(a) of the notification reads as under- <i>“Composite supply of works contract services provided to the Central Government, State Government, Union Territory, a local authority, a governmental authority or a government entity by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of a civil structure or any other original works meant predominantly for use other than for commerce, industry, or any other business or profession”.</i></p> <p>Since the definition of the term “business” as given in Section 2(17) of the CGST Act, 2017 includes any activity or transaction undertaken by the Government in which they are engaged as public authorities, the intended benefit of the concessional rate did not accrue to the Central and State</p>	<p>Recommendation:</p> <p>A clarification may be issued in form of a circular that the explanation has been issued under section 11(3) of the CGST Act and is thus effective from the inception of the entry at Sl. No. 3(vi)(a) of the notification No. 11/2017- CTR dated 28.06.2017, that is 21.09. 2017.</p> <p>Analysis:</p> <p>Section 11(3) of CGST Act provides that the Government may insert an explanation in any notification issued under section 11, for the purpose of clarifying its scope or applicability, at any time within one year of issue of the notification and every such explanation shall have effect as if it had always been the part of the first such notification.</p> <p>As recommended by GST Council, the explanation in question was inserted vide notification No. 17/2018-CTR dated 26.07.2018 in exercise of powers under section 11(3) within one year of the insertion of the original entry prescribing concessional rate, so that it would have effect from the date of inception of the entry i.e. 21.09.2017. However, like other notifications issued on 26.07.2018 to give effect to other recommendations of the GST Council, the said notification also contained a line in the last paragraph that the notification shall come into effect from 27.07.2018.</p> <p>Since explanation was inserted in exercise of powers under section 11(3)), the same shall have effect from the inception of the original entry, that is 21.09.2017, and the line in notification No. 17/2018-CTR dated 26.07.2018 which states that the notification shall come into effect from 27.07.2017 is redundant.</p> <p>However, to remove any doubts in this regard, we may issue a circular clarifying that the explanation having been issued under section 11(3) of the CGST Act, is effective from the inception of the entry at Sl. No. 3(vi)(a) of the</p>

Sl. No.	Proposal	Justification	Fitment Committee Recommendation
		<p>Governments and local authorities. Therefore, an explanation was inserted in the said entry vide notification No. 17/2018- CTR dated 26.07.2018:</p> <p><i>“Explanation. - For the purpose of this item the term “business” shall not include any activity or transaction undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities.”</i></p> <p>However, the said notification specifies the date of coming into effect of the notification as 27.07.2018.</p> <p>The sole purpose of exemption was to reduce GST rate on the WCS supplied to Central Government, State Governments and local authorities for construction of non-commercial buildings like hospitals, schools etc. However, giving effect to the said explanation from a later date (i.e. 27.07.2018) has hit the basic objective of inserting the explanation.</p>	<p>notification No. 11/2017- CTR dated 28.06.2017, that is 21.09. 2017.</p>
12	<p>Valuation mechanism in case TDR is supplied by an unregistered person may be prescribed</p> <p>Reference: TRU and various states</p>	<p>Para 2A of Notification No. 11/2017-CTR as inserted by Notification No. 3/2019-CTR deals with a situation where a “registered person” transfers development right or FSI to a promoter against consideration in form of constructed area and provides that the value shall be equal to the total amount charged for</p>	<p>Recommendation:</p> <p>Para 2A of Notification No. 11/2017-Central Tax (Rate) dated 28-06-2017 may be amended to delete the word “registered” so as to provide for valuation mechanism where Transfer of Development Rights (TDR) is supplied by an unregistered land owner to builder.</p> <p>Analysis:</p>

Sl. No.	Proposal	Justification	Fitment Committee Recommendation
		<p>similar apartments in the Project from independent buyers nearest to the date on which rights transferred.</p> <p>Due to the language employed, Para 2A shall not be applicable in case transferor is not a “registered person”. It may be clarified as to what shall be the method of valuation in such cases.</p>	<p>Presently, para 2A of Notification No. 11/2017-CTR provides for valuation of TDR when it is transferred by a registered person. However, TDR may be transferred by an unregistered landowner. The proposed amendment will address the valuation of TDR in such case.</p>
13	<p>Applicability of both the notifications i.e. notification no. 6/2019- CTR dated 29.03.2019 and notification No. 4/2018- CTR dated 25.01.2018 apply where development rights are transferred on or after 01.04.2019. Therefore, applicability of these two notifications may clearly be clarified.</p> <p>Reference: TRU and various states</p>	<p>The liability to pay tax on development rights or FSI received by a promoter on or after 01.04.2019 and the construction service provided in lieu of such development rights or FSI, has been shifted to the date of issuance of completion certificate for the project or its first occupation, whichever is earlier, vide notification no. 6/2019- CTR dated 29.03.2019.</p> <p>However, the earlier notification No. 4/2018- CTR dated 25.01.2018 which shifted the liability on the transfer of development rights and construction in lieu thereof to the date when the builder transfers the constructed property to the transferor of development rights (land owner), has not been superseded. As a result both the said notifications apply where development rights are transferred on or after 01.04.2019</p>	<p>Recommendation:</p> <p>We may insert an explanation in the notification No. 4/2018- CTR dated 25.01.2018 that “nothing contained in this notification shall apply where development rights are supplied on or after 01.04.2019”.</p> <p>As a result notification No. 4/2018- CTR dated 25.01.2018 shall govern the time of payment of GST on TDR transferred prior to 01.04.2019 and notification no. 6/2019- CTR dated 29.03.2019 shall govern the same in case of TDR transferred on or after 01.04.2019.</p>
14	<p>Inconsistency in respect of notification no. 3/2019- CTR dated</p>	<p>There is a contradiction in applicability of RCM on purchase of cement from unregistered supplier. Notification No. 7/2019-CTR</p>	<p>Recommendation:</p> <p>Notification no 7/2019- CTR dated 29.03.2019 may be amended so as to provide that GST on purchase of</p>

Sl. No.	Proposal	Justification	Fitment Committee Recommendation
	<p>29.03.2019 and notification No. 7/2019-CTR dated 29.03.2019 in respect of purchase of cement from unregistered supplier may be cleared.</p> <p>Reference: TRU and various states</p>	<p>dated 29.03.2019 provides that on purchase of cement falling below the minimum limit of 80% required to be purchased from unregistered person, GST shall be paid by the promoter under RCM at the applicable rates, i.e., @ 28%.</p> <p>However, notification no. 3/2019- CTR dated 29.03.2019 provides that promoter has to pay GST on cement purchased from unregistered supplier under RCM. Which implies that GST on cement purchased from unregistered supplier has to be paid by the promoter under RCM, irrespective of whether there is a shortfall from the minimum purchase of 80% or not. Therefore, there is inconsistency in notification no. 3/2019- CTR dated 29.03.2019 and notification No. 7/2019-CTR dated 29.03.2019.</p>	<p>cement from an unregistered supplier is paid by the builder under RCM, as decided by GST Council.</p> <p>Analysis:</p> <p>Notification no 7/2019- CTR dated 29.03.2019 may be amended to bring it at par with notification no 3/2019- CTR dated 29.03.2019. The following portion from entry at Sl. No. 2 of the notification may be deleted:-</p> <p><i>“which constitute the shortfall from the minimum value of goods or services or both required to be purchased by a promoter for construction of project, in a financial year (or part of the financial year till the date of issuance of completion certificate or first occupation, whichever is earlier) as prescribed in notification No. 11/ 2017- Central Tax (Rate), dated 28th June, 2017, at items (i), (ia), (ib), (ic) and (id) against serial number 3 in the Table, published in Gazette of India vide G.S.R. No. 690, dated 28th June, 2017, as amended.”</i></p> <p>As a result, a promoter shall liable to pay GST on all cement purchased by him from an unregistered supplier.</p>
15	<p>Clarification on issue of GST on Airport levies</p> <p>Reference: Federation of Indian Airlines</p>	<p>It has been requested to clarify that airport levies do not form part of the value of services provided by the airlines and consequently no GST should be charged by airlines on airport levies.</p>	<p>Recommendation:</p> <p>A circular may be issued clarifying that Passenger Service Fee (PSF) and User Development Fee (UDF) are charges levied by airport operator for services provided to passengers and the airline is not responsible for payment of ST/GST on UDF or PSF provided the airline satisfies the conditions prescribed for a pure agent.</p> <p>Analysis:</p> <p>It is proposed to clarify that PSF and UDF being charges levied by airport operator for services provided to passengers, are collected by the airlines as an agent of the airport operator and is not a consideration for any service provided by the airlines. Thus, airline is not responsible</p>

Sl. No.	Proposal	Justification	Fitment Committee Recommendation
			for payment of ST/GST on UDF or PSF provided the airline satisfies the conditions prescribed for a pure agent under rule 33 of the CGST Rules. It is the licensee, that is the airport operator (AAI, DIAL, MIAL etc.) which is liable to pay ST/GST on UDF and PSF. The collection charges paid by airport operator to airlines are a consideration for the services provided by the airlines to the airport operator (AAI, DAIL, MAIL etc) and airlines shall be liable to pay GST on the same under forward charge. Draft Circular is enclosed [Enclosure 1 to Annexure IV].
16	The validity of conditional exemption of export freight from GST needs to be extended [entry 19 A and 19 B of nf No. 12/2017-CT(R)] Reference: TRU	Services by way of transportation of goods by an aircraft or a vessel from customs station of clearance in India to a place outside India are exempt from GST till 30 th Sep 2019 on account of refund of accumulated ITC being delayed. This time limit needs to be extended	Recommendation: The IT systems for GST are yet to stabilize fully. The exemption validity may be increased by another year, i.e. till 30.09.2020. The services of export freight by air or sea were not originally exempted from GST as exporter, being entitled to benefit of zero rating, was expected to take refund of the same. However, in view of the delay in making refunds of IGST/ITC to exporters, and the resultant cash flow problem, the service of transport of export goods by air or sea was exempted till 30.09.2019.
17	Exemption entries may be corrected to reflect the increased threshold of registration. Reference: TRU	Certain entries in notification No. 12/2017-CT (R) provide exemption to services provided to businesses with turnover < 20 Lakhs on account of these businesses having been exempted from registration by GST Act. Services by government to businesses are chargeable under RCM. In absence of this exemption the small businesses would be required to take registration to pay tax under RCM defeating the objective of threshold exemption.	Recommendation: Agreed to change Rs. 20 to 40 lakhs to reflect decision of threshold already taken. Exemption entries may be corrected suitably. Analysis: Since the exemption threshold has been increased from Rs 20 lakh to Rs. 40 lakh per annum, the exemptions entries under S. Nos. 7, 45(a)(ii), 45(b)(iii), 45(c)(ii) of the notification No. 12/2017-CT(R) may be amended to increase the amount specified therein from Rs 20 lakh to Rs 40 lakh per annum.
18	To issue notification for exempting GST on license fee	1. The GST Council in its 26th meeting held on 10 March, 2018 approved that GST was not leviable on	Recommendation: GST Council may approve any of the following three suggestions:-

Sl. No.	Proposal	Justification	Fitment Committee Recommendation
	<p>charged for liquor license w.e.f. 01.07.2017; Alternatively, a notification under Section 7 (2) of CGST Act may be issued to notify that issue of licence by State Governments to liquor venders/manufacturers shall be neither a supply or goods nor a supply of services.</p> <p>Reference: 1. CCT, Odisha 2. GST Council Secretariat 3. DGCEI 4. Telangana 5. Sab-Miller</p>	<p>license fee and application fee by whatever name it is called, for alcoholic liquor for human consumption and that this would also apply mutatis mutandis to the demand raised by Service Tax/ Excise authorities on license fee for alcoholic liquor for human consumption in pre-GST era.</p> <p>2. The decision of the 26th GST Council meeting held on 10.03.2018 did not envisage issuance of any exemption notification or circular and none was issued under GST.</p> <p>3. All services provided by Govt, governmental authority or local authority to business entities (subject to specific exemptions so provided) became leviable to Service Tax w.e.f 1.4.16. They are taxable under GST and therefore exemption needs to be issued.</p> <p>4. It was felt that in order to clear the doubts on the issue and to safeguard Government revenue on other Government services, a clear-cut exemption notification needs to be issued. A proposal was taken to 31st GST Council meeting accordingly. However, this proposal, though approved by Fitment Committee, was stiffly opposed by Punjab and other States in the officers meeting and also the GST Council meeting, stating that liquor</p>	<p>(i) Issuance of notification under section 7(2)(b) of CGST Act, 2017 to notify grant of liquor license against payment of license fee as a “no supply”. The notification shall apply from 01.07.2017.</p> <p>(ii) Notification may be issued exempting the same.</p> <p>(iii) A circular may be issued to clarify that service by way of grant of liquor licence against consideration in the form of licence fee or application fee or by whatever name it is called, is not taxable under GST, where the concerned State government certifies that such fee or amount charged by the State Government for grant of liquor licence has character of tax under the State Excise Law or any other law of that State.</p> <p>Analysis:</p> <p>1. It is seen that Telangana has issued an ordinance (ordinance No. 5/2017 dated 28.06.2017 to amend the Telangana Excise Act, 1968) which provided that liquor license fee or charges, by whatsoever name called, collected for granting any lease, license or exclusive privilege for different purposes shall be deemed to be and always deemed to have been State Excise duty or Countervailing duty on excisable articles. Service Tax or GST cannot be levied on liquor license fee in the State of Telangana, as long as the said law is in force.</p> <p>2. Andhra Pradesh, on the other hand, has restructured the licence fee such that a part of it is now collected as registration fee chargeable under Andhra Pradesh Act. Registration fee chargeable under any law for the time being in force is exempt from GST.</p> <p>3. Other States such as Haryana and Punjab have claimed that liquor license fee is part of their excise revenue and have cited Supreme Court judgments given in context of their State specific laws such as the Supreme Court judgement in the case of Har Shankar and others which was cited by Punjab at the 31st GST Council meeting. [The Supreme Court held in this case that <i>licence</i></p>

Sl. No.	Proposal	Justification	Fitment Committee Recommendation
		<p>licence fee is in the nature of tax and thus no exemption is required and a clarification should be issued. At the GST Council meeting, JS (TRU II) stated that wording of the law was different in different states and that if liquor license fee collected by state was certified as tax revenue of State by all States, then it would be easy to issue the required circular.</p> <p>5. CCT, Odisha has requested vide letter dated 19.06.2019 that a notification may be issued for exempting GST on license fee charged for liquor license w.e.f. 01.07.2017. Alternatively, the same may be declared as a no supply.</p> <p>6. Similar request has been received from Andhra Pradesh vide letter dated 01.08.2018.</p> <p>7. As regards levy of service tax on liquor licence fee for the period from 01.04.2016 (the date from which Government services became taxable) to 30.06.2017, the same has been exempted retrospectively through Union Budget-2019.</p>	<p><i>fee charged for grant of liquor licence by the State Government is neither a fee in the technical sense nor a tax but is in the nature of the price of a privilege.</i> The judgment also stated that liquor licence fee is part of “Excise Revenue”. “Excise Revenue” has been defined in the Haryana and Punjab State Excise Act to include any payment, duty, fee, tax, fine etc.]</p> <p>4. Andhra Pradesh and Orissa have requested to issue an exemption notification to implement the decision of GST Council.</p> <p>5. Airtel has filed a Writ Petition in Delhi High Court challenging the levy of GST on licence fee paid to Government for allocation of spectrum mainly on the ground that GST Council has decided that GST is not leviable on licence fee paid to State Government for obtaining liquor licence.</p> <p>6. A circular clarifying that service by way of grant of liquor licence against consideration in the form of licence fee or application fee or by whatever name it is called, is not taxable under GST shall definitely jeopardize revenue on other government services such grant of spectrum or mining rights. Revenue on government services is expected to be not less than Rs. 10,000/- Crores per year. Such a circular would also be inconsistent with retrospective exemption granted from service tax through Finance Act, 2019.</p> <p>7. Therefore, ideally the service in question should be exempted through an exemption notification.</p> <p>8. Alternatively, we may consider the following course of action. Wording of State Excise laws is different in different states. The question whether liquor license fee is a tax or a fee is a question of fact which has to be determined in context of the State Excise Law of each State and the Supreme Court and High Court orders passed in context of those acts. In view of the stand of the States that liquor license fee is in the nature of a tax and not a fee or consideration for a service, it is proposed that in order to implement the decision of the 26th GST Council meeting, we may issue a circular that service by way of grant of liquor licence against consideration in the</p>

Sl. No.	Proposal	Justification	Fitment Committee Recommendation						
			<p>form of licence fee or application fee or by whatever name it is called, is not taxable under GST, where the concerned State government certifies that such fee or amount charged by the State Government for grant of liquor licence has character of tax under the State Excise Law or any other law of that State.</p> <p>9. It may also be clarified by the GST Council that this special arrangement applies with respect to liquor license fee as an agreement between Centre and State and shall not have any precedence value in relation to grant of licenses and privileges for a fee in other situations where GST is payable.</p>						
19	<p>Exempt GST on registration of vehicle in RTO.</p> <p>Reference: Indore Truck operators and Transport Association</p>	<p>Price of commercial vehicle includes GST and when it is registered in RTO tax is re-applied on purchase price of the vehicle. This leads to double taxation and should be stopped.</p>	<p>Recommendation:</p> <p>Association may be informed that exemption already exists.</p> <p>Compulsory registration under any act is exempt under entry 47 of notification No. 12/2017-CT(R) dated 28.6.17. We may inform the association accordingly.</p>						
20	<p>To issue clarification regarding scope of multiple entries at 9966, 9971,9973 for similar services.</p> <p>Reference: Dr. KiritSomaiya, Ex-MP forwarding the representation of Bus and Car Operators Confederation of India Gujarat, forwarding representation</p>	<p>There are multiple classification entries under notification No. 11/2017-CT(R) dated 29.6.17 as well as multiple exemption entries prescribed under notification No. 12/2017-CT (R) dated 29.6.17 on activities relating to bus operations/ passenger transportation.</p> <ul style="list-style-type: none"> • Passenger Transportation service - 9964 • Renting of motor vehicle - 9966 • Transfer of the right to use any goods for any purpose - 9971 • Leasing or rental services, with or without operator - 9973 <p>In the above situation, the classification under 'renting of motor vehicle - 9966' is more</p>	<p>Recommendation:</p> <p>Classification entries may be corrected to remove mismatch between Scheme of classification of Services under GST and United Nation's Central Product Classification (UNCPC) on which it is based.</p> <p>Analysis:</p> <p>There is a mismatch between the descriptions of headings 9966 and 9973 in the GST scheme of classification of services and the UNCPC/ MOSPI classification on which it is based, as shown below –</p> <table border="1" data-bbox="794 1688 1398 2002"> <thead> <tr> <th data-bbox="794 1688 935 1872">Heading</th> <th data-bbox="940 1688 1187 1872">Description under UNCPC/MOSPI</th> <th data-bbox="1192 1688 1398 1872">Description in the scheme of classification for GST</th> </tr> </thead> <tbody> <tr> <td data-bbox="794 1879 935 2002">9966</td> <td data-bbox="940 1879 1187 2002">Rental services of transport vehicles <u>with</u> operators</td> <td data-bbox="1192 1879 1398 2002">Rental services of transport vehicles <u>with</u></td> </tr> </tbody> </table>	Heading	Description under UNCPC/MOSPI	Description in the scheme of classification for GST	9966	Rental services of transport vehicles <u>with</u> operators	Rental services of transport vehicles <u>with</u>
Heading	Description under UNCPC/MOSPI	Description in the scheme of classification for GST							
9966	Rental services of transport vehicles <u>with</u> operators	Rental services of transport vehicles <u>with</u>							

Sl. No.	Proposal	Justification	Fitment Committee Recommendation															
	of Akhil Gujarat Tourist Vehicle Operators Federation	specific than other entries which are general in nature. Therefore, the concessional GST rates and exemptions available for the said classification entry should be available. In order to avoid litigations at field level, it is requested to issue clarifications in respect of above classification entries.			or <u>without</u> operators													
			9973	Leasing or rental services <u>without</u> operator	Leasing or rental services <u>with or without</u> operator													
			<p>In the current scheme of classification of services under GST, headings 9966 and 9973, both cover rental services with or without operators. Further, some entries of 9973 also find place under heading 9971 (Financial and related services) with identical rates.</p> <p><u>The impact of these changes would be as under:</u></p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: center;">Heading</th> <th style="text-align: center;">Includes</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">9964</td> <td>Passenger transport: scheduled operations by air in economy or business class, charter of airplanes for non-scheduled passenger transport</td> </tr> <tr> <td style="text-align: center;">9965</td> <td>Goods transport: voyage charter for goods transport</td> </tr> <tr> <td style="text-align: center;">9966</td> <td>Rental Services of transport vehicles with operator: time charter for goods transport</td> </tr> <tr> <td style="text-align: center;">9971</td> <td>Financial leasing</td> </tr> <tr> <td style="text-align: center;">9973</td> <td>Leasing or rental services without operators: leasing of aircrafts, bare-boat charter</td> </tr> </tbody> </table> <p>A table summarizing the existing and recommended changes in the headings is placed below:</p>				Heading	Includes	9964	Passenger transport: scheduled operations by air in economy or business class, charter of airplanes for non-scheduled passenger transport	9965	Goods transport: voyage charter for goods transport	9966	Rental Services of transport vehicles with operator: time charter for goods transport	9971	Financial leasing	9973	Leasing or rental services without operators: leasing of aircrafts, bare-boat charter
Heading	Includes																	
9964	Passenger transport: scheduled operations by air in economy or business class, charter of airplanes for non-scheduled passenger transport																	
9965	Goods transport: voyage charter for goods transport																	
9966	Rental Services of transport vehicles with operator: time charter for goods transport																	
9971	Financial leasing																	
9973	Leasing or rental services without operators: leasing of aircrafts, bare-boat charter																	
Existing			Proposed															
S. No.	Ch/ Sec/ Head	Description	Rate & Condition	S. No.	Ch/ Sec/ Head	Description	Rate & Condition											
8	9964 (Passenger Transpo	(i) To (vii) ...	(i) To (vii) ...	8	9964 (Passenger Transport Services)	(i) To (vii) ...	No change											

Sl. No.	Proposal	Justification	Fitment Committee Recommendation
	rt Services)		
9	9965 (Goods Transport Services)	(i) To (vii) ...	(i) To (vii) ...
			9 9965 (Goods Transport Services)
			10 9966 (Rental services of transport vehicles with operators)
10	9966 (Rental services of transport vehicles)	(i) --- (ii) Time charter of vessels for transport of goods (iii) Rental services of transport vehicles with or without operators, other than (i) and (ii) above.	(i) --- (ii) 5% with ITC of capital goods & Input Services (iii) ---
			11 9967 (Supporting services in Transport)
			15 9971 (Financial and related services)
11	9967 (Supporting services in Transport)	(i) ... (ii)	(i) ... (ii)
			15 9971 (Financial and related services)
15	9971 (Financial and related services)	(i) --- (ii) Transfer of the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration.	(i) --- (ii) Same rate as on supply of like goods involving transfer of title in goods (iii) Any transfer of right in goods or of undivided share in goods without the transfer of title thereof. (iv) Leasing of aircrafts by an operator for operating

Sl. No.	Proposal	Justification	Fitment Committee Recommendation				
		<p>(iii) Any transfer of right in goods or of undivided share in goods without the transfer of title thereof.</p> <p>(iv) Leasing of aircrafts by an operator for operating scheduled air transport service or scheduled air cargo service by way of transaction covered by clause (f) paragraph 5 of Schedule II of the Central Goods and Services Act, 2017.</p> <p>Explanation.</p> <p>-</p> <p>(v) ---</p> <p>(vi) ---</p> <p>(vii) ---</p>				<p>scheduled air transport service or scheduled air cargo service by way of transaction covered by clause (f) paragraph 5 of Schedule II of the Central Goods and Services Act, 2017.</p> <p>Explanation:</p> <p>(v) ---</p> <p>(vi) ---</p> <p>(vii) ---</p>	<p>(iii) Same rate as on supply of like goods involving transfer of title in goods</p> <p>(iv) 5% without ITC of inputs [This would now be covered under 9973 (iii) or 9973 (iv) as the case may be]</p>

Sl. No.	Proposal	Justification	Fitment Committee Recommendation
		<p>paragraph 5 of Schedule II of the Central Goods and Services Act, 2017. Explanation. - (vi) --- (vii) Time charter of vessels for transport of goods. (viii) Leasing or rental services, with or without operator, other than (i), (ii), (iii), (iv), (v), (vi), (vii) and (viii) above.</p>	<p>(vii) Time charter of vessels for transport of goods. (viii) Leasing or rental services, with or without operator, other than (i), (ii), (iii), (iv), (v), (vi), (vii) and (viii) above.</p> <p>(v) 5% without ITC of inputs [This would now be covered under 9973 (iii) or 9973 (iv) as the case may be]</p> <p>(vi) - (vii) 5% with ITC only of capital goods and input services (viii) -</p>

Sl. No.	Proposal	Justification	Fitment Committee Recommendation
			<div style="border: 1px solid black; width: 100%; height: 20px; margin-bottom: 10px;"></div> <div style="text-align: right; margin-bottom: 10px;">(viii) ---</div> <p>Note: There is no change in any tax rate as a consequence of these changes and it would only clean up the classification and reduce disputes</p> <p>*Consequential changes to scheme of classification annexed to notification No. 11/2017- CTR dated 28.06.2017 and the explanatory notes are annexed. [Enclosure 2 and 3 to Annexure IV].</p>
21	<p>Request for issuance of clarification for ST/ GST exemption to the DG Shipping approved maritime courses conducted by Maritime Training Institutes of India</p> <p>Ref: DG shipping</p>	<p>DG Shipping approves the Maritime Training Institutes (MTIs) under the Merchant Shipping Act, 1958 read with Merchant Shipping (Standards of Training, Certification and watch-keeping for seafarers) Rules, 2014.</p> <p>MTIs are authorized to grant training certificates to the students/ prospective seafarers for making them eligible to appear in the competency examination to get Certificate of Competency.</p>	<p>Recommendation:</p> <p>A clarification may be issued that GST exemption is applicable to the DG Shipping approved maritime courses conducted by Maritime Training Institutes of India as such courses are approved and recognized by the Merchant Shipping Act, 1958.</p> <p>Analysis:</p> <p>Under GST regime, services provided by educational institutions to its students, faculty and staff are exempt from GST. “Educational institution” has been defined to mean an institution providing services by way of, (i) pre-school education and education up to higher secondary school or equivalent, (ii) education as a part of a curriculum for obtaining a qualification recognised by any law for the time being in force, (iii) education as a part of an approved vocational education course; education as a part of a curriculum for obtaining a qualification recognised by any law for the time being in force.</p> <p>Exemption to an educational institution would be available, if it fulfills the following criteria:</p> <ul style="list-style-type: none"> • the education is provided as part of a curriculum • the education leads to a qualification recognized by any law

Sl. No.	Proposal	Justification	Fitment Committee Recommendation
			<p>Section 76 of the Merchant Shipping Act, 1958 provides for the certificates of competency to be held by officers of ships. It says that every Indian ship, when going to sea from any port or place, shall be provided with officers duly certificated under this Act in accordance with such manning scales as may be prescribed. Section 78 of the Act provides for several Grades of certificates of competency. Section 79 provides that Central Government or a person duly authorised by it shall appoint persons for the purpose of examining the qualifications of persons desirous of obtaining certificate of competency under section 78.</p> <p>To streamline the trainings by maritime institutes, to administer the assessment agencies, the Merchant Shipping (standards of training, certification and watch-keeping for Seafarers) rules, 2014 has been notified. Vide Rule 9, the Director General of Shipping is empowered to designate approved training course, approved training, examination and assessment programme, approved training institute and assessment centres, etc. as under.</p> <p><i>Definitions under Rule 4 of the the Merchant Shipping (standards of training, certification and watch-keeping for Seafarers) rules, 2014:</i></p> <p>(6) “Approved training course” means a course approved by the Director General of Shipping conducted in a training institute for the purpose of issuance of certificate of competency, certificate of proficiency, endorsement, upgradation and revalidation;</p> <p>(7) “Approved training, examination and assessment programme” means the programme of training and assessment of seafarers as approved by the Director General of Shipping specifying the complete scheme of training and standards including examination and assessments for the purpose of issuance of certificates or endorsements under these rules;</p>

Sl. No.	Proposal	Justification	Fitment Committee Recommendation
			<p>(8) “Approved training institute” means a training institute approved by the Director General of Shipping;</p> <p>(9) “Assessment Centre” means a centre designated by the Director General of Shipping responsible for assessment of candidates and maintaining records for the purposes of assessment;</p> <p>Since, Maritime Training Institutes <i>and their training courses are approved by the Director General of Shipping</i> under the provisions of the Merchant Shipping Act, 1958 read with the Merchant Shipping (standards of training, certification and watch-keeping for Seafarers) rules, 2014, such courses are exempt from GST. We may issue a clarification that GST exemption is applicable to the DG Shipping approved maritime courses conducted by Maritime Training Institutes of India.</p> <p>The Delhi High Court in WP(C) No. 3513 of 2012 as reported in 2013 (30) S.T.R. 689 (Del.)(Indian Institute of Aircraft Engineering v. Union of India) had held that exclusion clause of Section 65(27) of Finance Act, 1994 had used expression “recognition by law” and not conferred by law/statute, thus even if certificate/degree/diploma/ qualification was not product of statute, but had approval of some kind in law, it was exempt. The Aircraft Act, 1934, Aircraft Rules, 1937 and Civil Aviation Requirements issued by DGCA having provided for grant of approval to Indian Institute of Engineering, recognized the certificate and qualification offered by such Institutes, and conferred some value in eyes of law; it distinguished approved Institute from an unapproved one, leading to inference that Course Completion Certificate/training offered by such Institutes was recognized by law. Service Tax is not leviable on them.</p> <p>By keeping in view of the above judgment and the existing provisions of exemption, we may clarify that GST exemption is applicable to the DG Shipping approved maritime courses conducted by Maritime</p>

Sl. No.	Proposal	Justification	Fitment Committee Recommendation
			Training Institutes of India as such courses are approved and recognized by the Merchant Shipping Act, 1958.
22	<p>Request to exempt services by way of placing name plates or similar plates and other symbols, of any material in lieu of donation for advancement of religion, spirituality or yoga from 18% GST.</p> <p>Ref: CCT Gujarat forwarding representation of Vishwa Shanti Nirmal Dhyan Kendra, Junagadh</p> <p>Shree Digambar Jain Samaj Sangathan, Ahmedabad</p>	<p>Generally, name plates of donors are placed at the premises of temple or religious institutions. These plates are made of different materials. In addition, when any donor donates any amount, generally a name plate is placed on the premises to express the gratitude. As these plates are placed in lieu of donation given by donors, it is requested to exempt the same from GST.</p>	<p>Recommendation:</p> <p>May be clarified by issuing a circular to explain suitably the situations in which there will be no service.</p> <p>Analysis:</p> <p>In the instant case, individual donors are providing financial help or other supports in the form of donation or gift to the Vishwa Shanti Nirmal Dhyan Kendra, Junagadh and a name plate is placed on the premises to express the gratitude. The intention of the Vishwa Shanti Nirmal Dhyan Kendra, Junagadh is not to bring the name of the donor in public image or for public attention for getting publicity benefit and goodwill of the general public. Thus there appears to be no quid pro quo for the consideration received by it from individual donors. Therefore, the amount paid to Vishwa Shanti Nirmal Dhyan Kendra does not obligate the recipient of the money to do anything in return and hence there would be no GST liability.</p>
23	<p>Request to exempt the services rendered by Yoga Certification Board for yoga education and training.</p> <p>Shri Sripad Naik, MoS (IC),</p>	<p>YCB provides mainly services of yoga education and training through its accredited Certification Bodies. Accredited bodies are responsible for the conduct of assessment of Yoga Professionals for level-1, level-2 and level-3 under Yoga Education and Training category.</p>	<p>Recommendation:</p> <p>It may be advised to Ministry of Ayush to register YCB as a 12AA entity. Thereafter the services of YCB would be automatically exempt as primary activities of YCB are charitable relating to advancement of religion, spirituality or yoga.</p> <p>Analysis:</p>

Sl. No.	Proposal	Justification	Fitment Committee Recommendation															
	Ministry of Ayush and MoS, Defence	<p>GST collected from the candidates on examination fee is a heavy burden on these candidates and restricting the momentum of generating number of quality yoga professionals.</p> <p>Alternative therapies like Ayurveda, Homeopathy, Unani, Siddha etc are exempted from GST. However, yoga related education/ training/ certification provided by YCB accredited bodies is not exempt from GST.</p>	<p>Ministry of Ayush had established a Yoga Certification Board (YCB) under the aegis of Morarji Desai National Institute of Yoga (MDNIY) in March, 2018. MDNIY is an Autonomous organization registered under the Societies Registration Act, 1860 and functioning under the Ministry of AYUSH, Govt. of India.</p> <p>YCB renders various services such as education, training, examination and certification of yoga students/ professionals through Personnel Certification Bodies (PrCB). It also provides services of assessment and accreditation of Yoga Institutes and PrCBs. Approved Personnel Certification Bodies (PrCB) are accredited by NACCB or any other Accreditation bodies recognised by YCB. These Certification Bodies are eligible to conduct assessment of Yoga Professionals for level-1, level-2 and level-3 under Yoga Education and Training category.</p> <p>As per the guidelines of YCB, The certification bodies should be a government organization or an autonomous organization under the government (registered under relevant Act) or a trust (registered under Indian Trusts Act, 1882) or a society (registered under Societies Act, 1860) or a corporate firm (registered under Companies Act, 2013).</p> <p>YCB existence is mainly dependent on grant-in-aid received from Government and the accreditation, enrollment and renewal fees received from the certification bodies. YCB and accredited Certification Bodies charges examination fees from students and professionals appearing for the yoga exams. The fees fixed by YCB is as under,</p> <table border="1" data-bbox="799 1675 1425 1800"> <thead> <tr> <th></th> <th>PrCBs in India</th> <th>PrCBs outside India</th> </tr> </thead> <tbody> <tr> <td>Enrolment fee</td> <td>Rs 25, 000</td> <td>\$1,500</td> </tr> <tr> <td>Assessment fee</td> <td>Rs. 50,000+ Visit charges (Actual Boarding and Lodging)</td> <td>\$3000+ Visit charges (Actual Boarding and Lodging)</td> </tr> <tr> <td>Total</td> <td>Rs. 75,000+ Visit charges</td> <td>\$ 4500 + Visit charges</td> </tr> <tr> <td>Annual Renewal fee</td> <td>Rs. 25,000</td> <td>\$1,500</td> </tr> </tbody> </table> <p>Services provided by an entity registered under section 12AA of the Income-tax Act, 1961 (43 of 1961) by way of charitable activities is exempt from GST vide Sl. No. 1 of notification No. 12/20107- CTR dated 28.06.2019.</p>		PrCBs in India	PrCBs outside India	Enrolment fee	Rs 25, 000	\$1,500	Assessment fee	Rs. 50,000+ Visit charges (Actual Boarding and Lodging)	\$3000+ Visit charges (Actual Boarding and Lodging)	Total	Rs. 75,000+ Visit charges	\$ 4500 + Visit charges	Annual Renewal fee	Rs. 25,000	\$1,500
	PrCBs in India	PrCBs outside India																
Enrolment fee	Rs 25, 000	\$1,500																
Assessment fee	Rs. 50,000+ Visit charges (Actual Boarding and Lodging)	\$3000+ Visit charges (Actual Boarding and Lodging)																
Total	Rs. 75,000+ Visit charges	\$ 4500 + Visit charges																
Annual Renewal fee	Rs. 25,000	\$1,500																

Sl. No.	Proposal	Justification	Fitment Committee Recommendation
			<p>“Charitable activities” has been defined to mean activities relating to advancement of religion, spirituality or yoga.</p> <p>Further it has been clarified vide circular No. 66/40/2018-GST dated 26.09.2018 that the services provided by entity registered under Section 12AA of the Income Tax Act, 1961 by way of advancement of religion, spirituality or yoga are exempt. Fee or consideration charged in any other form from the participants for participating in a religious, Yoga or meditation programme or camp meant for advancement of religion, spirituality or yoga shall be exempt. Residential programmes or camps where the fee charged includes cost of lodging and boarding shall also be exempt as long as the primary and predominant activity, objective and purpose of such residential programmes or camps is advancement of religion, spirituality or yoga.</p> <p>Therefore, yoga related services such as education, training, examination and certification of yoga students/ professionals by Personnel Certification Bodies (PrCB) would be exempt from GST, if such certification bodies are registered under section 12AA of the Income-tax Act, 1961. Services of Yoga Certification Board would also be exempt if it gets registered under section 12AA of the Income-tax Act, 1961.</p> <p>Instead of providing a specific exemption to YCB, we may advise Ministry of Ayush to register YCB as a 12AA entity. Thereafter the services of YCB would be automatically exempt as primary activities of YCB are charitable relating to advancement of religion, spirituality or yoga.</p>
24	Request to clarify applicability of GST on upfront lease rent towards 30 years of lease of industrial plot	The Numaligarh Refinery Limited (NRL) is in the process of setting up of a crude oil terminal at Paradip. Paradip Port Trust (PPT) is in principle agreed to provide 200 acres of land to NRL on lease, for a period of 30 years	<p>Recommendation:</p> <p>It may be clarified to NRL that the upfront amount payable towards long term lease of industrial plot by PPT to NRL for setting up crude terminal, fulfills all the condition of notification No. 12/2017- CTR and is thus eligible for exemption provided therein.</p>

Sl. No.	Proposal	Justification	Fitment Committee Recommendation
	<p>for setting up of crude oil terminal at Paradip Port by Numaligarh Refinery Limited.</p> <p>Ref: Managing Director, Numaligarh Refinery Limited</p>	<p>upon payment of “upfront amount of lease rent for 30 years”. For this transaction PPT has issued a provisional invoice to NRL amounting to Rs. 49.51 cr along with 18% of GST amounting to Rs. 8.91 cr. NRL is of the view that the payment of upfront lease rent towards 30 years of lease of industrial plot for setting up their terminal do not attract GST as the service in question is exempt from GST vide sl. No. 41 of the notification No. 12/2017- CTR.</p>	<p>Analysis:</p> <p>Present provision of GST exemption to upfront amount payable in respect of service by way of granting of long term lease is provided vide sl. No. 41 of notification No. 12/2017- Central Tax (Rate) as under-</p> <p><i>“Upfront amount (called as premium, salami, cost, price, development charges or by any other name) payable in respect of service by way of granting of long term lease of thirty years or more of industrial plot or plot for development of infrastructure for financial business, provided by the State Government Industrial Development Corporation or undertaking or by any other entity having 50% or more ownership of Central Government, State Government, Union Territory to the industrial unit or the developer in any industrial or financial business area.”</i></p> <p>There are four limbs in the above expression to be fulfilled in order to get the GST exemption benefits.</p> <ul style="list-style-type: none"> • Consideration – in form of <u>upfront amount</u> • Provision of service- grant of <u>long term lease of thirty years</u> or more of <u>industrial plot</u> or plot for development of infrastructure for financial business • Service provider- service to be provided by State Government Industrial Development Corporation or <u>undertaking or by any other entity having 50% or more ownership of Central Government</u>, State Government, Union Territory • Service recipient- the industrial unit or <u>the developer in any industrial</u> or financial business area. <p>The matter has already been examined by TRU. This office sought information from Ministry of Shipping as to whether Paradip Port Trust is an entity in which Central Government is having 50% or more ownership? We also sought information from Paradip Port Trust and CCT Odisha as to whether the proposed plot is an industrial plot in an industrial area?</p>

Sl. No.	Proposal	Justification	Fitment Committee Recommendation
			<p>Ministry of Shipping vide its OM No. PD-26025/8/2019-PD-II dated 06.06.2019, <i>inter- alia</i>, informed that <u>Paradip Port</u> is an entity which is 100% owned by <u>Central Government</u>. Similarly, Paradip Port Trust vide its letter No. AD-EST-LAND-I-15/2018(vol.I)/ 2339 dated 12.06.2019, informed that the proposed plot for allotment in favour of NRL has been earmarked for industrial use, in accordance with clause-8 of the policy guidelines for land management 2014, for all major port trusts issued by Govt. of India as per the Major Port Trusts Act, 1963.</p> <p>Ministry of Shipping vide its OM No. PD-26025/8/2019-PD-II dated 06.06.2019 (<i>copy enclosed</i>), <i>inter- alia</i>, informed that Paradip Port is an entity which is 100% owned by Central Government. Similarly, Paradip Port Trust vide its letter No. AD-EST-LAND-I-15/2018(vol.I)/ 2339 dated 12.06.2019 (<i>copy enclosed</i>), informed that the proposed plot for allotment in favour of NRL has been earmarked for industrial use in accordance with clause-8 of the policy guidelines for land management 2014 for all major port trusts issued by Govt. of India as per the Major Port Trusts Act, 1963.</p> <p>This matter was earlier discussed by Fitment Committee through circulation by mail. However few State members expressed their reservation that Fitcom should not take up such issues which can be clarified by Advance ruling. In this regard it may be noted that Government in past has taken positive approach for handholding of Government departments and PSUs including Central PSUs. In past, Fitment Committee has also analysed the matters referred by individual stake holders.</p> <p>Since all the conditions of exemption are fulfilled, it may be clarified to NRL that the payment of upfront lease rent towards long term lease (30 years) of an industrial plot for setting up crude oil terminal from Paradip Port Trust is exempt from levy of GST. State of Karnataka has not opposed the clarification on merit but are of the views that these applicants should take the route of advance ruling. CBIC suggests that either the Fitment Committee approve the clarification considering that the applicant is CPSU or a clarification be issued by CBIC with a caveat that it would not be binding in any quasi-judicial proceedings in future.</p>

Sl. No.	Proposal	Justification	Fitment Committee Recommendation
25	<p>Request to RBI to develop an IT System to share information on buyer and seller banks post PSLC transaction</p> <p>Ref: 28th GST Council held on 21.07.2018</p>	<p>The intention of request to RBI for developing an IT system is to enable exchange of seller and buyer bank information such as GSTIN, location of the buyer bank etc. post transaction of PSLC, so that, liability to discharge GST is shifted back to seller bank under forward charge mechanism when this IT facility is ready.</p> <p>The present RCM payment mechanism was implemented to accommodate the request of RBI.</p>	<p>Recommendation:</p> <p>RBI may not be requested to develop IT system to bring PSLC into forward charge mechanism as the issue is settled now and another round of tinkering may not be desirable at such a short interval.</p> <p>Analysis:</p> <p>The 28th GST Council Meeting held on 21.07.2018 recommended that RBI may be requested to examine if the information of the buyer and seller may be disclosed post PSLC transaction. 25th GIC meeting held on 05.03.2019 decided that RBI may be requested to develop the required system for identifying the place of supply in such cases by 31st March, 2019. Therefore, RBI was requested vide letter dated 27.03.2019 to develop requisite IT system to identify buyer and seller banks post completion of PSLC transaction. Now, RBI vide email dated 07.08.2019 has requested to confirm the understanding of RBI that disclosure of location of seller bank may not be required to discharge GST liability as buyer bank needs to pay GST under reverse charge mechanism.</p> <p>The intention of request to RBI for developing an IT system is to enable exchange of seller and buyer bank information such as GSTIN, location of the buyer bank etc post transaction of PSLC, so that, liability to discharge GST is shifted back to seller bank under forward charge mechanism when this IT facility is ready. The present RCM payment mechanism was implemented to accommodate the request of RBI.</p> <p>However, the current provisions under reverse charge mechanism has settled the issue of discharging GST on PSLC transactions. Therefore, the request to RBI to develop an IT system may be reviewed by the Fitment Committee and RCM regime may continue.</p>

Sl. No.	Proposal	Justification	Fitment Committee Recommendation
26	Request for GST exemption for FIFA Under-17 Women's World Cup 2020	India is going to host 7 th edition of FIFA under-17 Women's World Cup in 2020. Govt of India has given guarantees to FIFA including Guarantee No 8 relating to Tax exemptions.	<p>Recommendation:</p> <p>Exemption may be granted for GST on services related to FIFA Under-17 Women's World Cup 2020 similar to existing exemption given to FIFA U17 World Cup 2017 at Sl. Nos. 9A and 82 of Notification No. 12/2017-CT(R)</p> <p>Analysis:</p> <p>The 20th and 21st GST Council had recommended GST exemptions on goods and services related to FIFA U-17 World Cup 2017. Accordingly, following exemption related to services were given: -</p> <p>(1) GST exemption was given to services provided by and to Fédération Internationale de Football Association (FIFA) and its subsidiaries directly or indirectly related to any of the events under FIFA U-17 World Cup 2017 to be hosted in India provided that Director (Sports), Ministry of Youth Affairs and Sports certifies that the services are directly or indirectly related to any of the events under FIFA U17 World Cup 2017 [Vide Sl. No. 9A of Notification No. 12/2017-CT(R)]</p> <p>(2) GST exemption was granted to services by way of right to admission to the events organised under FIFA U-17 World Cup 2017 vide Sl. No. 82 of Notification No. 12/2017-CT(R)</p> <p>Now, the request for similar exemption has come from Department of Sports for hosting FIFA Under-17 Women's World Cup 2020. We may give same exemptions for FIFA Under-17 Women's World Cup 2020</p>
27	Request for GST exemption on Services of general	"Bangla Shasya Bima" (BSB) Scheme is a crop insurance social welfare scheme wholly funded by the Govt. of West	<p>Recommendation:</p>

Sl. No.	Proposal	Justification	Fitment Committee Recommendation
	<p>insurance business provided under “BANGLA SHASYA BIMA” (BSB) Scheme</p> <p>Ref: CCT, West Bengal</p>	<p>Bengal operational from the current kharif season of 2019. The proposal is to exempt the service provided under the said scheme from GST akin to the exemption that is there for Pradhan Mantri Fasal Bima Yojana(PMFBY) scheme.</p> <p>2. This scheme has replaced the Pradhan Mantri Fasal Bima Yojana (PMFBY)/ Bangla Fasal Bima Yojana (BFBY) Scheme in West Bengal.</p> <p>3. Now, for a similar Scheme run by the Govt. of India, i.e. Pradhan Mantri Fasal Bima Yojana (PMFBY), the Services of general insurance business provided are already exempted from GST [vide entry in Sl. No. 35(j) of CGST Notification No. 12/2017-CT (Rate) dated 28.06.2017 inserted vide CGST Notification No. 21/2017-CT (Rate) dated 22.08.2017]</p> <p>4. The BSB Scheme is also a social welfare crop insurance scheme of similar nature with PMFBY and thus may be exempted.</p>	<p>“BANGLA SHASYA BIMA” (BSB) Scheme may be added in the list of exempted insurance scheme under entry 35 of Notification No. 12/2017-CTR.</p> <p>Analysis:</p> <p>West Bengal government has announced a crop insurance scheme in collaboration with the insurance companies for the 2019 kharif season. The crop insurance scheme would be free of cost for the farmers since the West Bengal government will pay the full premium to Implementation Agencies i.e Agriculture Insurance Company of India Ltd and Oriental Insurance Company Ltd.</p> <p>2. Services provided to the Central Government, State Government, Union territory under any insurance scheme for which total premium is paid by the Central Government, State Government, Union Territory are exempt from the payment of GST [Sl. No 40 of Notification No 12/2017-CT(R) dated 28.06.2017].</p> <p>3. Since the cost of premium of Bangla Shasya Bima (BSB) Scheme is a crop insurance social welfare scheme wholly funded by the Govt. of West Bengal, BSB may avail the exemption on levy of GST under the said notification. Therefore, services provided by implementation agencies to West Bengal government under the crop insurance scheme, "Bangla Shasya Bima" (BSB) is exempt from GST as per Sl. No 40 of Notification No 12/2017-CT(R) dated 28.06.2017</p>
28	Request to exempt GST on services of life insurance business provided or	Similar exemption from both Service Tax and GST is already been given to personnel of Armed forces and Coast Guards.	<p>Recommendation:</p> <p>Exemption may be granted for GST on services of life insurance business provided or agreed to be provided by the Central Armed Paramilitary Forces (under</p>

Sl. No.	Proposal	Justification	Fitment Committee Recommendation
	<p>agreed to be provided by the Central Armed Paramilitary Forces (under Ministry of Home Affairs) Group Insurance Funds to their members under the Group Insurance Schemes of the Central Government.</p> <p>Ref: Fitment Committee on 14.12.2018</p>	<p>Fitment Committee on 14.12.2018 deferred the matter for want of information from MHA and also directed to collect information in relation to similar organisations of State Government.</p>	<p>Ministry of Home Affairs) Group Insurance Funds to their members under the Group Insurance Schemes of the Central Government.</p> <p>Analysis:</p> <p>GST exemption was granted to services of life insurance business provided or agreed to be provided by the Army, Naval and Air Force Group Insurance Funds to members of the Army, Navy and Air Force, respectively, under the Group Insurance Schemes of the Central Government [Sl. No. 29 of Notification No. 12/2017-Central Tax (Rate)]. Similar exemption has also been provided to services of life insurance provided or agreed to be provided by the Naval Group Insurance Fund to the personnel of Coast Guard under the Group Insurance Schemes of the Central Government [Sl. No. 29A of Notification No 12/2017-Central Tax (Rate)].</p> <p>2. The request to exempt GST on the group insurance services provided by the Central Armed Paramilitary Forces (CAPFs) under Ministry of Home Affairs was taken to Fitment Committee Meeting held on 14.12.2018. FITCOM deferred the matter for want of information and directed to collect information in relation to similar organisations of State Governments also.</p> <p>3. F.No. 354/39/2018-TRU dated 22.05.2019 was sent to GST Council Secretariat to request States for sending information regarding similar organisations in State government. However, no information is received from States till date. OM F.No. 354.39.2018 dated 12.11.2018 was sent to MHA seeking the GST liability on part of group insurance services provided to members of CAPFs. GST@18% on the taxable value for 12 months on the premium paid for Assam Rifles Group Insurance Scheme (ARGIS) is Rs 11.27 Crores.</p> <p>4. CISF vide letter dated 03.01.2019 and CRPF vide letter dated 29.11.2018 have informed that there is no group insurance scheme on the lines of Assam Rifles Group Insurance Scheme (ARGIS) and only CGEGIS (Central</p>

Sl. No.	Proposal	Justification	Fitment Committee Recommendation
			<p>Govt Employees Group Insurance Scheme) is being implemented by CISF and CRPF. Therefore, GST revenue loss is minimal for granting such exemption to CAPFs.</p> <p>5. Therefore, services of life insurance business provided or agreed to be provided by the Central Armed Paramilitary Forces (under Ministry of Home Affairs) Group Insurance Funds to their members under the Group Insurance Schemes of the Central Government may be exempt from GST.</p>
29	<p>Request to levy security lending service under reverse charge mechanism (RCM).</p> <p>Ref: Tata Investment Corp Ltd</p>	<p>GST is applicable on the lending fees collected from the borrowers of the securities. Since transactions happen on the electronic trading platform of BSE.NSE through registered stock brokers, the identity of the lender and borrower is not known. This has resulted in lenders bearing the burden of GST as the identity of borrower is not known. Therefore, borrower should be made liable to pay GST like PSLC transactions between banks.</p>	<p>Recommendation:</p> <ul style="list-style-type: none"> (i) The proposal to levy GST on securities lending service under reverse charge mechanism (RCM) prospectively may be accepted. (ii) For past period, the tax may be paid on forward charge basis and in order to facilitate early payment of GST, request may be made to SEBI to disclose the information about the lender and borrower of securities. (iii) IGST shall be payable on supply of these services and in cases where CGST/SGST/UTGST have been paid, such taxpayers will not be asked to pay again. (iv) In order to remove ambiguity / doubt, the taxability, classification and rate on supply of securities lending service may also be clarified. <p>Analysis:</p> <p>For the purpose of GST Act, “securities” shall have the same meaning as assigned to it in clause (h) of section 2 of the Securities Contracts (Regulation) Act, 1956 [Section 2(101) of CGST Act]; The definition of services as per Section 2(102) of the CGST Act, is extracted as below: -</p> <p><i>“services” means anything other than goods, money and securities but includes activities relating to the use of</i></p>

Sl. No.	Proposal	Justification	Fitment Committee Recommendation
			<p><i>money or its conversion by cash or by any other mode, from one form, currency or denomination, to another form, currency or denomination for which a separate consideration is charged;</i></p> <p>The activity of lending of securities is not a transaction in securities which is neither a supply of goods or service in GST. For facilitating or arranging lending of securities, amount is charged and the consideration which is in the nature of commission / fee is taxable in GST since 01.07.2017. We may therefore, clarify through a circular that: -</p> <p><i>(i) Facilitating or arranging the lending of securities is a taxable supply under GST w.e.f 01.07.2017. The explanation added to the definition of services w.e.f. 01.02.2019 i.e.” includes facilitating or arranging transactions in securities” was only clarificatory in nature and does not have any bearing on the taxability of this service in past.</i></p> <p>(ii) This supply is classifiable under heading 997119 of the scheme of classification of services appended to notification No. 11/2017-CT(Rate) and is leviable to GST of 18% under Sl. No. 15(vii) of Notification ibid.</p> <p>2. SEBI has prescribed the Securities Lending and Borrowing Scheme, 1997 (SLB Scheme) for the purpose of facilitating lending and borrowing of securities. Under the SLB Scheme, lender of securities lends to a borrower through an approved intermediary. The transaction takes place through an electronic screen-based order matching mechanism provided by the recognised stock exchange in India. There is anonymity between the lender and borrower since there is no direct agreement between them.</p>

Sl. No.	Proposal	Justification	Fitment Committee Recommendation
			<p>2.1 The lenders earn lending fee for lending their securities to the borrowers. The security lending mechanism depicted in the diagram below: -</p> <div data-bbox="799 479 1406 539" data-label="Diagram"> <pre> graph LR Lender[Lender] --> Intermediary[Approved Intermediary] Intermediary --> Borrower[Borrower] </pre> </div> <p>3. The lenders earn lending fee for lending their securities to the borrowers. Lender is a person who deposits the securities registered in his name or in the name of any other person duly authorised on his behalf with an approved intermediary for the purpose of lending under the scheme; Borrower is a person who borrows the securities under the scheme through an approved intermediary; Approved intermediary is a person duly registered by the SEBI under the guidelines/scheme through whom the lender will deposit the securities for lending and the borrower will borrow the securities; Lender is the service provider who gets consideration in the form of lending fee from borrowers who receive the service.</p> <p>4. Since lending of securities is done anonymously on BSE / NSE portals and in terms of operation, are similar to the trading of PSLC on e-Kuber platform of RBI, we may levy GST on securities lending service under reverse charge mechanism (RCM) prospectively.</p> <p>5. For past period, GST may be paid under forward charge basis by the lender. As in case of PSLC, the supply may also be treated as interstate supply on which IGST shall be payable. In case CGST/SGST has already been paid such service providers will not be asked to pay IGST in lieu. In order to facilitate immediate payment of GST, request may be made to SEBI to disclose the identity and place of supply or any other information about the lender and borrower of securities for the past period.</p>
30	Request to provide an option to authors to pay	Royalty paid by publishers to authors for original literary works now attracts GST @ 12% under reverse charge	Recommendation:

Sl. No.	Proposal	Justification	Fitment Committee Recommendation
	tax on author's royalty under forward mechanism with input tax credit facility.	mechanism. Owing to RCM, authors are not able to claim input credit for their regular day to day operations such as agent services, translation services, editing services, advertisement services, social media consultants, PR services etc.	<p>The authors may be allowed option to pay GST on royalty charged from publishers under forward charge and do regular compliance.</p> <p>Analysis:</p> <p>There are authors who have fairly well-established office and who are in a position to comply with GST procedures including filing of monthly return. Therefore, these authors may be given an option to pay GST on forward charge on royalty payment received from Publishers.</p> <p>No change in tax rate is requested.</p> <p>It is proposed to amend entry at serial No 9 of RCM notification No. 13/2017-CTR as under:</p>

Existing:

Sl.	Category of Supply of Services	Supplier of service	Recipient of Service
9	Supply of services by an author, music composer, photographer, artist or the like by way of transfer or permitting the use or enjoyment of a copyright covered under clause (a) of sub-section (1) of section 13 of the Copyright Act, 1957 relating to original literary, dramatic, musical or artistic works to a publisher, music company, producer or the like.	Author or music composer, photographer, artist, or the like	Publisher, music company, producer or the like, located in the taxable territory.

Proposed:

Sl.	Category of Supply of Services	Supplier of service	Recipient of Service
9	Supply of services by an author, a music composer, photographer, artist or the like by way of transfer or permitting the use or enjoyment of a copyright covered under clause (a) of sub-section (1) of section 13 of the Copyright Act, 1957 relating to original literary, dramatic, musical or artistic works to a publisher, music company, producer or the like.	Author— or music composer, photographer, artist, or the like	Publisher, music company, producer or the like, located in the taxable territory.
9A	Supply of services by an author by way of transfer or permitting the use or enjoyment of a copyright covered under clause (a) of sub-section (1) of section 13 of the	Author	Publisher located in the taxable

Sl. No.	Proposal	Justification	Fitment Committee Recommendation
	Copyright Act, 1957 relating to original literary works to a publisher.		<p>Territory:</p> <p>Provided that nothing contained in this entry shall apply where,-</p> <p>(i) the author has filed a declaration with the jurisdictional CGST or SGST commissioner, as the case may be, that he exercises the option to pay tax on the service specified in column (2) under forward charge and shall not withdraw the said option within a period of 1 year from the date of exercising such option:</p> <p>(ii) the author makes a declaration to the above effect on the invoice issued by him to the publisher.</p>
* Notification wording shall be drafted in consultation with the Ministry of Law and States.			

Enclosure 1

F. No. 354/304/2018-TRU
Government of India
Ministry of Finance
Department of Revenue
(Tax research Unit)

Room No. 146G, North Block,
New Delhi, < >th September 2019

To,

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

The Principal Director Generals/ Director Generals (All)

Madam/Sir,

Subject: Clarification on issue of GST on Airport levies – reg.

Various representations have been received seeking clarification on issues relating to GST on airport levies and to clarify that airport levies do not form part of the value of services provided by the airlines and consequently no GST should be charged by airlines on airport levies. In order to ensure uniformity in the implementation of the provisions of law across the field formations, the Board, in exercise of its powers conferred by section 168 (1) of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as “CGST Act”), hereby clarifies the issues in the succeeding paras.

2. Passenger Service Fee (PSF) is charged under rule 88 of Aircraft Rules, 1937 according to which the airport licensee may collect PSF from embarking passengers at such rates as specified by the Central Government. According to the rule the airport license shall utilize the said fee for infrastructure and facilitation of the passengers. User Development Fee (UDF) is levied under rule 89 of the Aircraft rules 1937 which provides that the licensee may levy and collect, at a major airport, the User Development Fee at such rate as may be determined under clause (b) of sub-section (1) of section 13 of the Airports Economic Regulatory Authority of India Act, 2008.

2.1 Though the rule does not prescribe the specific purpose of levy and whether it is to be charged from the airlines or the passengers. However, it is seen from section 2(n) of Airports Economic Regulatory Authority of India Act, 2008, that the authority which manages the airport is eligible to levy and charge UDF from the embarking passengers at any airport.

2.2 Further, Director General of Civil Aviation has clarified vide order No. AIC Sl. No. 5 /2010 dated 13.09.2010 that in order to avoid inconvenience to passengers and for smooth and orderly air transport/airport operations, the User Development Fees (UDF) shall be collected from the passengers by the airlines at the time of issue of air ticket and the same shall be remitted to Airports Authority of India in the line system/procedure in vogue. For this, collection charges of Rs. 5/- shall be receivable by the airlines from AAI, which shall not to be passed on to the passengers in any manner.

2.3 The above facts clearly indicate that PSF and UDF are charged by airport operators for providing the services to passengers.

2.4 Further Supreme Court vide order dated 26.04.2011, inter-alia, has held that airport development fee is not a tax levied by the government, but a charge by a lessee, and cannot be excluded from the value for charging the service tax. As per Supreme Court, UDF and PSF are charges levied by airport authority at rates approved by Government of India, for services provided to passengers. Thus PSF/UDF is not a tax levied by the government, but a charge by a lessee.

2.5 Thus, services provided by an airport operator to passengers against consideration in the form of UDF and PSF are liable to GST. UDF was also liable to service tax. It is also clear from notification of Director General of Civil Aviation AIC Sl. No. 5 /2010 dated 13.09.2010, which states that UDF approved by MoCA, GoI is inclusive of service tax. It is also seen from the Air India website that the UDF is inclusive of service tax. Further in order No. AIC S. Nos. 3/2018 and 4/2018, both dated 27.2.2018, it has been laid down that GST is applicable on the charges of UDF and PSF.

2.6 PSF and UDF being charges levied by airport operator for services provided to passengers, are collected by the airlines as an agent and is not a consideration for any service provided by the airlines. Thus airline is not responsible for payment of ST/GST on UDF or PSF provided the airline satisfies the conditions prescribed for a pure agent under Rule 33 of the CGST Rules. It is the licensee, that is the airport operator (AAI, DIAL, MIAL etc) which is liable to pay ST/GST on UDF and PSF.

2.7 Airlines may act as a pure agent for the supply of airport services in accordance with rule 33 of the CGST rules. Rule 33 of the CGST rules provides that the expenditure or costs incurred by a supplier as a pure agent of the recipient of supply shall be excluded from the value of supply, if all the following conditions are satisfied, namely,-

(i) the supplier acts as a pure agent of the recipient of the supply, when he makes the payment to the third party on authorisation by such recipient;

(ii) the payment made by the pure agent on behalf of the recipient of supply has been separately indicated in the invoice issued by the pure agent to the recipient of service; and

(iii) the supplies procured by the pure agent from the third party as a pure agent of the recipient of supply are in addition to the services he supplies on his own account.

“Pure agent” has been defined to mean a person who-

(a) enters into a contractual agreement with the recipient of supply to act as his pure agent to incur expenditure or costs in the course of supply of goods or services or both; (b) neither intends to hold nor holds any title to the goods or services or both so procured or supplied as pure agent of the recipient of supply; (c) does not use for his own interest such goods or services so procured; and (d) receives only the actual amount incurred to procure such goods or services in addition to the amount received for supply he provides on his own account.

2.8 Accordingly, the airline should separately indicate actual amount of PSF and UDF and GST payable on such PSF and UDF by the airport licensee, in the invoice issued by airlines to its passengers. The airline acting as pure agent shall not take ITC of GST payable or paid on PSF and UDF. The airline would only recover the actual PSF and UDF and GST payable on such PSF and UDF by the airline operator. The amount so recovered will be excluded from the value of supplies made by the airline to its passengers. In other words, the airline shall not be liable to pay GST on the PSF and UDF (for airport services provided by airport licensee), and separately shown by it in the invoice issued to its passengers. The registered passengers, who are the ultimate recipient of the airport services, may take ITC of GST paid on PSF and UDF on the basis of pure agent’s invoice issued by the airline to them.

2.9 The airport operators shall pay GST on the PSF and UDF collected by them from the passengers through the airlines. Since, the airport operators are collecting PSF and UDF inclusive of ST/GST, there is no question of their not paying ST/GST collected by them to the Government.

2.10 The collection charges paid by airport operator to airlines are a consideration for the services provided by the airlines to the airport operator (AAI, DAIL, MAIL etc) and airlines shall be liable to pay GST on the same under forward charge. ITC of the same will be available with the airport operator.

3. Difficulty if any, in the implementation of this circular may be brought to the notice of the Board.

Yours Faithfully,

XXXX
OSD (TRU)

Changes in the Scheme of Classification Annexed to Rate Notification No. 11/2017-CT(R) Dated 28.6.17							
EXISTING				PROPOSED			
S.No.	Chapter, Section, Heading or Group	Service Code (Tariff)	Service Description	S.No.	Chapter, Section, Heading or Group	Service Code (Tariff)	Service Description
119	Heading 9966		Rental services of transport vehicles with or without operators	119	Heading 9966		Rental services of transport vehicles with or without operators
120	Group 99660		Rental services of transport vehicles with or without operators	120	Group 99660		Rental services of transport vehicles with or without operators
121		996601	Rental services of road vehicles including buses, coaches, cars, trucks and other motor vehicles, with or without operator	121		996601	Rental services of road vehicles including buses, coaches, cars, trucks and other motor vehicles, with or without operator
122		996602	Rental services of water vessels including passenger vessels, freight vessels and the like with or without operator	122		996602	Rental services of water vessels including passenger vessels, freight vessels and the like with or without operator
123		996603	Rental services of aircraft including passenger aircrafts, freight aircrafts and the like with or without operator	123		996603	Rental services of aircraft including passenger aircrafts, freight aircrafts and the like with or without operator
124		996609	Rental services of other transport vehicles nowhere else classified with or without operator	124		996609	Rental services of other transport vehicles nowhere else classified with or without operator
232	Heading 9973		Leasing or rental services with or without operator	232	Heading 9973		Leasing or rental services with or without operator

233	Group 99731		Leasing or rental services concerning machinery and equipment with or without operator	233	Group 99731		Leasing or rental services concerning machinery and equipment with or without operator
234		997311	Leasing or rental services concerning transport equipments including containers, with or without operator	234		997311	Leasing or rental services concerning transport equipments including containers, with or without operator
235		997312	Leasing or rental services concerning agricultural machinery and equipment with or without operator	235		997312	Leasing or rental services concerning agricultural machinery and equipment with or without operator
236		997313	Leasing or rental services concerning construction machinery and equipment with or without operator	236		997313	Leasing or rental services concerning construction machinery and equipment with or without operator
237		997314	Leasing or rental services concerning office machinery and equipment (except computers) with or without operator	237		997314	Leasing or rental services concerning office machinery and equipment (except computers) with or without operator
238		997315	Leasing or rental services concerning computers with or without operators	238		997315	Leasing or rental services concerning computers with or without operators
239		997316	Leasing or rental services concerning telecommunications equipment with or without operator	239		997316	Leasing or rental services concerning telecommunications equipment with or without operator
240		997319	Leasing or rental services concerning other machinery and equipments with or without operator	240		997319	Leasing or rental services concerning other machinery and equipments with or without operator

Changes in the Explanatory Notes to the Scheme of Classification of Services	
EXISTING	PROPOSED
<p>9966 Rental services of transport vehicles with or without operators</p> <p>99660 Rental services of transport vehicles with or without operators</p> <p>996601 Rental services of road vehicles including buses, coaches, cars, trucks and other motor vehicles, with or without operator.</p> <p>This service code includes rental of buses or coaches, trucks and other motorized freight vehicles, with/without operators for a period of time, not generally dependent on distance. The renter defines how and when the vehicles will be operated, determining schedules, routes, and other operational considerations.</p> <p>This service code does not include:</p> <ul style="list-style-type: none"> - local, urban and suburban bus or coach charter services, cf. 996413 - long-distance bus or coach charter services, cf. 996422 <p>996602 Rental services of water vessels including passenger vessels, freight vessels etc., with or without operator</p> <p>This service code includes rental services of all types of self-propelled passenger/freight vessels including tankers, bulk dry cargo vessels, cargo and freight vessels, tugboats and fishing vessels for coastal, inland and transoceanic water transport with/without crew</p> <p>996603 Rental services of aircraft including passenger aircrafts, freight aircrafts etc. with or without operator</p> <p>This service code includes rental services of passenger aircraft or aircraft suitable for passenger and/or freight (including helicopters) with or without crew</p>	<p>9973 Leasing or rental services with or without operator</p> <p>This heading includes:</p> <ul style="list-style-type: none"> - rental or operational leasing of machinery and equipment and personal and household goods, with/or without operator <p>Note: The duration of the rental service is irrelevant for its classification.</p> <p>This heading does not include:</p> <ul style="list-style-type: none"> - leasing services of machinery and equipment of personal and household goods on a purely financial service basis (i.e. financial leasing), cf. 997114 <p>99731 Leasing or rental services concerning machinery and equipment with or without operator</p> <p>997311 Leasing or rental services concerning transport equipments including containers with or without operator</p> <p>This service code includes:</p> <ul style="list-style-type: none"> - leasing and rental services of intermodal containers - leasing, rental or hiring services concerning other land transport equipment with/or without operator <p>This service code does not include:</p> <ul style="list-style-type: none"> - financial leasing of container, cf.997114 - leasing and rental of accommodation and office containers, cf. 997319 <p>997313 Leasing or rental services concerning agricultural machinery and equipment with or without operator</p> <p>This service code includes:</p> <ul style="list-style-type: none"> - leasing, rental or hiring services concerning agricultural tractors and implements, seed and

	<p>seedling planters, harvesting, cropping and sorting machinery, etc.</p> <p>This service code does not include:</p> <ul style="list-style-type: none"> - financial leasing of agricultural machinery, cf. 997114 - leasing, rental or hiring services concerning lawnmowers, cf. 997327 <p>997314 Leasing or rental services concerning construction machinery and equipment with or without operator</p> <p>This service code includes:</p> <ul style="list-style-type: none"> - leasing, rental or hiring services concerning tractors for construction and earth moving purposes, road graders, steamrollers, bulldozers, excavating machinery, front-end loaders, scaffolding with or without operators. <p>This service code does not include:</p> <ul style="list-style-type: none"> - financial leasing of construction machinery, cf. 997114 <p>997315 Leasing or rental services concerning office machinery and equipment (except computers) with or without operator</p> <p>This service code includes:</p> <ul style="list-style-type: none"> - leasing, rental or hiring services concerning all kinds of office machinery and equipment, such as photocopiers, typewriters and word processors, accounting machinery and equipment such as electronic calculators, cash registers and other machines incorporating a calculating device - leasing, rental or hiring services concerning office furniture, safes and the like <p>This service code does not include:</p> <ul style="list-style-type: none"> - financial leasing of office machinery and equipment, cf. 997114 - leasing or rental services of computers with or without operator, cf. 997316 - leasing, rental or hiring services concerning telecommunications equipment, cf. 997317
--	---

	<p>997316 Leasing or rental services concerning computers with or without operators</p> <p>This service code includes:</p> <ul style="list-style-type: none"> - leasing, rental or hiring services concerning computing machinery and equipment, such as electronic data processors, central processing units, peripheral units and magnetic or optical readers, with or without operator. <p>This service code does not include:</p> <ul style="list-style-type: none"> - financial leasing of computers, cf. 997114 <p>997317 Leasing or rental services concerning telecommunications equipment with or without operator</p> <p>This service code includes:</p> <ul style="list-style-type: none"> - leasing, rental or hiring services concerning commercial radio, television and telecommunications equipment - leasing, rental or hiring services concerning telephones, fax machines, pagers and cellular telephones <p>This service code does not include:</p> <ul style="list-style-type: none"> - financial leasing of telecommunications equipment, cf.997114 <p>997319 Leasing or rental services concerning other machinery and equipment with or without operator</p> <p>This service code includes:</p> <ul style="list-style-type: none"> - leasing, renting or hiring services concerning all kinds of machinery, whether or not electrical, except personal or household goods, generally used as capital goods by industry, such as engines and turbines, machine tools, mining and oil field equipment, lifting and handling equipment, coin/card operated gambling machines, exhibition material, professional, scientific measuring and control apparatus, accommodation and office containers, other commercial and industrial machinery etc.
--	--

Issues deferred by the Fitment Committee for further examination in relation to services

Sl. No.	Proposal	Justification	Fitment Committee Recommendation
1	<p>Proposal to exempt the supply of construction services provided by the Co-operative Housing Society to its members.</p> <p>Reference: CCT, West Bengal</p>	<ol style="list-style-type: none"> 1. The Co-operative Housing Societies just reimburse the expenses incurred for procuring goods and services for construction purpose. In some cases the Co-operative Housing Societies collect advance payment from members as per agreed term and conditions to meet the expenses to be incurred for construction of residential real estate property for the members. 2. So, ideally there is no value addition when a Co-operative Housing Society is subsequently supplying of goods and services to the members after procurement of such goods and services from different suppliers for construction of the residential real estate property for the members. 3. Thus, there will be no net output tax 	<p>Recommendation: Deferred.</p> <p>This issue may be referred to GoM on real estate as there exists a GoM on real estate and issues like re-development and GST thereon is being examined by them.</p> <p>In case of a construction project in Co-operative Housing Societies, the existing members have right over an undivided share of land in the existing building. The moment members of the co-operative society transfers the right for construction of houses, directly or through their cooperative societies, to the developer to convert the existing building into a new building that right gets extinguished or modified. They get along with the apartment allotted to them in the converted building, a new right over the land or undivided share of land on which the apartment allotted to them is built.</p> <p>Therefore, it would not be appropriate to say that in case of the Co-operative Housing Society, no rights relating to the land or undivided share of land over which the apartments are built are transferred to the existing inhabitants.</p>

Sl. No.	Proposal	Justification	Fitment Committee Recommendation
		<p>payable by the Co-operative Housing Society since, there is no value addition against procurement from different suppliers.</p> <p>4. But, the Co-operative Housing Society is liable to take registration since; it is providing taxable supplies to members in relation to construction of residential real estate property for the members.</p>	
2	<p>(1) Request to reduce GST from 28% to 18% on wagering in horse racing</p> <p>(2) Request to exclude prize money from the taxable value of horse racing.</p> <p>Ref: CCT, Gujarat; Turf Authorities of India; 35th GST Council.</p>	<p>Horse racing is a game of skill as per Hon'ble SC [KR Lakshmanan Vs TN]. Pre-GST tax incidence was only 7.7% whereas GST is 28%. Turnover in horse racing was Rs 3954 Cr in 2016-17 but now it is Rs 1917Cr.</p> <p>Government is losing GST of Rs 500 crores per year due to existing GST law has led to increase in illegal wagering by bookies near race clubs across India.</p>	<p>Recommendation: Deferred.</p> <p>Matter may be referred to GoM on lottery. However, TN, Karnataka, WB observed that taxation at face value is driving the legitimate business to grey market.</p> <p>There are two options here: -</p> <p>(1) The value of supply may be total bet value minus prize payout which is internationally prevalent. Tax rate to be suitably decided.</p> <p>(2) (i) The value of supply of betting in horse racing in a race club may deemed to be 30 per cent of the face value of the bet or the amount paid by the bettor(wager) into the totalisator. Rule 31A of CGST Rules may accordingly be amended.</p> <p>(ii) GST@28% with Compensation Cess of 115% may be levied on the betting in horse</p>

Sl. No.	Proposal	Justification	Fitment Committee Recommendation
			<p>racings which would make effective rate of taxation on face value at 18%</p> <p>As per the decision of 35th GST Council the issue of rate and valuation in case of betting in horse racing has been referred to Fitment Committee and Law Committee. In horse racing, bet value (or wager) is the consideration paid by a bettor (punter) for participating in horse racing. Hon'ble SC in case of K.R. Lakshmanan Vs TN has held horse racing to be game of skill.</p> <p>A. VALUATION ISSUE</p> <p>The issue of taxable value as determined by Rule 31A of CGST Rules as below: -</p> <p><i>The value of supply of actionable claim in the form of chance to win in betting, gambling or horse racing in a race club shall be 100% of the face value of the bet or the amount paid into the totalisator.</i></p> <p>The taxable value at present includes the prize money given to winners. Trade has requested to exclude prize money from the taxable value. This requires amendment in Rule 31A of CGST. Therefore, following three options are proposed to resolve the issue: -</p> <p>(i) GST Policy Wing suggested amendments to Rule 31A for abatement by taxing 30% of the total taxable value in case of online gaming and also, proposed to tax betting and gambling supply in casinos on the commission of casino operator by excluding the prize money. This proposal excluded valuation of wagering in horse racing and lottery.</p> <p>(ii) TRU suggested to provide abatement of 70% towards prize payout thereby taxing 30% of the total taxable value in case of online gaming, horse racing and betting and gambling in casinos.</p>

Sl. No.	Proposal	Justification	Fitment Committee Recommendation																				
			<p>Also, GST rate may be retained or increased to 28% with compensation cess of 115% to maintain revenue at GST rate of 18% on the total taxable value. Rule 31A may accordingly be amended as below [Draft Rule 31A is enclosed as Annexure 1].</p> <table border="1" data-bbox="839 562 1414 1227"> <thead> <tr> <th data-bbox="839 562 986 678">Supply</th> <th data-bbox="991 562 1137 678">Taxable Value</th> <th data-bbox="1142 562 1289 678">GST Rate</th> <th data-bbox="1294 562 1414 678">Compensation Cess</th> </tr> </thead> <tbody> <tr> <td data-bbox="839 685 986 835">Online Gaming</td> <td data-bbox="991 685 1137 835">30% of entry fee or user's deposit</td> <td data-bbox="1142 685 1289 835">28%</td> <td data-bbox="1294 685 1414 835">115%</td> </tr> <tr> <td data-bbox="839 842 986 992">Horse Racing</td> <td data-bbox="991 842 1137 992">30% of bet value into totalisator</td> <td data-bbox="1142 842 1289 992">28%</td> <td data-bbox="1294 842 1414 992">115%</td> </tr> <tr> <td data-bbox="839 999 986 1184">Betting and gambling in Casinos</td> <td data-bbox="991 999 1137 1184">30% of total bet value</td> <td data-bbox="1142 999 1289 1184">28%</td> <td data-bbox="1294 999 1414 1184">115%</td> </tr> <tr> <td data-bbox="839 1191 986 1227">Lottery</td> <td colspan="3" data-bbox="991 1191 1414 1227">No changes proposed now.</td> </tr> </tbody> </table> <p>(iii) Existing valuation methods as per Rule 31A of CGST Rules may be continued with insertion of following two new explanations: -</p> <p><i>Explanation:– 1. In a casino, prize or winnings of a person when used further for betting and gambling activities within a casino shall not be considered as taxable value.</i></p> <p><i>2. For the purpose of this sub-rule, any part of actionable claim separately deposited temporarily in any account like escrow account for distribution of prize money shall continue to be part of taxable value</i></p> <p>B. RATE ISSUE</p> <p>Supply being actionable claims qualify as goods and leviable to GST of 28% as per the Entry No 229 of Notification No 1/2017-CTR. However,</p>	Supply	Taxable Value	GST Rate	Compensation Cess	Online Gaming	30% of entry fee or user's deposit	28%	115%	Horse Racing	30% of bet value into totalisator	28%	115%	Betting and gambling in Casinos	30% of total bet value	28%	115%	Lottery	No changes proposed now.		
Supply	Taxable Value	GST Rate	Compensation Cess																				
Online Gaming	30% of entry fee or user's deposit	28%	115%																				
Horse Racing	30% of bet value into totalisator	28%	115%																				
Betting and gambling in Casinos	30% of total bet value	28%	115%																				
Lottery	No changes proposed now.																						

Sl. No.	Proposal	Justification	Fitment Committee Recommendation
			<p>supply also falls under service code (tariff) 999692 i.e gambling and betting services of scheme of classification of services mentioned in Annexure to Notification No. 11/2017-CT(Rate). Other possible entries for GST rates on betting in case of horse racing are: -</p> <ol style="list-style-type: none"> 1. 28% - w.e.f. 26.1.2018, Under Sr.No. 229 of Schedule IV of notification No. 1/2017- CTR 2. 18% - Prior to 26.1.2018, Under residual entry 453 of Schedule III of notification No. 1/2017- CTR 3. 28% - On services involving gambling - Under Sr.No. 34 (v) of notification No. 11/2017- CTR 4. 18% on services involving betting under Sr. No. 34 (vi) of notification No. 11/2017- CTR <p>Since, there are multiple rate entries applicable, there is confusion regarding both its classification and rates, it is important to clarify classification and rate of GST applicable on supply of betting in horse racing. As chance to win in a supply of lottery, which is akin to betting, has been held to be an actionable claim by the Apex court in case of Sunrise Associates, supply will be a supply of goods. However, the entries also exist in scheme of classification of services and in Service Tax era such services were not taxed as goods, it is therefore appropriate to classify them as services. This will however require change in law. As long as entries are aligned at same rate, both in goods and service rate notifications, there will be no material implication of classifying actionable claims as goods or services. We may therefore maintain status quo at this stage.</p> <p>As regards rate, since the supply of betting in horse racing in a race club on the bet or wager placed by wager or punter into the totalisator is a supply of sin/demerit good, a highest rate of 28% may be levied on such supply.</p>

Sl. No.	Proposal	Justification	Fitment Committee Recommendation
3	<p>Request for clarification of taxability and valuation of supply in Casinos.</p> <p>Ref: CM of Goa</p>	<p>Goa state issues license for operating casinos in the State. In Casinos, there are two parts, first part is customer buys a package to enter the casino. Second part is gaming zone, where customer buys casino chips by exchanging legal currency.</p> <p>The valuation method prescribed in the Circular No. 27/01/2018-GST dated 04.01.2018 is practically difficult to implement as the customer plays many games at each table. Calculating GST on each bet in the gaming zone is not possible.</p> <p>In pre-GST regime, tax was paid on the next income of the Casino under the Entertainment Tax.</p>	<p>Recommendation: Deferred. Matter is before the GoM on lottery.</p> <p><u>(1) Option 1</u></p> <p>The value of supply of gambling and betting services by a casino operator shall be determined in the manner as provided below:</p> <p>(i) in cases where the casino operator charges a commission or participation fee, by whatever name called, from the players, the said commission or participation fee shall be the value of the supply; or</p> <p>(ii) in all other cases, the value of the supply shall be the revenue of the casino operator and shall be calculated in the following manner, namely,-</p> <p>Value of supply = (Value of the total stakes/bets placed by players) - (the winnings and other amounts paid out to such players in connection with the said stakes/bets)</p> <p>Explanation:– For the purposes of this sub-rule, the value of supply shall be determined at the end of the day by reference to the aggregate taxable value of transactions during that day.</p> <p><u>(2) Option 2</u></p> <p>(i) Rule 31A of CGST Rules may be amended as below:</p> <p>Value of supply in case of Casino:-</p> <p>(a) For entry into casino, the value of supply shall be 100 percent of the transaction value charged for the entry to the casino and</p> <p>(b) For gambling and betting services provided by a casino operator, the value of</p>

Sl. No.	Proposal	Justification	Fitment Committee Recommendation
			<p>supply shall deemed to be 30% of the transaction value of betting.</p> <p>Explanation: – 1. Winnings in a casino in the form of casino chips or any other name called won by a person inside a casino used further for betting and gambling activities provided by a casino operator shall not be considered as an entry fee or value of supply.</p> <p>2. Any part of casino chips or entry fee separately deposited temporarily in any account like escrow account for distribution of prize money shall continue to be part of taxable value.</p> <p>(ii) GST@28% with Compensation Cess of 115% may be levied on the betting or gambling in casinos.</p> <p>As per the decision of 35th GST Council the issue of rate and valuation in case of betting and gambling in casinos has been referred to Fitment Committee and Law Committee. Casinos supply bouquet of goods and services such as gambling in form of games of pure chance such as roulette, black jack, poker, bingo etc., including online games involving betting or gambling and also on / off line games of skill such as simulation, battle field or sport video games on PC/terminal/ Console. They may also provide services of supply of food and drinks.</p> <p>Taxability of these shall be governed by whether same constitute supply within the meaning of GST Law. Games/activities involving element of chance will be gambling and will be taxed accordingly. Games/activities involving element of skill will not be gambling and shall be taxed on merit rate applicable. Thus, as far as classification and rate of tax applicable on the supply is concerned, same shall be governed by the presence of element of skill or chance and whether a mixed or composite supply.</p> <p>A. RATE ISSUE</p>

Sl. No.	Proposal	Justification	Fitment Committee Recommendation
			<p>Entry No. 34(iiiia) in Notification No 11/2017-CT(R) dated 28.06.2017 levies 28% on the services of admission to entertainment events and access to amusement facilities including casino. On betting and gambling services, under entry 34(v) of notification ibid, 28% GST is payable. CBIC has issued Circular No. 27/01/2018-GST dated 04.01.2018 clarifying the tax rate and valuation of casinos as below: -</p> <p><i>“As is evident from the notification, “entry to casinos” and “gambling” are two different services, and GST is leviable at 28% on both these services (14% CGST and 14% SGST) on the value determined as per section 15 of the CGST Act. Thus, GST @ 28% would apply on entry to casinos as well as on betting/ gambling services being provided by casinos on the transaction value of betting, i.e. the total bet value, in addition to GST levy on any other services being provided by the casinos (such as services by way of supply of food/ drinks etc. at the casinos). Betting, in pre-GST regime, was subjected to betting tax on full bet value.”</i></p> <p>Therefore, GST@28% is applicable on (i) Service of entry into Casino (ii) Supply of betting or gambling in a casino. Decision regarding classification and rate as in case of proposal relating to horse racing may also be adopted for classification and rate applicable in case of betting and gambling in casinos.</p> <p>B. VALUATION ISSUE</p> <p>The proposal for changes in valuation of betting and gambling and supplies in casinos are discussed on the issue of horse racing. In brief Rule 31A of CGST Rules may be amended as below:</p> <p>Value of supply in case of Casino:-</p>

Sl. No.	Proposal	Justification	Fitment Committee Recommendation
			<p>(a) For entry into casino, the value of supply shall be 100 percent of the transaction value charged for the entry to the casino and</p> <p>(b) For gambling and betting services provided by a casino operator, the value of supply shall deemed to be 30% of the transaction value of betting.</p> <p><i>Explanation: – 1. Winnings in a casino in the form of casino chips or any other name called won by a person inside a casino used further for betting and gambling activities provided by a casino operator shall not be considered as an entry fee or value of supply.</i></p> <p><i>2. Any part of casino chips or entry fee separately deposited temporarily in any account like escrow account for distribution of prize money shall continue to be part of taxable value.</i></p>
4	<p>Clarification on the valuation and rates of GST on Online Gaming</p> <p>Reference: CCT, Maharashtra State; Indian Federation of Sports Gaming;. 35th GST Council</p>	<p>Online gaming service providers are paying GST @ 18% on “Platform Fee” which they recover from each player/participant. The platform fee so received from the participants is the gross consideration charged by the owners of the Technology Platform for the services supplied by them.</p> <p>Apart from the platform fee that is recovered from the participants, the participants also contribute a separate amount towards prize pool which goes into the common kitty for</p>	<p>Recommendation: Deferred</p> <p>The value of supply may be fixed as Gross Gaming Revenue (GGR) which is internationally prevalent. Tax rate to be suitably decided or the rate applicable be clarified.</p> <p>Gross Gaming Revenue (GGR) is the amount wagered minus the winnings returned to players (Stakes minus winnings).</p> <p>Option as above (Sl. No. 3) for other activities involving price pay out may also be examined.</p> <p>As per the decision of 35th GST Council the issue of rate and valuation in case of online gaming has been referred to Fitment Committee and Law Committee. Fitment Committee on 14.12.2018 deferred the matter on the issue of clarification of tax rate and valuation of supply online gaming. It was decided to seek suggestions from State of Maharashtra and Goa on the appropriate value and rate of taxation for the industry. Suggestions from Maharashtra have been received by the Fitment Committee. The Law Committee has taken up the issue of</p>

Sl. No.	Proposal	Justification	Fitment Committee Recommendation
		<p>ultimate distribution to the winners of the game. This prize pool contribution is usually held by the 3rd party or an Independent Custodian. The owner of the Technology Platform has no right or title over this amount.</p> <p>The 3rd Party/Independent Custodian who receives the contribution is mandated to distribute the entire amount on a pre-decided basis. No GST is being paid by the Technology Platform on such prize pool contribution, as it is not a consideration for any service nor doing it have any right over this amount.</p> <p>World over such prize pool contribution never enters into the value of the taxable supply. The issue whether the online fantasy sports gaming being lottery, betting and gambling would have been relevant if the members of the Association were resisting GST on consideration received for providing the service.</p>	<p>valuation of online gaming. Committee of Officers was constituted to recommend appropriate value for taxing the online gaming industry.</p> <p>Online gaming is essentially an activity of playing a video game primarily through the internet or any other electronic network. These games are played on modern gaming platforms, including PCs, consoles and mobile devices. There are various modes and genres of online games including massively multiplayer online role-playing games (MMORPG), simulations, Adventure, Real-Time Strategy (RTS), Puzzle, Action, Stealth Shooter, Combat, First Person Shooters (FPS), Sports, Role-Playing (RPG) or Educational. These games may be played on different platforms for free or on payment of money with bonus, prize pay-out etc.</p> <p>The services providers of online fantasy sports gaming are discharging GST on commission/platform fee alone instead of total transaction value, which is not as per the law. Recently, Hon'ble HC of Bombay in case of Gurdeep Singh SacharVsUoIVsOrs on 30.04.2019 held that the services rendered by Dream11 Fantasy Pvt Ltd attract GST of 18% and actionable claim i.e prize money is not taxable as the online fantasy sports gaming is not betting or gambling. CBIC and State of Maharashtra are in the process of filing SLP in Hon'ble Supreme Court against the order of Bombay HC. As per the letter received from Commissioner, Mumbai Central dated 15th July 2019, the revenue implications of the decision of Hon'ble HC of Bombay is nearly Rs 1697 Crores for Dream11 alone.</p> <p>A. RATE ISSUE</p> <p>Possible rates for Online gaming involving betting or gambling are:</p> <ol style="list-style-type: none"> 1. 28% - under entry 34(v) of notification No. 11/2017-CT(Rate) [Online games involving betting or gambling].

Sl. No.	Proposal	Justification	Fitment Committee Recommendation
			<p>2. 28% - Online games involving betting - w.e.f. 26.01.2018 under Sr.No. 229 of Schedule-IV of notification No. 1/2017-CT(Rate)</p> <p>3. 18% - Prior to 26.01.2018, under residual entry No. 453 of schedule III to notification No. 1/2017-CT(Rate).</p> <p>4. 18%- Online games involving betting, are also covered under residual entry under Sr.No.34(vi) of notification No. 11/2017-CT(Rate) with GST of 18%.</p> <p>Possible rates for Online gaming not involving betting or gambling are:</p> <ol style="list-style-type: none"> 1. 18% - Entry 34(vi) of notification No. 11/2017-CT(Rate) 2. 18% - Entry No. 22(ii) of notification No. 11/2017-CT(Rate). Classified under service code 998433 for on-line video content. <p>Since multiple rate entries exist both for online games involving betting and gambling and not involving betting and gambling, it may be appropriate to clarify/specify the rate applicable. For the purpose of clarity, the expression 'online gaming' may also be defined as playing a game of skill or chance with or without prize in which persons participate by the use of the internet, telephone, television, radio, any other kind of electronic or other technology for facilitating communication. A new entry under notification no 11/2017-CTR may be inserted with GST rate of 28% applicable on the entry fee paid by a user to service providers in online gaming.</p> <p>The issue may be examined and decided in the GoM on lottery.</p>
5	Request to remove exemption limits of renting of premises as provided at Sl. no. 13 for entities registered under 12(AA) of the Income-tax Act, 1961, or a trust	BAPS is a religious cum charitable trust established in 1907 by Shastri Yagnapurushd as on the principles revealed by Bhagwan Swaminaray	<p>Recommendation: Deferred</p> <p>i. There is no merit to reduce the existing limit of exemption towards renting of precincts of a religious place or completely exempt the renting activity.</p>

Sl. No.	Proposal	Justification	Fitment Committee Recommendation
	<p>or an institution registered under sub-clause (v) of clause (23C) of section 10 of the Income-tax Act.</p> <p>OR</p> <p>Request to exempt renting by one 12(AA) entity to another 12(AA) entity registered under the Income Tax Act, 1961, who are engaged in activities of relief to poor, education, healthcare, environment protection, spread of religion, spirituality, yoga-related activities etc.</p> <p>CCT Gujarat forwarding representation of BAPS Swaminarayan Sanstha</p>	<p>an in the late 18th century.—It performs humanitarian services and wholeheartedly supports the government’s various policies in nation building, such as the recent SwachchataAbhiyan, including disaster management, such as the Kutch earthquake and the Tamil Nadu Tsunami. These activities are made possible by the generous donation of time, money and effort by volunteers, with the support of the government and its policies.</p> <p>BAPS also provides following services: <u>Renting of Immoveable Properties by individual trusts</u>, whose focus is on social service, like education, health care, and publications related to religion and spirituality and herbal medicines etc. BAPS is the nodal source of all donations. Usually all immovable properties are held by the main trust i.e. BAPS Swaminarayan Sanstha.</p>	<p>ii.Internal transaction between individual 12AA entities are taxable if such transaction value exceeds the exemption limit provided under Sl. No. 13 of the notification No. 12/2017- Central Tax (Rate). Exemption to such internal transactions may not be granted</p> <p>Vide Sl. No. 13 of the notification No. 12/2017-CT (R), certain services religious in nature and renting of religious place has been exempted. These are services by a person by way of-</p> <p>(a) conduct of any religious ceremony;</p> <p>(b) renting of precincts of a religious place meant for general public, owned or managed by an entity registered as a charitable or religious trust under section 12AA of the Income-tax Act, 1961 (hereinafter referred to as the Income-tax Act), or a trust or an institution registered under sub clause (v) of clause (23C) of section 10 of the Income-tax Act or a body or an authority covered under clause (23BBA) of section 10 of the Income-tax Act:</p> <p>Provided that nothing contained in (b) of this exemption shall apply to, -</p> <p>(i) renting of rooms where charges are Rs 1000/- or more per day;</p> <p>(ii) renting of premises, community halls, kalyanmandapam or open area, etc where charges are Rs 10,000/- or more per day;</p> <p>(iii) renting of shops or other spaces for business or commerce where charges are Rs. 10,000/- or more per month.</p> <p>The exemption limits provided for renting of rooms, kalyanmandapam or shops at precincts of religious places is judiciously decided by GST council. Renting of rooms and kalaynmandapam are per day basis and if the same is translated to a month then the limit of exemption is still very high. Therefore, there is no merit to reduce this limit or completely exempt the renting activity.</p>

Sl. No.	Proposal	Justification	Fitment Committee Recommendation
		<p>The other independent trusts carry out various social welfare activities from the premises leased / rented out by BAPS; viz Educational activities are conducted by SwaminarayanVidyapith and GnanyagnaVidyapith, Health Care activities are conducted by BAP Public Charitable Trust, Publication by SwaminarayanAkshar pith. Such renting / leasing to such independent Trusts are resorted because each such Trust cannot garner the substantial funds needed to create such immovable property.</p> <p>As a matter of accounting prudence and as per requirement of Income Tax Act, the Sanstha on a regular basis charges rent from the service specific trust for the usage of property at reasonable rates.</p> <p>Till introduction of GST, the renting service by a religious trust on its precincts was exempt from Service Tax, but</p>	<p><u>Taxability of internal transactions between 12AA entities of BAPS and its subordinate units:</u></p> <p>Section 25(4) of CGST Act provides that a person who has obtained or is required to obtain more than one registration, whether in one State or Union territory or more than one State or Union territory shall, in respect of each such registration, be treated as distinct persons for the purposes of CGST Act. Schedule I of the CGST Act, para 2 provides that supply of goods or services or both between related persons or between distinct persons as specified in section 25, when made in the course or furtherance of business shall be treated as supply even if made without consideration. Therefore, transaction between two entities having distinct GSTIN numbers is subject to GST.</p> <p>However in the instant case, it is not known, whether the individual units of BAPS are having distinct GSTIN Nos or not. Transaction between individual entities are taxable if such transaction value exceeds the exemption limit provided under Sl. No. 13 of the notification No. 12/2017-Central Tax (Rate).</p> <p>Information is sought from Gujarat CCT office. Because the officers are attending Law Committee meeting at North Block, only after 30.08.2019, they would be able to provide the necessary information. They may brief the FitCom on this issue.</p> <p>However, end use based exemption are generally not granted in GST. Similar reference from Auroville Foundation has not been accepted by GST Council in its 28th Meeting held on 21st July, 2018.</p>

Sl. No.	Proposal	Justification	Fitment Committee Recommendation
		<p>under GST, this exemption has been curtailed by insertion of proviso to entry no. 13 of list of Service Tax exemption as decided by GST Council. The same is reproduced for your ready reference.</p> <p>[Services by a person by way of-</p> <p>(a) conduct of any religious ceremony;</p> <p>(b) renting of precincts of a religious place meant for general public, owned or managed by an entity registered as a charitable or religious trust under section 12AA of the Income-tax Act, 1961 (hereinafter referred to as the Income-tax Act), or a trust or an institution registered under sub clause (v) of clause (23C) of section 10 of the Income-tax Act or a body or an authority covered under clause (23BBA) of section 10 of the Income-tax Act:</p> <p><i>Provided that nothing</i></p>	

Sl. No.	Proposal	Justification	Fitment Committee Recommendation
		<p><i>contained in (b) of this exemption shall apply to,-</i></p> <p>(i) <i>renting of rooms where charges are Rs 1000/- or more per day;</i></p> <p>(ii) <i>renting of premises, community halls, kalyanmandapam or open area, etc where charges are Rs 10,000/- or more per day;</i></p> <p>(iii) <i>renting of shops or other spaces for business or commerce where charges are Rs. 10,000/- or more per month.]</i></p> <p>2) Education and health care are exempt from GST but the activity of renting by / to educational institution or hospitals is not specifically exempt, thus indirectly increasing the cost of both these services for the end consumer.</p> <p>Impact : If the rental exceeds the aforesaid amount, GST is attracted @ 18%. BAPS being religious charitable Trust does not have</p>	

Sl. No.	Proposal	Justification	Fitment Committee Recommendation
		<p>any taxable service to avail set-off of Input Credits, hence this Input Credit will remain unadjusted and a loss to the Sanstha. Similarly the Educational and Health Care entities being exempt from tax, will have to absorb additional cost of 18% GST which in turn will increase the cost of services as such GST will not be allowed to be set-off.</p> <p>Prayers:</p> <p>1. To remove the said proviso to entry no. 13 of list of Services Tax exemption and to continue status quo as far as renting is concerned i.e. eligibility with 12(AA) certificate of the Income-tax Act, 1961, or a trust or an institution registered under sub-clause (v) of clause (23C) of section 10 of the Income-tax Act.</p> <p>OR</p> <p>Renting done by one entity registered u/s 12(AA) of the Income Tax Act, 1961 to another entity registered u/s 12(AA)</p>	



Sl. No.	Proposal	Justification	Fitment Committee Recommendation
		of the Income Tax Act, 1961, and engaged in the activities of relief to poor, education, healthcare, environment protection, spread of religion, spirituality, yoga-related activities be exempt from GST.	
6	Requested to exempt Entry tickets, viewing gallery tickets, bus services and other services provided by Sardar Vallabhbhai Patel Rashtriya Ekta Trust (SVPRET) from GST. Ref: CCT, Gujarat	Sardar Vallabhbhai Patel Rashtriya Ekta Trust (SVPRET) sponsored by the Govt. of Gujarat is managing the national project of “Statue of Unity”. The statue of unity is a memorial to the great Indian patriot and freedom fighter – Sardar Patel in the form of 182mtr high statue- the tallest in the world. This project will help to promote tourism in Gujarat as it is one of the major tourism destination. On an average 15000 tourist are expected to visit this memorial daily. Since it is double the height of New York’s world famous Statue of Liberty, decent number of foreign tourists are also likely to visit.	Recommendation: Deferred List of iconic monuments be obtained from the Ministry of Tourism. May not be accepted to give GST exemption to services of Sardar Vallabhbhai Patel Rashtriya Ekta Trust (SVPRET). State of Gujarat may be advised to reimburse the GST liability to the Trust. In past FITCOM has decided not to exempt GST on entry to a specific monument. For example, Mysore Palace is a private property and GST on its entry was not exempted.
7	Request to exempt GST on services related to water harvest scheme	No justification provided.	Deferred and to be examined in the next Fitment Committee as the issue was received

Sl. No.	Proposal	Justification	Fitment Committee Recommendation
	Reference: Gujarat		late and due examination and deliberation was not possible.
8	GST exemption on mental health Reference: Karnataka	No justification provided.	Deferred and to be examined in the next Fitment Committee as the issue was received late and due examination and deliberation was not possible.
9	Request to clarify regarding taxability on grant in aids provided by Government to Coaching institutions and NGO under the central sector scheme of 'Scholarships for students with Disabilities' Joint Secretary, Ministry of Social justice and Employment	Department of Empowerment of Persons with Disabilities has merged the six scholarship schemes into an umbrella scholarship scheme titled "Scholarships for Students with Disabilities" w.e.f. 15 April, 2018: <ul style="list-style-type: none"> • Pre-matric Scholarship for Students with Disabilities • Post-matric Scholarship for Students with Disabilities • Top Class Education for Students with Disabilities • National Overseas Scholarship for Students with Disabilities • National Fellowship for Persons with Disabilities • <u>Free Coaching for Students with Disabilities</u> Free Coaching for Students with Disabilities is a	Recommendation: Deferred To be examined if it is covered under existing entry under skill development i.e Entry no 69 of Not. No 12/2017 or can be covered by making appropriate changes in the scheme. If it does not work out as above, the matter be referred back to Fitment Committee after collecting details of nature of coaching or skill development Under the scheme of "Scholarships for Students with Disabilities", Department of Empowerment of Persons with Disabilities, Ministry of Social Justice & Empowerment provides the fund for the entire expenditure incurred on coaching of selected Students with Disabilities as per the terms and conditions of the Scheme and agreement entered into with the concerned coaching institute. Fee component of the coaching is released directly to the coaching institutes/ centers concerned in the form of grant-in-aid. Grant-in-aid is released to the institutes concerned in two equal installments every year. Students receive coaching services without paying any consideration to the coaching centers. The consideration for the free coaching services is received from the Government in the form of grant-in-aid. Therefore, the linkage (reciprocity) of the provision of service and payment of consideration between the supplier and recipient doesn't exist. The grant-in-aid received by the coaching institutes from Government is purely for implementation of a welfare scheme and Government do not receives any service from the

Sl. No.	Proposal	Justification	Fitment Committee Recommendation
		<p>scheme which aims to provide coaching for economically disadvantaged students with disabilities, having minimum 40% or more disability to enable them to appear in competitive examinations and to succeed in obtaining an appropriate job in Government/ Public/ Private sector.</p> <p>Under this scheme, Government releases funds to coaching Institutions/ NGOS which have been empanelled under the scheme. The entire expenditure of the coaching is funded by Government of India in the form of grant-in-aid.</p>	<p>coaching institutes. Therefore, grant-in-aid provided by the government does not attract GST.</p> <p>An exemption from GST has been provided vide Sl. No. 9C of notification No. 12/2017-CTR dated 28.06.2017, when supply of service by a government entity to Central Government, State Government, Union territory, local authority or any person specified by Central Government, State Government, Union territory or local authority and where the consideration received in grants. In this case the service is exempt when the service is provided by Govt. Entity to Government or to any person specified by Government.</p> <p>In the case of the scholarship scheme, Government has specified the recipients, i.e. the physically handicapped students. Since the service providers are individual coaching institutions, who do not qualify as Government entity, this exemption is not applicable to them. Since no exemption exists in GST to such services, they are taxable.</p> <p>Since the intention of the Government is to help physically handicapped students for getting better coaching facility and to help them get employment opportunity and as full cost of the coaching is reimbursed through grant-in-aid, if such services are taxed in GST, the ultimate burden of GST would fall on Government.</p> <p>Therefore, in order to help physically handicapped students who are in dire need of Government's help and also to ease burden of tax on government aided and financed welfare schemes, exemption may be provided in a purely restrictive sense exclusively to such services that are financed through grant-in-aid by the Government as under.</p>

Sl. No.	Proposal	Justification	Fitment Committee Recommendation	
			Restrictive scope (New entry may be created)	Services by coaching centres or institutions etc. by way of coaching or skill enhancement training to persons with disability for which the consideration is received in the form of grant in aid from Central Government, State Government or Union territory.
10	<p>Review the differential taxation rate for transport of containers by rail and other modes of transport, and bring them at par to ensure a level playing field.</p> <p>Reference: Railway Board</p>	<p>Goods Transport Agency (GTA) for transportation of goods by road are taxed uniformly at 5% with no Input Tax Credit (ITC). On the other hand, transport of goods in container by rail by any person other than Indian Railway is taxed at 12% with full ITC. This kind of tax differential on transport of containers by rail viz-a-viz road proves to be highly uncompetitive for rail. Full ITC is not sufficient to bridge high rate gap of 7%. The high rate gap of 7% tax is driving away the customers from rail to road.</p>	<p>Recommendation: Deferred</p> <p>In order to examine the matter, information has been requested from Indian railways which has not been received so far. Reminder is being sent. The issues may be deferred as of now.</p>	
11	<p>To recognise “Mission Support Services” provided to international customers as Export of Service.</p> <p>Reference: Chairman, Space Commission on behalf of ANTRIX Corporation</p>	<p>Mission Support Services are provided by ANTRIX to foreign satellite operators, not having any permanent establishment in India. All payments are received in convertible foreign</p>	<p>Recommendation: Deferred</p> <p>May be referred to Law Committee to examine if in a tightly defined set of conditions, a clarification can be given regarding the nature of service being provided [whether export or domestic supply].</p> <p>At the Fitment Committee held on 14.12.2018 and 15.12.2018, it was proposed to clarify to</p>	

Sl. No.	Proposal	Justification	Fitment Committee Recommendation
		<p>exchange. The services are provided in respect of satellites orbiting in outer space, which is outside the taxable territory of India. Therefore, TTC support services/Mission Support Services provided by ANTRIX to foreign customers may be treated as export of services by suitable explanation/notification under GST Act.</p>	<p>Chairman, Space Commission that the place of supply of the service of Telemetry, Tracking and Command (TTC)/ Mission Support Services provided by ANTRIX to a foreign customer not having establishment in India, is the location of the recipient of service i.e. outside India and the same shall constitute export of service subject to fulfilment of conditions prescribed in section 2(6) of the IGST Act, 2017.</p> <p>However, at the said Fitment Committee meeting, Karnataka raised a query on the nature of contract entered into by ANTRIX with foreign entities. It was stated by Karnataka that ANTRIX enters into an agreement with the foreign customer for providing Mission Support Services through the Department of Space and in such a case the place of supply would not be outside India. Further inputs on the issue are awaited from Karnataka.</p> <p>The agreement submitted by ANTRIX to TRU is a contract between ANTRIX and foreign entity under which ANTRIX would directly supply TTC/MSS services to foreign entities. Department of Space or any other Indian entity is not a party of the contract.</p> <p>It is proposed that the clarification as proposed at paragraph 1 above may be issued. It may be made clear that the same would hold good only if the services are directly provided by ANTRIX to the foreign entity and not through DOS, in which case the supply of services by DOS to foreign entity would be zero rated and that by ANTRIX to DOS taxable.</p>

Sl. No.	Proposal	Justification	Fitment Committee Recommendation
			 <p style="text-align: center;">Fig.1. Nature of Contract 1</p>  <p style="text-align: center;">Fig.2. Nature of Contract 2</p>
12	<p>Proposal for issuing a corrigendum to the Circular No. 34/8/2018-GST dt. 01.03.2018 by TRU clearly stating that considerations in respect of</p> <p>(i) rental charges against electricity meter, (ii) application fees for providing electricity connection, (iii) testing fees for meters/transformers/capacitors, (iv) labour charges from customers for shifting of meters/service lines & (v) charges for duplicate bills</p> <p>provided by Electricity distribution companies being essentially & directly related to services of “Transmission or distribution of electricity by an electricity transmission or distribution utility”, are also exempted from levy of GST.</p>	<p>Viewpoint 1:</p> <ol style="list-style-type: none"> Rental of electric meters does not involve any transfer of property in goods but only a right to use given to the customer by the distribution company. Thus, such rental is also a service as per Sl. No. 5(f) of Schedule II of the CGST/SGST Acts, 2017. Notification No. 32/2010 - ST dated 22.06.2010 exempted “the taxable service provided to any person, by a distribution licensee, a distribution franchisee, or any other person by whatever name called, authorized to distribute power under the Electricity Act, 	<p>Recommendation:</p> <p>To clearly identify the list of ancillary supplies (Option 2). A draft circular to be circulated and placed before the Law Committee (on 17 or 18th of Sept 2019)</p> <p>Option 1: May be deferred as CBIC is under the process of filing SLP in Hon’ble SC against the judgement of Hon’ble HC of Gujarat in case of Torrent Power Ltd VsUoI.</p> <p>Option 2: May issue corrigendum to Circular No. 34/8/2018-GST dated 1st March, 2018 as shown below However, the issue is complex and may need joint meeting with the Law Committee.</p> <p>In Sr. No. 4 of Circular No. 34/-/2018 dated 01.03.2018, for the clarification mentioned in Col.No.3, under (1) which presently reads as under:</p> <p>“(1) Service by way of transmission or distribution of electricity by an electricity transmission or distribution utility is exempt from GST under notification No. 12/2017-C.T. (R), Sl. No. 25. The other services such as, -</p> <ol style="list-style-type: none"> Application fee for releasing connection of electricity; Rental Charges against metering equipment;

Sl. No.	Proposal	Justification	Fitment Committee Recommendation
	Ref: CCT, West Bengal.	<p>2003(36 of 2003), for distribution of electricity, from the whole of service tax leviable thereon under section 66 of the said Finance Act.”</p> <p>3. Notification No. 11/2010-ST dated 27.02.2010 exempted “the taxable service provided to any person, by any other person for transmission of electricity, from the whole of service tax leviable thereon under section 66 of the said Finance Act.”</p> <p>4. It may also be stated in this context that a similar view was taken by the same TRU in a Service Tax Circular No. 131/13/2010-ST dt.07.12.2010.</p> <p>Viewpoint: 2</p> <p>5. These services are all intrinsic parts & parcel of the electricity distribution service itself and cannot be treated in isolation of such distribution service.</p>	<p>iii. <i>Testing fee for meters/transformers, capacitors etc.;</i></p> <p>iv. <i>Labour charges from customers for shifting of meters or shifting of service lines;</i></p> <p>v. <i>charges for duplicate bill;</i></p> <p><i>provided by DISCOMS to consumer are taxable”</i></p> <p>may be read as under:</p> <p>“(1) Service by way of transmission or distribution of electricity by an electricity transmission or distribution utility is exempt from GST under notification No. 12/2017-C.T. (R), Sl. No. 25. Supply of services such as registration for new electric connection, deposit for new meter, rent for meter, meter shifting charges, reconnection fee, illegal reconnection fee, installation and inspection fee, testing of consumers installation etc which are incidental, ancillary or integral to the supply of transmission and distribution of electricity by transmission and distribution utilities will be considered as included in the exempt composite supply subject to the satisfaction of conditions below:</p> <p>(a) expenses for provision of these services are recovered in the electricity bill along with supply of electricity and transmission and distribution of electricity is the principal supply. Only those services which otherwise qualify as composite supply as per the guidelines explained in GST Flyer No. 4 on Composite and Mixed supply or other instructions issued in this regard from time to time, will be exempt under Sr.No. 25 of notification No. 12/2017-CT(Rate).</p> <p>(b) Any component which is provided separately for which individual bill of supply is raised by DISCOM or the transmission and distribution licensee, same will not form part of the exempt composite supply.</p> <p>(c) Further, if any services are provided on behalf of licensee by any agent or third party for which money is paid by the consumer to such</p>

Sl. No.	Proposal	Justification	Fitment Committee Recommendation
		<p>6. So, as per the definitions above, such services as stated in Paras 1 & 2 above, form a part of a composite supply as per S. 2(30) where the predominant supply is electricity distribution service.</p> <p>7. Electricity distribution service being exempted from GST, as discussed in Para 10, the tax on such composite supply will also thus be exempted, based on the principle of GST levy on composite supplies based on principal supply.</p> <p>8. The same principles have been upheld by the Hon'ble High Court of Gujarat in the order dated 19.12.2018 in the case of TORRENT POWER LTD. versus UNION OF INDIA [R/SPECIAL CIVIL APPLICATION NO. 5343 of 2018].</p>	<p>service provider, the same will also not form part of the exempt composite supply of transmission and distribution of electricity.</p> <p>(d) Apart from above, all services which are in the nature of input services for providing the exempt service of transmission and distribution of electricity will not form part of the composite supply of transmission and distribution of electricity.</p> <p>(ii) In so far as recovery of cost for setting up infrastructure such as electric plant, line or sub-station for distribution of electricity as part of transmission and distribution network and forming part of tariff or non-tariff charges recovered from the customer, same will not form part of the exempt service of transmission and distribution of electricity. These costs are incurred for creation of infrastructure required for supply of transmission and distribution of electricity and are therefore in the nature of inputs for providing the service. Such infrastructure is on the identical footing as construction of school building for providing exempt service of education and hospital building for providing exempt health service by clinical establishments. Creation of such infrastructure is a taxable supply. Such costs are recovered by the service providers from the customers as part of cost of supply of the exempt service and to this extent such services and the associated costs will not be exempt.”</p>

Issues where no change has been proposed by the Fitment Committee in relation to services

Sl. No.	Proposal	Justification	Fitment Committee Recommendation
1.	Request to exempt coaching institutions from GST. Ref: Shri Digvijay Singh, MP, Rajya Sabha	Coaching for professional college admissions and for PSC and UPSC examination, unemployed youths are taking coaching services. Earlier the coaching institutions were charged 5% Service Tax but now they have to pay 18% GST which has made the coaching more expensive for unemployed youths.	Recommendation: This is a request for new exemption and may not be acceded to. Training provided by private coaching institutes is not covered by exemption as such training does not lead to grant of any recognized qualification. Under Service Tax regime, coaching services attracted standard rate of GST of 15% and under GST regime also such services attract standard rate of GST of 18%. Coaching is otherwise too availed by middle class and upper middle class of the society.
2.	Request for ST/GST exemption on affiliation fees of university Ref: Vice Chancellor, Dr. Babasaheb Ambedkar Marathawada University Vice Chancellor, Rastrasant Tukadoji Maharaj Nagpur University	The Maharashtra Public University Act, 2016 empowers the University to grant affiliation to colleges. This is a statutory obligation on part of University to grant affiliation and unless this obligation is complied, services of colleges to students, such as, 'education as part of curriculum for obtaining a qualification recognized by law' cannot be provided and will not come into the ambit of	Recommendation: <ul style="list-style-type: none"> • GST exemption on affiliation fee may not be acceded to. • Exemption related to Service Tax would have retrospective effect and would be separately examined by the Central Government. Affiliation is defined under University Grants Commission Act, 1956 as under: <i>"affiliation" together with its grammatical variations, includes, in relation to a college, recognition of such college by, association of such college with, and admission of such college to the privileges of, a university.</i> A University affiliates a college or educational institution to the university and provides affiliation service. In doing so, universities collect affiliation fee in lieu of services provided to colleges. Affiliation fee is collected from the

Sl. No.	Proposal	Justification	Fitment Committee Recommendation															
		exemption/ negative list.	<p>affiliated colleges just to ensure that the academic interest of the student is preserved and for mitigating overheads relating to the maintenance of the records of the students and other related processes.</p> <p>Under negative list of service tax regime, the affiliation service was taxable. Under mega exemption Notification No. 25/2012-Service Tax following services were exempted.</p> <p style="padding-left: 40px;">“9. Services provided, - (a) by an educational institution to its students, faculty and staff; (b) to an educational institution, by way of, - (i) transportation of students, faculty and staff; (ii) catering, including any mid-day meals scheme sponsored by the Government; (iii) security or cleaning or house-keeping services performed in such educational institution; (iv) services relating to admission to, or conduct of examination by, such institution;</p> <p>Therefore, affiliation fee was always taxable in the Service Tax regime. The status quo has also been maintained in GST regime. Under GST, there is no exemption to the services provided by a university to its affiliated colleges/ educational institutions.</p> <p>Further DGGI have issued SCNs for demanding Service Tax on affiliation fee as the fee received by university for providing affiliation service do not fall in the ambit of negative list of services.</p> <table border="1" data-bbox="820 1682 1386 2024"> <thead> <tr> <th data-bbox="820 1682 874 2024">Sl. No.</th> <th data-bbox="874 1682 975 2024">SCN No/ Date</th> <th data-bbox="975 1682 1054 2024">Periods for which SCN has</th> <th data-bbox="1054 1682 1169 2024">Demand amount</th> <th data-bbox="1169 1682 1278 2024">Service for which demand is issued</th> <th data-bbox="1278 1682 1386 2024">Status of the SCNs (whether SCN is adjud</th> </tr> </thead> <tbody> <tr> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> </tbody> </table>				Sl. No.	SCN No/ Date	Periods for which SCN has	Demand amount	Service for which demand is issued	Status of the SCNs (whether SCN is adjud						
Sl. No.	SCN No/ Date	Periods for which SCN has	Demand amount	Service for which demand is issued	Status of the SCNs (whether SCN is adjud													

Sl. No.	Proposal	Justification	Fitment Committee Recommendation					
				been issued (FY from-to)		icated / paid or in appeal)		
			1	SCN dated 22.10.2018 issued to RTM Nagpur Univ.	April-2013 to June-2017	Rs. 1,19,28,053/-	Service Tax demand on affiliation fee, Continuation of affiliation, New College and New Course affiliation service	Not adjudicated
			2	SCN dated 18.10.2018 issued to Maharashtra Univ. of Health	April-2013 to June-2017	Rs. 10,08,50,556/-	Service Tax demand on Continuation of affiliation fee, affiliation,	Not adjudicated

Sl. No.	Proposal	Justification	Fitment Committee Recommendation					
				h Scien ce.			New Colle ge openi ng fee, revali dation and restor ation of servic es etc.	
			3	SCN dated 22.10. 2018 issued to KVC N Maha rashtr a Univ., Jalga on	Apr il- 201 3 to Jun e- 201 7	Rs. 3,20,5 4,610/-	Servic e Tax dema nd on Affili ation, Centr al assess ment of progra m, eligibi lity servic es.	Not adjudi cated
			<p>The demands are in the Service Tax regime. Total revenue involved in Nagpur Zone is approximately, Rs. 14.50 Crores (excluding interest and penalty). As discussed with DGGI-Nagpur Zonal Unit, the practice of non-payment of GST on affiliation fee is still continuing by these universities.</p> <p>Since request for exemption on affiliation fee is a new request, same may not be acceded to.</p>					

Sl. No.	Proposal	Justification	Fitment Committee Recommendation
3.	<p>Request to issue suitable clarification on applicability of GST on sanitation conservancy work provided by Sulabh International at Government Hospitals, and educational institutions.</p> <p>Ref: GST Council Secretariat forwarding representation of Sulabh International Social Service Organization</p>	<p>Sulabh International Social Service Organization (SISSO) is a charitable society registered under section 12AA of the IT Act, 1961. It is providing services of public health, sanitation conservancy and cleaning services to various Government Departments, Governmental Authorities, Local Authorities and Educational Institutions.</p> <p>SISSO is constructing toilets in the houses of weaker sections of the society from the funds received from the Government, Municipalities and CSR funds of PSUs.</p> <p>SISCO is also providing cleaning services to Tirumala Tirupati Devasthanam.</p> <p>Service Tax demand notice has been issued to SISSO for payment of ST on the above</p>	<p>Recommendation:</p> <ul style="list-style-type: none"> • In the GST regime, similar issue has been clarified vide circular No. 51/25/2018- GST, dated 31st July 2018. • Clarification related to Service Tax may be examined separately by the Central Government. <p>GST Council in its 28th meeting held on 21st July, 2018 has examined this issue and circular No. 51/25/2018- GST, dated 31st July 2018 has been issued in this regard. Said circular, <i>inter alia</i>, compares the service tax exemption at serial No. 25(a) of notification No. 25/2012 dated 20.06.2012 vis- a- vis the exemption under GST vide Sl. No. 3 and 3A of the notification No. 12/2017- CT (R) dated 28.06.2017.</p> <p>Under Service Tax regime, services provided to Government, a local authority or a governmental authority by way of water supply, public health, sanitation conservancy was exempted. But, under GST regime, the scope of the exemption has been substantially expanded. Pure services (excluding works contract service or other composite supplies involving supply of any goods) and composite supply of goods and services in which the value of supply of goods constitutes not more than 25 per cent. of the value of the said composite supply provided to the Central Government, State Government or Union territory or local authority or a Governmental authority or a Government Entity by way of any activity in relation to any function entrusted to a Panchayat under article 243G of the Constitution or in relation to any function entrusted to a Municipality under article 243W of the Constitution is exempt from levy of GST.</p> <p>Therefore, service provided by Sulabh International Social Service Organization (SISSO) to Central Government, State Government or Union territory or local authority or a Governmental authority or a Government</p>

Sl. No.	Proposal	Justification	Fitment Committee Recommendation
		<p>mentioned services. However, SISCO is of the view that their services are exempt from ST under Service Tax exemption notification No. 25/2012- ST dated 20.06.2012 under multiple entries, such as, Sl. Nos. 4,9,12,25,38. SISCO is also of the view that since similar provisions exists under GST exemption notification; a clarification under GST regime is requested.</p>	<p>Entity by way of services of public health, sanitation conservancy and cleaning services on behalf of Government against consideration would be exempt under-</p> <ul style="list-style-type: none"> a. Sl. No. 3 of notification No. 12/2017- Central Tax (Rate) dated 28.06.2017, if it is a pure service and not a composite supply involving supply of any goods, and b. Sl. No. 3A of notification No. 12/2017- Central Tax (Rate) dated 28.06.2017, if it is a composite supply of goods and services in which the value of supply of goods constitutes not more than 25 per cent of the value of the said composite supply. <p>In view of the above, we may reply to say that the Sl. No. 3 and 3A of the notification No. 12/2017- Central Tax (Rate) dated 28.06.2017 read with circular No. 51/25/2018- GST, dated 31st July 2018 may be referred and appropriate view may be taken by SISCO as GST is a self-assessment tax.</p>
4.	<p>Request for continuation of benefits of exemption for dedicated Freight Corridor project after implementation of GST.</p> <p>Ref: Director (Infrastructure), Railway Board, Ministry of Railway</p>	<p>Dedicated Freight Corridor corporation of India Ltd. (DFCCIL) is a special purpose vehicle under administrative control of Ministry of railway (MoR). It is responsible for planning, development, mobilization of financial resources, construction, maintenance and operation of freight train rolling stocks.</p>	<p>Recommendation:</p> <p>The request is for a new exemption and may not be acceded to.</p> <p>It may be recalled that prior to 1st July, 2017, in the service tax era only the service component of services of construction, erection, commissioning, or installation of original works pertaining to railways, excluding monorail and metro was exempted from service tax. There was no exemption of VAT. However, there were embedded taxes on inputs, input services and capital goods (such as service tax, excise duty and VAT). Further, most of the states levied VAT under composition scheme ranging from 1 to 5%. As the works contracts were in composition scheme, credit of VAT paid on goods was not allowed. Keeping the overall pre-</p>

Sl. No.	Proposal	Justification	Fitment Committee Recommendation								
		<p>Services by way of construction, erection, commissioning, or installation of original works pertaining to railways, was exempt from Service Tax vide mega exemption notification. With the introduction of GST, exemption benefit on works contract service has been withdrawn leading to financial burden on DFCCIL and in turn MoR. The contractors and subcontractors providing works contract services to DFCCIL are charging GST leading to the increase in the cost of construction.</p>	<p>GST tax incidence in mind, composite supply of works contract service, supplied by way of construction, erection, commissioning, or installation of original works pertaining to railways, is presently taxed at concessional rate of GST of 12% with ITC.</p> <p>Exempting the WCS for dedicated freight corridor, would break the ITC chain. GST paid on inputs, input services and capital goods used for the construction of freight railway lines cannot be utilized towards payment of output GST by the contractors engaged in the construction of these lines. Unutilized ITC would be recovered by the contractors from Indian Railways as cost and thereby increase the project cost for Indian Railways. Therefore, it is not advisable to exempt dedicated freight corridors from levy of GST.</p> <p>Blockage of ITC and consequent increase in project cost is illustrated below:</p> <div data-bbox="820 1249 1385 1653" style="border: 1px solid black; padding: 5px;"> <p>Case 1 No exemption on supply of WCS to railways</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 25%; padding: 2px;"> GPS survey and mapping Service: Rs. 100/- (+) GST @ 18% = Rs. 18/- Invoice Total Rs. 118/- GST payment by Subcontractor 2 in cash is Rs. 18/- </td> <td style="width: 25%; padding: 2px;"> Construction of electric and communication infrastructure Service: Rs. 300/- (+) GST @ 18% = Rs. 54/- Invoice Total Rs. 354/- GST payment to Govt. Rs. 54/- minus (ITC) Rs. 18/- GST paid by Subcontractor 1 in cash is Rs. 36/- </td> <td style="width: 25%; padding: 2px;"> WCS for DFC project Service: 500 (+) GST @ 12% = Rs. 60/- Invoice Total to railway Rs. 560/- GST payment to Govt. Rs. 60/- minus (ITC) Rs. 54/- GST paid by XYZ Infra in cash is Rs. 6/- </td> <td style="width: 25%; padding: 2px;"> For Indian Railways, overall cost of the project is Rs. 500/-, as Indian Railways can utilize GST of Rs. 60/- paid to XYZ Infra as ITC for its output service of transportation of passenger and freight </td> </tr> </table> <p style="text-align: center;">Subcontractor 2 → Subcontractor 1 → XYZ infra → Indian Railway</p> <hr/> <p>Case 2 If exemption on supply of WCS to railways for DFC project is granted</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 25%; padding: 2px;"> GPS survey and mapping Service: Rs. 100/- (+) GST @ 18% = Rs. 18/- Invoice Total Rs. 118/- GST payment by Subcontractor 2 in cash is Rs. 18/- </td> <td style="width: 25%; padding: 2px;"> Electricity and communication Service: 200 and Goods: 100 (+) GST @ 18% = Rs. 54/- Invoice Total Rs. 354/- GST payment to Govt. Rs. 54/- minus (ITC) Rs. 18/- GST paid by Subcontractor 1 in cash is Rs. 36/- </td> <td style="width: 25%; padding: 2px;"> WCS for DFC project (exempt) XYZ Infra will raise invoice to railways by adding the GST it has suffered on procurement of goods and services on setting electricity and communication work, (blocked credit) Invoice to Railways: Rs. 554/- GST paid by XYZ Infra in cash is Rs. 54/- </td> <td style="width: 25%; padding: 2px;"> For Indian Railways, overall cost of the project is Rs. 554/-, because Rs. 54/- blocked credit is charged to Indian Railways as part of cost. </td> </tr> </table> <p style="text-align: center;">Subcontractor 2 → Subcontractor 1 → XYZ infra → Indian Railway</p> </div> <p>Similar request would come from all important infra and transport projects Since the request is for a new exemption and same may not be acceded to.</p>	GPS survey and mapping Service: Rs. 100/- (+) GST @ 18% = Rs. 18/- Invoice Total Rs. 118/- GST payment by Subcontractor 2 in cash is Rs. 18/-	Construction of electric and communication infrastructure Service: Rs. 300/- (+) GST @ 18% = Rs. 54/- Invoice Total Rs. 354/- GST payment to Govt. Rs. 54/- minus (ITC) Rs. 18/- GST paid by Subcontractor 1 in cash is Rs. 36/-	WCS for DFC project Service: 500 (+) GST @ 12% = Rs. 60/- Invoice Total to railway Rs. 560/- GST payment to Govt. Rs. 60/- minus (ITC) Rs. 54/- GST paid by XYZ Infra in cash is Rs. 6/-	For Indian Railways, overall cost of the project is Rs. 500/-, as Indian Railways can utilize GST of Rs. 60/- paid to XYZ Infra as ITC for its output service of transportation of passenger and freight	GPS survey and mapping Service: Rs. 100/- (+) GST @ 18% = Rs. 18/- Invoice Total Rs. 118/- GST payment by Subcontractor 2 in cash is Rs. 18/-	Electricity and communication Service: 200 and Goods: 100 (+) GST @ 18% = Rs. 54/- Invoice Total Rs. 354/- GST payment to Govt. Rs. 54/- minus (ITC) Rs. 18/- GST paid by Subcontractor 1 in cash is Rs. 36/-	WCS for DFC project (exempt) XYZ Infra will raise invoice to railways by adding the GST it has suffered on procurement of goods and services on setting electricity and communication work, (blocked credit) Invoice to Railways: Rs. 554/- GST paid by XYZ Infra in cash is Rs. 54/-	For Indian Railways, overall cost of the project is Rs. 554/-, because Rs. 54/- blocked credit is charged to Indian Railways as part of cost.
GPS survey and mapping Service: Rs. 100/- (+) GST @ 18% = Rs. 18/- Invoice Total Rs. 118/- GST payment by Subcontractor 2 in cash is Rs. 18/-	Construction of electric and communication infrastructure Service: Rs. 300/- (+) GST @ 18% = Rs. 54/- Invoice Total Rs. 354/- GST payment to Govt. Rs. 54/- minus (ITC) Rs. 18/- GST paid by Subcontractor 1 in cash is Rs. 36/-	WCS for DFC project Service: 500 (+) GST @ 12% = Rs. 60/- Invoice Total to railway Rs. 560/- GST payment to Govt. Rs. 60/- minus (ITC) Rs. 54/- GST paid by XYZ Infra in cash is Rs. 6/-	For Indian Railways, overall cost of the project is Rs. 500/-, as Indian Railways can utilize GST of Rs. 60/- paid to XYZ Infra as ITC for its output service of transportation of passenger and freight								
GPS survey and mapping Service: Rs. 100/- (+) GST @ 18% = Rs. 18/- Invoice Total Rs. 118/- GST payment by Subcontractor 2 in cash is Rs. 18/-	Electricity and communication Service: 200 and Goods: 100 (+) GST @ 18% = Rs. 54/- Invoice Total Rs. 354/- GST payment to Govt. Rs. 54/- minus (ITC) Rs. 18/- GST paid by Subcontractor 1 in cash is Rs. 36/-	WCS for DFC project (exempt) XYZ Infra will raise invoice to railways by adding the GST it has suffered on procurement of goods and services on setting electricity and communication work, (blocked credit) Invoice to Railways: Rs. 554/- GST paid by XYZ Infra in cash is Rs. 54/-	For Indian Railways, overall cost of the project is Rs. 554/-, because Rs. 54/- blocked credit is charged to Indian Railways as part of cost.								

Sl. No.	Proposal	Justification	Fitment Committee Recommendation
5.	<p>Request to reduce GST rate on Sports and Recreational education Services.</p> <p>Ref:</p> <p>i. Association of unaided CBSE Schools</p> <p>ii. DGGST forwarding representation of M/S Surana Cricket Academy</p>	<p>Government at one hand is promoting sports and sport personalities to perform at national/ international level by providing several awards. Other hand, GST @ 18% is levied on Sports and recreational service provided by Coaching and Sports academy. 18% GST on the above service is an additional burden on talented youngsters, who are willing to make their career in sports.</p>	<p>Recommendation:</p> <p>May not be considered.</p> <p>Services by way of training or coaching in recreational activities relating to sports by charitable entities registered under section 12AA of the Income-tax Act is exempt from GST vide Sl. No. 80 of the notification No. 12/2017- CTR dated 28.06.2019. Similarly, services provided by an educational institution to its students, faculty and staff are exempt from GST. This services of educational institutions also includes services of sports coaching, training and recreational education service.</p> <p>If the coaching service is provided by an individual sports professional having annual turnover less than Rs. 20 lakhs, then also it would be exempt from GST. Similarly, a professional coaching organisation who is not a charitable entities registered under section 12AA of the Income-tax Act and whose annual turnover in the preceding financial year is upto Rs. 50 lakhs, they may avail composition scheme and pay GST @ 6%.</p> <p>There is no rationale to completely exempt or reduce GST rate on sports and recreational education services. Once revenue position improves, there might be a case to revisit the issue and reduce the GST rate, if felt appropriate.</p>
6.	<p>Request to exempt first aid training and allied subjects imparted by St. John Ambulance and Indian Red</p>	<p>Indian Red Cross Society (IRCS) and St. John Ambulance (India), both are registered under section 12 AA of the IT Act, 1961.</p>	<p>Recommendation:</p> <p>Granting exemption to first aid trainings of IRCS/ St. John Ambulance would invite similar requests from many other</p>

Sl. No.	Proposal	Justification	Fitment Committee Recommendation
	<p>Cross Society from GST.</p> <p>Ref: Secretary General, Indian Red Cross Society</p>	<p>President of India is the President of these two organisations. IRCS is the largest humanitarian organization and works as an auxiliary to the Government and Armed forces Medical Services. The St. John Ambulance is engaged for relief of distress, suffering, sick and injured people.</p>	<p>organizations. Request may not be acceded to.</p> <p>Services by way of health care services by a clinical establishment, an authorized medical practitioner or paramedics are exempt from GST. Similarly, services provided by rehabilitation professionals recognised under the Rehabilitation Council of India Act, 1992 by way of rehabilitation, therapy or counseling and such other activity at medical establishments, educational institutions, and rehabilitation centers established by Government is also exempt from GST. The above exemption related to health service is available to clinical establishment, medical practitioner, paramedics or rehabilitation professionals.</p> <p>IRCS has stated that they are an entity registered under section 12 AA of the IT Act, 1961. The services “charitable activities” by a 12 AA entity would be exempt, if such activities are relating to public health by way of, -</p> <p>(A) care or counselling of (I) terminally ill persons or persons with severe physical or mental disability; (II) persons afflicted with HIV or AIDS; (III) persons addicted to a dependence-forming substance such as narcotics drugs alcohol; or</p> <p>(B) public awareness of preventive health, family planning or prevention of HIV infection.</p> <p>There are two operational wings of St. John Ambulance- India, the Association Wing (which delivers first aid training) and the Brigade Wing (which operates the Ambulance service and delivers First Aid at public events). Services provided by way of transportation of a patient in an ambulance is exempt from GST vide Sl. No. 74 (b) of the notification No. 12/2017- CTR, dated 28.06.2019. Therefore, the ambulance</p>

Sl. No.	Proposal	Justification	Fitment Committee Recommendation
			<p>service provided by St. John Ambulance- India is exempt from GST.</p> <p>However, first aid training and allied subjects trainings imparted by St. John Ambulance and Indian Red Cross Society are not vocational training approved by National Skill Development Corporation/ Sectoral Skill Council, Directorate General of Training, Ministry of Skill Development etc. Therefore, such training is taxable under GST. We may advise the St. John Ambulance and the Indian Red Cross Society to take up the matter with Directorate General of Training and get the training be included in National Skill Development Corporation/ Sectoral Skill Council approved programme.</p>
7.	<p>Request for zero rating of healthcare services.</p> <p>Ref: Managing director, Apollo Hospitals</p>	<p>Healthcare service providers are not eligible to avail credit on the input taxes paid by it, which becomes a cost for the service provider. Therefore, zero rating of healthcare service will ensure that credit chain is intact and the input taxes are not loaded into the cost of healthcare services. As a result, input tax credit will be available as refund for the healthcare service providers.</p>	<p>Recommendation:</p> <p>May not be considered as domestic supplies are not zero-rated in India.</p> <p>Services by way of health care services by a clinical establishment, an authorized medical practitioner or paramedics are exempt from GST. Transportation of patient in an ambulance is also exempt from GST [Sl. No. 74 of notification No. 12/2017- CT (R) refers]. Similarly, supply of Human Blood and its components are exempt from GST vide Notification No. 2/2017-Central Tax (Rate), [Sl. No. 106 refers].</p> <p>The exemption as existed in Service Tax regime has been carried forward to GST.</p> <p>The request with regard to refund of input tax credit GST would mean zero rating of healthcare services. Under GST regime, zero rating has been done for only physical exports and supply of goods or services or both to a Special Economic Zone developer or a Special Economic Zone unit.</p> <p>The proposal also has huge revenue implication in terms of refund of duties. Similar demand</p>

Sl. No.	Proposal	Justification	Fitment Committee Recommendation
			would also arise from other sectors such as agriculture, education and trainings etc. Therefore, request for 'Zero GST rating' of healthcare services under GST may not be considered.
8.	<p>Request for complete exemption on maintenance charges collected by RWA above the threshold of RS. 7500/-</p> <p>Ref:</p> <p>i. Shri DV Sadananda Gowda, Minister of Chemicals and Fertilizers, Govt. of India forwarding representation of Bangalore Apartments Federation.</p> <p>ii. Tejasvi Surya LS, MP, Lok Sabha</p>	<p>An apartment association exists for the purpose of managing day to day running of the apartment complex on behalf of the owner/ resident members. The association collects maintenance charges from the members for the purpose of meeting the expenses incurred in managing the apartment. Based on the principle of mutuality, GST should not be levied on the maintenance charges, as there is no profit motive or service being rendered by the association. Maintenance charges charged by the association on its members is just pooling of money by itself for itself to manage the day to day affairs and neither is it done with a profit motive not it is in the nature of provisioning of</p>	<p>Recommendation:</p> <p>The request for blanket exemption on the maintenance fee charged by RWAs from its members is a request for new exemption and may not be acceded to.</p> <p>Provision by a club, association, society, or any such body (for a subscription or any other consideration) of the facilities or benefits to its members is defined as "business" under clause (e) of Section 2(17) of CGST Act, 2017. Therefore, the services of the housing society to its members would attract GST.</p> <p>GST exemption limit granted towards monthly maintenance fee of Rs. 7500/- per month per member is sufficiently high. Complete exemption to maintenance fee would be a new exemption under GST and has no merit. It would also amount to huge revenue loss.</p> <p>Keeping in mind the inflation, GST Council in its 25th meeting held on 18th January, 2018, has enhanced the exemption limit from Rs. 5000/- as provided initially in exemption notification No. 12/2017-CTR to Rs. 7500/- per month.</p>

Sl. No.	Proposal	Justification	Fitment Committee Recommendation
		service. Hence GST applicability on maintenance charges should be completely removed, irrespective of the thresholds.	
9.	<p>Request to provide concessional rate of GST of 5% on works contract services supplied by builders to Ramakrishna Mission Student's Home for creating infrastructure facilities such as construction of schools, colleges etc.</p> <p>Ref: GST Council forwarding representations of Tamil Nadu Government</p>	<p>Ramakrishna Mission Student's Home serves around 700 Orphan/ destitute/ poor students for the last 111 years by maintaining them in their residential High School and polytechnic college. It provides free food, education and shelter to hundreds of deserving young poor students. Reduction of GST would reduce the infrastructure cost and help to divert the funds for education and development of poor students.</p>	<p>Recommendation:</p> <p>May not be considered.</p> <p>This representation was earlier being discussed by GST Council in its 28th Meeting held on 21st July, 2018 (sl. No. 16 of Annex. VI, Agenda item 7 refers) and the request was not acceded to based on the reason that such end use based exemptions would be prone to misuse. Further, they may also result in overflow of ITC. No new material facts have come to light and therefore same decision as in past may continue.</p>
10.	Request to charge GST only on agency charges/ commission received for supply of security service and not on whole amount of consideration which includes wages and statutory	When the security personels are employed directly by the principal employer there is no GST, but if the same work force is supplied through agency/ contractor, then 18% GST is charged on the gross	<p>Recommendation:</p> <p>Not agreed</p> <p>Security service is a service wherein a person/ organization supplies security personnel to another organization for a consideration. Against the service, the recipient receives the consideration and on this consideration GST @ 18% is levied.</p>

Sl. No.	Proposal	Justification	Fitment Committee Recommendation
	<p>charges paid to security personnel.</p> <p>Ref:</p> <p>i. Security Association of India</p> <p>ii. LokjanshaktiSurakshadayakMathadi-wa-KamgarSanghata, Maharashtra</p>	<p>value of billing, i.e. wages and statutory benefits paid to security personnel.</p>	<p>The Government vide Notification No. 29/2018 – Central Tax (Rate) dated 31stDecember, 2018 has specified that w.e.f. 01.01.2019, security services provided by a person other than body corporate to a registered person is to be taxed under RCM as per provisions of Section 9(3) of CGST Act, 2017.</p> <p>As per section 15 of the CGST Act, 2017, the value of a supply of goods or services or both shall be the transaction value, which is the price actually paid or payable for the said supply of goods or services or both where the supplier and the recipient of the supply are not related and the price is the sole consideration for the supply. This principle cannot be violated.</p> <p>In the instant case, the agency/ contractor or organization who is supplying security service should charge GST on the full consideration from the recipient. This full consideration includes wages, statutory deposits, profit margin/ agency commission. So, when the agency/ contractor would pay the wages to its security personnel, he should not deduct the GST from the wages. GST as collected from the recipient of the service, the same needs to be paid to government.</p> <p>With effect from 01.04.2019, composition scheme for service providers has been introduced. The scheme can be availed by a registered person having annual turnover upto 50 lakhs, which is considerably high. The service providers opting for new composition scheme can now pay GST @ 6% and would not be eligible to avail any input tax credit. The service providers covered under the Composition Scheme shall be required to file 1 annual return and make quarterly payment of</p>

Sl. No.	Proposal	Justification	Fitment Committee Recommendation
			GST after completion of provision of service. This quarterly payment of GST would not adversely affect the cash flow as it would provide a time buffer for the small service providers. This would also help small organizations who provide security services.
11.	<p>Request to levy GST of 5% on the services of Investment Manager to an Alternative Investment Fund (AIF) to the extent of foreign investment in the AIF</p> <p>Ref:</p> <ol style="list-style-type: none"> 1. SEBI 2. IVCA 3. PMO 	<p>AIFs are managed by India-domiciled Investment Managers who are currently liable to pay GST@18%. This will deter foreign investment to the AIF as they need to pay high GST for their investment. The services to the extent of foreign investors in an AIF are consumed outside India with payments in forex.</p> <p>Currently, only 15% of AIFs funds comes from foreign investors. A lower GST would help to bring more foreign investment upto 60% in the coming years. Internationally, VAT exemption or rebates have been granted by the countries to attract global capital.</p>	<p>Recommendation:</p> <p>May not be accepted to reduce GST from 18% to 5% on the services of Investment Manager to an Alternative Investment Fund (AIF) to the extent of foreign investment in the AIF</p> <p>Dept of Financial Services vide OM No. F. No. 10/41/2017-PM dated 13.06.2019 with the approval of Finance Secretary has not recommended the proposal to reduce GST on foreign funds received in an AIF.</p> <p>The service by investment manager is provided to a distinct entity-AIF, which is registered in India and not to investors per se. Fund management service provider and AIF are both registered in India. AIFs are growing rapidly in India. Reducing GST from 18% to 5% on the services of investment manager may result into GST revenue loss.</p> <p>Otherwise also, these are high end services and should be taxed at the standard rate.</p>
12.	(1) Request for exemption from GST on hotel	(1) GST exemption on air transportation services to hill areas	Recommendation:

Sl. No.	Proposal	Justification	Fitment Committee Recommendation
	<p>accommodation service in hill areas including North East States. GST at Nil or 12% rate on hotel accommodation services in Andaman & Nicobar Islands</p> <p>(2) GST exemption on foreign exchange billing by a tour operator for inbound tours by declaring the service as deemed export of service or by relaxing place of supply conditions for tour operator service.</p> <p>(3) Request to levy GST on 10% of gross value instead of entire value of tour operator service (OR) levy GST at 18% on the gross value with input tax credit.</p> <p>Ref: Indian Association of Tour Operators (IATO)</p>	<p>is already given for North East States (Sl. No 15 of Notification No 12/2017-CT(R)).</p> <p>Andaman is under developed island and tourism in only the industry for job opportunity. High taxation on hotels is killing the tourism and tourists go to cheaper places abroad like Bali, Thailand etc.</p> <p>(2) The service of tour operators to foreign tourists is not considered an export of service as the place of supply is India. Therefore, since forex is earned on such service, GST exemption needs to be given.</p> <p>(3) Current rate of GST@5% without input tax credit on the gross value of tour operator service is very high and Rule 32 of CGST Rules should be amended to make 10% of gross value as taxable value for the tour operator service. If above request is not</p>	<p>Requests from Sl. No 1 to 3 may not be accepted</p> <p>1. Area based exemptions should not be encouraged under GST. This results in similar requests from similar areas of difficult terrains like hilly areas, remote areas, islands etc. GST exemption is already available on services by a hotel, inn, guest house, club or campsite etc having value of supply of a unit of accommodation below Rs 1000 per day or equivalent. Also, to give relief to the hotel sector, declared tariff has been removed and transaction value was introduced in July 2018 by the GST Council.</p> <p>2. The place of supply of the such services shall be the location where the services are actually performed as per Section 13(3) of IGST Act. Such services are supplied to an individual, represented either as the recipient of services or a person acting on behalf of the recipient, which require the physical presence of the recipient or the person acting on his behalf, with the supplier for the supply of services. Therefore, such services are taxable in India as per IGST Act.</p> <p>3. As per Section 15 of CGST Act, transaction value is the taxable value. GST is levied on the transaction value, not on the margin or commission of the tour operators. GST@5% without ITC is applicable for tour operators in the same line of business i.e a tour operator selling a tour package of another operator. Option to pay GST@18% with ITC is also available to such tour operator. We may therefore not accept the request.</p>

Sl. No.	Proposal	Justification	Fitment Committee Recommendation
		feasible, input tax credit be allowed to be utilised and taxable value can be 18% on the gross value of the service.	
13.	<p>1. Request to reduce GST from 18% to 5% on motor third party insurance premium</p> <p>2. Request to reduce GST from 18% to 5% pure term life insurance premium</p> <p>3. Request to reduce GST from 18% to 5% on health insurance premium</p> <p>4. Request to reduce GST from 12% to 5% on motor third party insurance premium</p> <p>5. Request to reduce GST from 12% to 5% on motor third party insurance premium</p> <p>6. Request to give exemption from GST on purchase of</p>	<p>At present 18% GST is charged on the premium payable for third party motor insurance except for the commercial vehicles for which it was recently lowered to 12%. The third-party insurance achieves a social objective and is also mandated by law.</p> <p>The protection gap in the life insurance in the country is as high as 90%. To reduce this gap and provide financial protection to the families though increase in the life insurance coverage of more households, GST on term insurance premium may be reduced to 5%.</p> <p>The average out of the pocket expenses on health in India is as high as 62% as compared to world average of 18%. To</p>	<p>Recommendation:</p> <p>May not be accepted to reduce GST on insurance service from the existing rates now.</p> <p>GST collection from financial and other related services such as insurance, pension etc is Rs 1,24,163 Crores in FY 2018-19 [Rs 72,012 Cr in cash and Rs 52,150 Cr in credit]. Service Tax of 15% was levied on insurance sector in the pre-GST era. Therefore, any reduction of GST from 18% to 5% will lead to huge revenue loss to the government. However, the proposals may be revisited once the revenue position improves.</p> <p>2. Also, 31st GST Council has not accepted the proposal to decrease GST on insurance service from 18% to 5% [Sl. No. 29 of Annexure IV of Agenda Vol 2 refers]. GST on third party insurance premium in case of goods transport was reduced to 12% from 18% by the Council.</p> <p>3. The insurance service attracts GST only on the risk component of premium. Effective rate of tax on premium paid is in the range of 1.8 to 4.5% as Rule 32(4) of CGST Rules provides for value to be adopted in for different types of policies in vogue. Exemption would lead to blockage of ITC and will also necessitate ITC reversals which will also increase compliance burden on part of the insurance companies. Since exemption of output services will lead to</p>

Sl. No.	Proposal	Justification	Fitment Committee Recommendation
	<p>annuity from accumulated pension amount</p> <p>Ref: IRDA, DoFS</p> <p>7. Requested that 12% GST concessional rate should also be provided for the third-party insurance services relating to passenger transport vehicle as on the lines of goods carriage.</p> <p>Ref: CCT, Gujarat</p>	<p>encourage the families and individuals to protect themselves from the financial difficulty due to health issues, health insurance needs to be promoted in a big way.</p>	<p>blockage of ITC, same shall result in increase in the cost of output services to the consumers.</p> <p>4. The issue may be examined after getting relevant data from IRDA and other stakeholders.</p>
14.	<p>Request to give GST/Service Tax exemption for Uttarakhand Electricity Regulatory Commission (UERC)</p> <p>Ref: Secretary, UERC</p>	<p>UERC is a statutory body under Uttranchal Adaptation and Modification Order 2001, read with ERC Act 1998. They are a public commission which issues licenses for electricity transmission and distribution in the State of Uttarakhand.</p> <p>Transmission and distribution of electricity is already exempt</p>	<p>Recommendation:</p> <p>May not be accepted to give GST exemption to services rendered by Uttarakhand Electricity Regulatory Commission (UERC) as there are many regulatory authorities whose exemption request has been declined.</p> <p>Uttarakhand Electricity Regulatory Commission (UERC) issues licenses to the person for electricity transmission and distribution. Transmission or distribution of electricity by an ‘electricity transmission or distribution utility’ is exempt from GST as per Sl. No 25 of Notification No 12/2017-CTR.</p> <p>The words “electricity transmission or distribution utility” are defined as the Central</p>

Sl. No.	Proposal	Justification	Fitment Committee Recommendation
			<p>Electricity Authority; a State Electricity Board; the Central Transmission Utility or a State Transmission Utility notified under the Electricity Act, 2003 (36 of 2003); or a distribution or transmission licensee under the said Act, or any other entity entrusted with such function by the Central Government or, as the case may be, the State Government;</p> <p>Therefore, services of UERC are not exempt under GST. This is a new request for exemption from one State and no such requests are received from other States. Therefore, request for exemption may not be accepted.</p>
15.	<p>Request to reduce GST on services related to digital payments</p> <p>Ref: RBI</p>	<p>Recommendation No 66 of High Level Committee on Deepening of Digital Payments is as follows: -</p> <p>In order to encourage digital payments, particularly for financial inclusion use cases, the Government must reduce the taxes on the required devices, accessories, and services.</p> <p>1) Waiver of GST on transaction charges of IMPS & AePS for transactions up to Rs 5000: There is need to promote usage of BC channel for making digital</p>	<p>Recommendation:</p> <p>May not be accepted as of now. Further details will be required from RBI to process the request. RBI may be informed of the measures taken under GST regime to promote digital payments and Business Correspondent Model.</p> <p>Following steps are taken under GST regime to promote digital payments and Business Correspondents (BC) Model:</p> <p>(1) A Group of Ministers (GoM) has been constituted to look into incentivizing Digital Payments in GST regime</p> <p>(2) GST exemption exists on services by an acquiring bank, to any person in relation to settlement of an amount upto two thousand rupees in a single transaction transacted through credit card, debit card, charge card or other</p>

Sl. No.	Proposal	Justification	Fitment Committee Recommendation
		<p>transactions by rationalization and capping of transaction charges on BC model. For enhancing the financial sustenance of BC channel, it is recommended to consider waiving of GST on transactions of value up to Rs. 5000, executed using BC channels.</p> <p>2) BC Transactions - simplifications of taxes: BCs are agents of the banks and charge rates determined by the bank to the customers. The current billing process, and tax structure results in a higher tax rate on these transactions. The Government, and the RBI must simplify this process, and ensure the right level of taxation.</p>	<p>payment card service [Entry No 34 of Notification No 12/2017-CTR]</p> <p>(3) Services of BF/BC to a banking company in respective individual capacities with respect to accounts in rural area is exempt from GST vide Entry No. 39 of Notification 12/2017-CTR</p> <p>(4) Also, following requests on the services of Business Facilitator/Business Correspondent (BF/BC) were taken to Fitment Committee Meeting held on 14.12.2018: -</p> <ol style="list-style-type: none"> I. Request to clarify the base value on which GST liability needs to be calculated for the services of Business Facilitator/Business Correspondent (BF/BC) to a banking company II. Request to clarify the scope of services by BF/BC to a banking company with respect to accounts in rural areas III. Request for reduction in GST rate and for exemption of services by BF/BC to a banking company in urban areas also IV. Request to allow corporate BF/BC to deposit GST on reverse charge mechanism for availing services from the unregistered Agent BF/BC. <p>The FITCOM decided on the above four requests as below: -</p> <ol style="list-style-type: none"> I. Agreed for clarification. II. Agreed for clarification. III. Not agreed. IV. Agreed. <p>The decisions of the FITCOM are accepted by the 31st GST Council Meeting held on 22.12.2018. Subsequently, Circular No. 86/05/2019 dated 01.01.2019 was issued to clarify applicability of GST on services of BF/BC to a banking company. Also, services BF to a banking company and services of agents of</p>

Sl. No.	Proposal	Justification	Fitment Committee Recommendation
			BC to a BC is put under reverse charge vide Sl. Nos. 12 and 13 of Notification No. 29/2019-Central Tax (Rate) dated 31.12.2018. The request for reduction in GST rate and for exemption of services by BF/BC to a banking company in urban areas was not accepted by the GST Council.
16.	<p>Request for-</p> <p>i. correcting discriminatory GST rates for earth works.</p> <p>Or,</p> <p>ii. Exempting airport construction services including earthworks from GST.</p> <p>Reference: Chairman, Navi Mumbai International Airport Private Limited Chief Minister, Maharashtra</p>	<p>Construction of airport involves substantial quantum of earth works. There is a discrimination of rate of GST on earthworks depending on the recipient of the service. When earthwork service is undertaken for CIDCO, being Government entity, rate of GST is 5%, while if the same service is undertaken for private project under PPP mode, rate of GST is 18%. Hence this discrimination needs to be corrected. It would help towards the cost of development of airports to minimum and ultimately burden on passenger towards airport charges would come down.</p>	<p>Recommendation:</p> <p>The request is for a new exemption and may not be acceded to.</p> <p>The rate of GST applicable on works contract service involving predominantly earth work (that is, constituting more than 75per cent. of the value of the works contract), when supplied to a Government, Government Authority or Government Entity is 5% and when supplied to any recipient other than Government, Government Authority or Government Entity is 18%.</p> <p>These rates were recommended by GST council after extensive deliberation and taking into account into pre- GST tax structure. Prior to 1st July, 2017, in the service tax era the service component of works contract service provided to Government and Governmental authority was exempted from service tax. But when such services were provided to private body, the same were taxable.</p> <p>There was no exemption on WCS under VAT. Most of the states levied VAT on WCS under composition scheme at the rates ranging from 1% to 5%. Under composition scheme, credit of VAT paid on goods was not allowed. Therefore, there were also embedded taxes on inputs, input services and capital goods (such as service tax, excise duty and VAT).</p>
17.	Rule-43(1)(h) of CGST Rules, 2017	As per Rule-43 of CGST Rules, the	Recommendation:

Sl. No.	Proposal	Justification	Fitment Committee Recommendation
	<p>may be amended suitably so that interest is not levied on reversal of ITC on monthly basis in case of Capital Goods commonly used for taxable and exempted supplies.</p> <p>Reference: FIPI</p>	<p>entire Credit of GST paid on Capital Goods being commonly used for taxable as well as exempt supplies can be availed. However, as per Rule-43 (1)(h) of CGST Rules, 2017, the interest would be required to be paid on amount to be reversed on monthly basis till 60 months. Further, the issues get more complicated where substantial numbers of capital goods are purchased at different point of time which requires detailed calculation in respect of each such capital goods for the purchases of reversal along with interest. Further, in petroleum Industries, interest component would be much higher than the Credit amount due to higher exempted turnover on account of supply of crude oil & natural gas. Considering the fact that GST is leviable on supply of majority of goods and services, it can be concluded that</p>	<p>May not be accepted</p> <p>Since credit is allowed for capital goods upfront, reversal of credit in proportion to non-taxable supplies with interest is a fair provision.</p> <p>As far as imposition of interest on utilization of ITC is concerned, the possibility of amending the law in this regard may be transferred to the Law Committee through GST Policy Wing.</p>

Sl. No.	Proposal	Justification	Fitment Committee Recommendation
		<p>Rule-43 of CGST Rules is not applicable in case of other major industries and seamless credit of GST on Capital Goods is available. However, E&P industry is not able to take even minimum possible input tax credit in respect of Capital Goods due to interest implications on reversal of majority of input tax credit availed on Capital Goods.</p>	
18.	<p>Since goods and services purchased for construction of cross-country petroleum and gas pipeline such as pipes, pipe fittings, gas compressors, metering instruments, works contract services etc. are not eligible for input tax credit (ITC) under GST regime, high rate the rate of GST on such goods will increase the cost of pipeline projects. Therefore, it is requested that applicable GST rate on such goods and services should be rationalized and be</p>	<p>The goods and services purchased for construction of cross-country petroleum and natural Gas pipeline such as pipes, pipe fittings, gas compressors, metering instruments, works contract services, etc. are not eligible for input tax credit (ITC) under GST regime and will attract GST up to 28% (on Gas compressors).</p> <p>Applicability of high GST rate on goods and services required for laying the pipeline without</p>	<p>Recommendation:</p> <p>May not be accepted</p> <p>End used based exemptions create distortions, are prone to misuse and difficult to monitor.</p>

Sl. No.	Proposal	Justification	Fitment Committee Recommendation
	<p>exempted or considered at lower rate of 5%.</p> <p>Reference: FIPI</p>	<p>benefit of ITC will substantially increase the cost of such projects.</p>	
19.	<p>It is requested that explanation to Section 17(5) should be amended from the definition of Plant & Machinery to allow the GST credit on pipelines laid outside factory premises.</p> <p>Reference: FIPI</p>	<p>In the GST Act, pipelines laid outside the factory premises are specifically excluded from the purview of Input Tax credit by virtue of explanation to Section 17(5). Under the GST law, there is no concept of manufacturing and therefore, restricting the credit for pipeline beyond factory, is unreasonable and creating undue hardship on already burdened oil sector.</p>	<p>Recommendation:</p> <p>May not be accepted</p> <p>Needs amendment of law. Has considerable revenue implication. This can be examined when a comprehensive review of law and rate is considered.</p>
20.	<p>GST Rate reduction for works contracts relating to oil and gas exploration and production (E&P) in the onshore area including offshore area up to 12 nautical miles</p> <p>Reference: FIPI</p>	<p>The contracts entered into by E& P operators in the nature of onshore works contracts are currently taxed @18% which is significantly higher as compared to pre-GST era</p> <p>In the pre-GST era, the effective rate of tax on such works contracts which were composite in nature and where</p>	<p>Recommendation:</p> <p>May not be accepted</p> <p>Onshore works contract procured by E&P sector are taxed at the standard rate of 18% as all other works contract services are taxed.</p> <p>Rate of GST on offshore works contract services procured by E&P sector was reduced to 12% in view of the fact that in pre-GST regime, VAT was not levied on goods component of the offshore works contracts; only service tax was levied on service component.</p> <p>There is no justification for reduction of GST rate on onshore works contract services which</p>

Sl. No.	Proposal	Justification	Fitment Committee Recommendation															
		<p>vendors were registered in composition scheme of their respective states was ranging between 11% to 12% which has been substantially increased to 18%. Please refer state wise rates below:</p> <table border="1" data-bbox="552 757 791 1460"> <thead> <tr> <th data-bbox="552 757 632 1025">State</th> <th data-bbox="632 757 711 1025">Pre - GST Regime</th> <th data-bbox="711 757 791 1025">GST Regime</th> </tr> </thead> <tbody> <tr> <td data-bbox="552 1025 632 1146">Rajasthan</td> <td data-bbox="632 1025 711 1146">12 %</td> <td data-bbox="711 1025 791 1146">18 %</td> </tr> <tr> <td data-bbox="552 1146 632 1227">Gujarat</td> <td data-bbox="632 1146 711 1227">12 %</td> <td data-bbox="711 1146 791 1227">18 %</td> </tr> <tr> <td data-bbox="552 1227 632 1384">Andhra Pradesh</td> <td data-bbox="632 1227 711 1384">11 %</td> <td data-bbox="711 1227 791 1384">18 %</td> </tr> <tr> <td data-bbox="552 1384 632 1460">Assam</td> <td data-bbox="632 1384 711 1460">11 %</td> <td data-bbox="711 1384 791 1460">18 %</td> </tr> </tbody> </table> <p>Thus, rate of works contract has increased substantially under GST regime as compared to rate pre-GST regime for onshore works contract</p>	State	Pre - GST Regime	GST Regime	Rajasthan	12 %	18 %	Gujarat	12 %	18 %	Andhra Pradesh	11 %	18 %	Assam	11 %	18 %	<p>were levied to both service tax and VAT in the pre-GST regime.</p>
State	Pre - GST Regime	GST Regime																
Rajasthan	12 %	18 %																
Gujarat	12 %	18 %																
Andhra Pradesh	11 %	18 %																
Assam	11 %	18 %																
21.	Clarification required for non-levy of Service Tax/ GST on Operator's own share on	In terms of PSC, one of the consortium members is designated as an operator who has to	<p>Recommendation:</p> <p>May not be accepted</p>															

Sl. No.	Proposal	Justification	Fitment Committee Recommendation
	<p>provision of services through its own resources to the Unincorporated Joint Ventures (UJV)</p> <p>Reference: FIPI</p>	<p>carry out E&P activity on behalf of other partners based on work plans and budget duly approved by Management Committee which includes Government Nominee as well. The Operator incurs expenditure from the contribution received by way of Cash Call from the partners.</p> <p>In this context, the CBIC Circular dated 24.09.2014 at para-3 has clarified that cash calls are capital contributions made by the members of JV to the JV and are not subject to Service Tax. Similar clarification has been issued under GST regime also.</p> <p>Industry is of the view that since UJV is not a distinct person, the Service Tax/GST is not payable to the extent of Operator's own share in such UJV as same is service provided/supplied to same person. However, Service Tax/GST is applicable to the</p>	<p>A comprehensive circular on the issue of taxability of cash calls and cost petroleum has been issued based on the advice of the Attorney General in the matter, with the approval of GST Council. No action is required to be taken on the representation.</p>

Sl. No.	Proposal	Justification	Fitment Committee Recommendation
		extent of other partners' share in such UJVs.	
22.	<p>It is suggested that the formula currently prescribed for reversal of credit may be changed for LNG sector.</p> <p>Reference: FIPI</p>	<p>The formula prescribed under GST in case of reversal of input credit takes into account taxable as well as exempt supplies which includes non-GST supplies. Currently, since LNG is outside the purview of GST, the ratio of exempt and taxable supplies is huge due to which there is a huge loss of credit under to LNG sector.</p> <p>Further, considering such disparity, Government has also prescribed specific formula of credit reversal for banking sector. It is suggested that a new formula may be prescribed under law for the benefit of LNG sector.</p>	<p>Recommendation:</p> <p>May not be accepted</p> <p>Request for a new relaxation/ concession from reversal in respect of non-taxable supplies without any justification. These issues can be examined with the comprehensive review of the GST base, when the same is carried out.</p>
23.	<p>It is proposed that GST @ 5% applicable on the services of transportation of goods by pipeline may be provided with ITC Benefit.</p>	<p>It may be observed that presently GST rate on the services of 'transportation of Natural gas through pipeline' is applicable @12% (with ITC benefit) and @5% (without ITC benefit).</p>	<p>Recommendation:</p> <p>May not be accepted</p> <p>Full ITC is available at GST rate of 12%.</p>

Sl. No.	Proposal	Justification	Fitment Committee Recommendation
	<p>This will lead to lower cost of transportation of Natural Gas and will help in promotion of cleaner source of energy for Power and CNG sector where ITC of GST paid on transportation of Natural Gas is not available. This will also enable Natural Gas to compete with other alternative polluting fuels like Furnace Oil, Naphtha, etc.</p> <p>Reference: FIPI</p>	<p>Further, as per GST Laws, two different registered units of an entity are considered distinct persons and inter-unit billing for supply of goods/ services between such units is required to be carried out with applicable GST. Considering such provisions under GST Laws, the lower GST rate @5% (without ITC Benefit) could not practically be implemented so far, as Input Tax Credit (ITC) of GST payable on the inter-unit billing, for services of transportation of Natural Gas, will not be available to recipient unit of GAIL.</p> <p>Further, Natural gas a much cleaner source of energy than other alternative available and is primarily used in priority sectors like Power, CNG and fertilizer sector. The high rate of GST on the services of</p>	

Sl. No.	Proposal	Justification	Fitment Committee Recommendation
		<p>transportation of goods by pipeline will make Natural Gas costlier for power and CNG sector where Input Tax Credit of GST paid on transportation of Natural Gas is not available as the output product is not covered / exempted under GST. Further, this will also enable Natural Gas to compete with other alternative polluting fuels like Furnace Oil, Naphtha, etc.</p>	
24.	<p>A clarification or exemption may be issued to the effect that costs incurred by Corporate Office on various accounts such as manpower, infrastructure etc. would not be subject to GST.</p> <p>Reference: FIPI</p>	<p>As per Sec 25(5) of CGST Act, the two establishments of same entity covered under different GST Registrations are treated as distinct persons and accordingly any supply of goods or services between such persons are subject to levy of GST, even if there is no consideration for such supply in view of Schedule-I of CGST Act.</p> <p>The upstream sectors have its operations across India including Offshore and has Registered Office in</p>	<p>Recommendation:</p> <p>Forwarded to Policy Wing</p> <p>Draft circular was forwarded to GST Policy wing for consideration. A reminder is being sent to address the issue.</p> <p>It would appear that Industry is using cross charge (which is not a supply) to by-pass the rules for distribution of credit provided in Section 20, pertaining to ISD.</p> <p>Therefore, there is need to issue clarification on:</p> <ol style="list-style-type: none"> 1. Is ISD mandatory? 2. Where cross charge is used, for the valuation of cross charge supply the provisions of Section 20 of CGST Act shall apply mutatis mutandis

Sl. No.	Proposal	Justification	Fitment Committee Recommendation
		<p>one of the States. The Corporate Offices such as Office of Company Secretary who primarily interacts with stake holders, regulatory authorities for compliance purposes. Similarly, the Offices of Board of Directors primarily executes its functions entrusted by Govt. of India such as fixation of MoU targets, internal controls, decision on business policies etc. There are other corporate offices such as Corporate Accounts, Corporate Taxes etc. who discharge their functions centrally at registered office.</p> <p>Although the registered office and work centers are distinct persons under GST Law, there is no specific supply involved between such distinct persons. Accordingly, there should not be any GST implication.</p>	

Sl. No.	Proposal	Justification	Fitment Committee Recommendation
		It is also pertinent to mention that unlike other sectors, the upstream sector would not be able to avail input tax credit as the crude oil & natural gas are outside levy of GST.	
25.	Request to restrict ITC proportionate to actual supply of construction service i.e actual supply of construction units by amending Section 41 of the CGST Act and Rule 42 of the CGST Rules. Reference: Shri Ajay Jain, Pr CC, Ahmedabad Zone	Construction sector in not reversing the credit taken on flats unsold after the issue of completion certificate. Rule 42 needs to suitably amended to plug the loophole. ITC should be restricted to actual supply of flats. This prevents loss of revenue to govt.	<p>Recommendation:</p> <p>May not be accepted</p> <p>Rule 42 of CGST Rules has been amended with effect from 1.4.2019 to restrict ITC proportionate to actual supply of construction service..</p>
26.	The input tax credit be made available to a real estate developer when they are engaged in construction and renting of immovable property. Substantive benefit of ITC shall not be denied in such cases and it is humbly prayed to incorporate appropriate clause and extend the benefit of ITC of	In terms of Section 17 (5)(C) of the Central Goods and Services Tax Act, 2017, works contract services when supplied in construction of an immovable property is a non-creditable input unless and until the service provider is also providing work contract services as an output. Issue: In case a builder builds a	<p>Recommendation:</p> <p>May not be accepted</p> <p>Disallowed in law. May be considered when real estate is brought in GST. On Merit, this credit is admissible. It has been blocked in GST due to revenue consideration. Internationally, it is allowed, after spreading the credit in 5-7 years.</p>

Sl. No.	Proposal	Justification	Fitment Committee Recommendation
	<p>works contract services to renting as well.</p> <p>Reference: Indian Chamber of Commerce</p>	<p>mall, industrial complex, hotels etc. and puts it on rent, the builder / developer would not be eligible to input GST of the works contract services, even though the builder / developer would be discharging GST under Renting of Immovable Property Services.</p>	
27.	<p>1. Abolish GST under RCM on Ocean Freight</p> <p>2. Method of valuation of supplies in the case of ocean freight for levy of IGST should be included in the CGST Rules, 2017 itself under "Determination of value of supply"</p> <p>3. Reference: 1. BBN Industries Association 2. All India Induction Furnaces Association 3. AP Chambers of Commerce and</p>	<p>1. GST is leviable on import of goods at CIF value which includes freight component, charging GST on the freight separately as a service amounts to double taxation</p> <p>2. RCM is legally not tenable since RCM in GST can only be levied on recipient but in case of CIF Contracts, the importer who has been made liable to pay GST is neither the service supplier nor recipient of the service of transportation of goods</p> <p>3. Valuation of Ocean Freight</p>	<p>Recommendation:</p> <p>May not be accepted</p> <p>Prior to 1.6.2016, ocean freight, both inward and outward, was exempt from Service Tax. However, the Indian shipping lines represented that they were unable to avail input tax credit (ITC) of tax paid on input goods and services used by them since there was no tax on either inward or outward freight. Such blocked ITC formed part of their cost and made them uncompetitive vis-a-vis foreign shipping lines. With a view to allow Indian shipping lines to take ITC of inputs and input services, service tax was imposed on the inward transportation of goods and simultaneously ITC was allowed in respect of the exempted outward transport. It was expected that while Indian shipping lines would have sufficient ITC to pay tax on inward freight through credit, the foreign shipping lines would have to pay tax in cash. Where the foreign shipping lines were engaged by the foreign exporters (CIF Contracts), the Indian importer was made liable to pay service tax on freight under RCM. This dispensation, aimed at restoring level playing field to Indian shipping lines, was put in place in consultation with Ministry of Shipping.</p>

Sl. No.	Proposal	Justification	Fitment Committee Recommendation
	Industry Federation 4. Jindal Aluminum Ltd 5. ASSOCHAM 6. Punjab Government vide Discussion Paper on 101 Reforms in GST 7. All India Association of Industries 8. Gujarat Dyestuff Manufacturers Association	should be included in GST Rules itself to avoid any confusion in the trade	<p>Comments were called from Ministry of Shipping on the issue after importers started representing against this levy and several writ petitions were filed on the issue.</p> <p>Ministry of Shipping has replied that this levy does not amount to double taxation since the tax on freight as a service and tax on import of goods at CIF value are levied under two different statutes. They have further stated that the tax on import freight is serving the interests of Indian Shipping Industry as intended and thus no change is called for.</p> <p>Thus, there are contradictory demands from the Shipping Industry and the Importers. It may be kept in mind that ITC of the tax paid on import freight is available to the importers as ITC and this tax is a mere pass through. Thus, no change may be proposed.</p> <p>As regards the RCM issue, the matter is already sub-judice and no changes are proposed during the period of litigation.</p> <p>Valuation Rules is a non-issue. Notification No. 8/2017-IT (Rate) dated 28.06.2017 has been issued in exercise, inter alia, of powers under section 15 of the CGST Act.</p>
28.	1.Exempt software procurement from Dubai Multi Commodities Centre to develop agri infra platform to provide customised solutions to farmers requirements 2.Exempt services importation for creation of an intl. trading and	1. GST @18% on software import will lead to inversion. 2. Incentives will help in making a shift to digitization and improved technology in the agricultural sector 3. Incentives to private companies like	<p>Recommendation:</p> <p>May not be accepted</p> <p>This is a new exemption request. Exemptions results in distortion of tax structure. All the stated policy objectives can be achieved by several more effective and efficient ways of direct budget transfer without leading to any distortion.</p> <p>There is no justification for business entity specific exemptions.</p>

Sl. No.	Proposal	Justification	Fitment Committee Recommendation
	<p>marketing platform for agricultural produce & procurement of equipment for the establishment of a network of agriculture-oriented research labs and providing agriculture extension services on field level</p> <p>Reference: Sh. SudhirMungantiwar [ref from Cropdata Tech Pvt Ltd]</p>	<p>CDT will help in addressing the lack of private corporate investment in agriculture</p> <p>4. Incentives will be in conformity with the avowed policy to promote agricultural extension and marketing</p> <p>The Govt. has given exemptions to inputs, input services and capital goods that are used in the priority sector where output is exempt</p>	
29.	<p>Input Tax credit (ITC) should be allowed in full in cases where the GST on Outward Supply is paid @ 5%</p> <p>Reference: Dr. KiritSomaiya, Ex-MP forwarding the representation of Bus and Car Operators Confederation of India</p> <p>Gujarat, forwarding representation of Akhil Gujarat Tourist Vehicle</p>	<p>The substantial portion of the cost of bus operating business (around 50%) is being incurred on the cost of fuel. Fuel is not liable to GST but heavily taxed under Central Excise and VAT Laws. Currently, the component of taxes on fuel, Vehicle Tax and toll fess and tax on purchase of the vehicle is contributing more than 60% of the cost of passenger bus operating business. Most of these tax</p>	<p>Recommendation:</p> <p>May not be accepted</p> <p>Currently GST is leviable at 5% with ITC of input services in the same line of business and 12% with full ITC on following services:</p> <ol style="list-style-type: none"> 1. Transport of passengers by any motor vehicle where the cost of fuel is included in the consideration. 2. Renting of any motor vehicle designed to carry passengers where the cost of fuel is included in the consideration. <p>In the Service Tax regime, the service in question attracted Service Tax at the rate of 6%with ITC of input services in the same line of business. Following the principle of carrying forward the same incidence of tax in the GST as existed in the Service Tax regime, ITC of the input service in the same line of business has been allowed at the GST rate of 5%.</p>

Sl. No.	Proposal	Justification	Fitment Committee Recommendation
	Operators Federation	costs are not available as ITC. Majority of the bus operators are following GST rate of 5% without ITC (except ITC in the same line of business). Apart from the fuel cost, there, are certain items of expenditure such as repairs/ maintenance and vehicle insurance which are liable to GST but ITC of the same is not available under this option. This option has created cascading of tax. Non availability of the ITC would increase the cost of the public transportation.	Service providers have the option of paying GST at 12% with full ITC. The rate of 5% with ITC would result in similar demand in many sectors and may lead to refund in many situations.
30.	<p>GST on renting of non-air-conditioned motor vehicles should be exempted.</p> <p>Reference: Dr. KiritSomaiya, Ex-MP forwarding the representation of Bus and Car Operators Confederation of India Gujarat, forwarding representation of Akhil Gujarat</p>	The service of 'renting of motor vehicles' is classifiable under the HSN code '9966' whereas the service of 'transportation of passenger' is classifiable under the HSN code '9964'. Currently, the exemption under GST is available vide entry No. 15 (c) of the Notification No. 12/2017 Central Tax (Rate) dated 28 June 2017 for the	<p>Recommendation:</p> <p>May not be accepted</p> <p>Transport of passengers by, -</p> <p>(a) non-air-conditioned contract carriage other than radio taxi, for transportation of passengers, excluding tourism, conducted tour, charter or hire; or</p> <p>(b) non-air- conditioned stage carriage, - is exempt under entry 15 of notification 12/2017-CT(R).</p> <p>Request is for deepening of exemption. The same may not be accepted.</p>

Sl. No.	Proposal	Justification	Fitment Committee Recommendation
	Tourist Vehicle Operators Federation	service of 'transport of passenger in a non-air-conditioned vehicle' where as there is no such exemption in case of service of 'renting of non-air-conditioned motor vehicle'. The passengers availing services of non-air-conditioned mode of transport are generally the lower middle class and poor people. However, the operators providing the said services have to procure the services of renting of non-air-conditioned motor vehicles on payment of GST. The non-availability of ITC to the operators is increasing the cost of providing the service of transport of passenger in a non-air-conditioned motor vehicle.	
31.	Clarification may be issued regarding classification of service relating to renting of motor vehicles and availability of GST exemption for the same. Reference:	Recently, the Maharashtra Authority of Advance Ruling (AAR) has passed an advance ruling in relation to classification of supply of services by way of providing vehicles on hire. The ruling relates to	<p>Recommendation:</p> <p>No action may be taken</p> <p>In the case referred in the representation, the applicant (SST) had sought a ruling on whether supply of air-conditioned buses to NMC was eligible for exemption under notification No. 12/2017-CT, Sl. No. 15(c) which exempts transportation of passengers by stage carriage other than air-conditioned stage carriage.</p>

Sl. No.	Proposal	Justification	Fitment Committee Recommendation
	<p>Dr. KiritSomaiya, Ex-MP forwarding the representation of Bus and Car Operators Confederation of India</p> <p>Gujarat, forwarding representation of Akhil Gujarat Tourist Vehicle Operators Federation</p>	<p>supply of air-conditioned green city buses by SST with driver, fuel, repair and maintenance, against consideration payable on the basis of kilo meters run basis. The exemption available for supply of vehicles on hire to state transport undertakings (STU) has been denied.</p> <p>As per the ruling, the exemption is available only for vehicles given on 'hire' and not available for vehicles given on 'lease/'rent'. It is explained in the ruling that in case of 'hire' the hirer has an option to buy the equipment. As no such option has been given in that case, exemption appears denied. Reliance has been placed on income tax law provisions and relevant case law under the said act. Such ruling is likely to lead to GST litigation.</p> <p>The case law quoted for denial of GST exemption is out of context and is</p>	<p>The ruling given by Maharashtra AAR is only that the supply made by the applicant (SST) is that of giving buses on lease or hire to NMC and the same is not eligible for exemption under entry 15(c) of the notification No. 12/2017-CT(R) which exempts transport of passengers in stage carriage OTHER than AC stage carriage.</p> <p>AAR, Maharashtra has not denied the exemption under entry 22 of the notification No. 12/2017-CT(R) which exempts services by way of giving on hire motor vehicles having carrying capacity of more than 12 passengers to state transport undertaking.</p> <p>It was only an apprehension of the applicant and not a finding or ruling of AAR. The AAR ruling has been misquoted. No action may be taken.</p>

Sl. No.	Proposal	Justification	Fitment Committee Recommendation
		<p>relevant only for claim of higher rate of depreciation under income tax law. For the purpose of GST, the word 'hire' and 'lease/' 'rent' should be treated at par.</p> <p>Exemption at Sl. No. 22(a) Notification No. 12/2017- Central Tax (Rate) dated 29 June, 2017 should be available to vehicles given on 'hire/'lease/' rent' to STU irrespective of whether the option to buy the said vehicle is given or not. Otherwise the purpose of the said exemption would become redundant.</p>	
32.	<p>ITC for renting of vehicle and passenger transportation service should be allowed effective from 1.7.2017</p> <p>Reference: Dr. KiritSomaiya, Ex-MP forwarding the representation of Bus and Car Operators Confederation of India</p> <p>Gujarat, forwarding representation of</p>	None	<p>Recommendation:</p> <p>May not be accepted</p> <p>This requires a retrospective exemption which can only be done as part of a budgetary exercise. Further, GST Council has decided that in principle no retrospective exemptions are to be granted.</p>

Sl. No.	Proposal	Justification	Fitment Committee Recommendation
	Akhil Gujarat Tourist Vehicle Operators Federation		
33.	<p>Viability Gap Funding (VGF) for routes of transportation of passengers by road should be kept out of the preview of the GST</p> <p>Reference: Dr. KiritSomaiya, Ex-MP forwarding the representation of Bus and Car Operators Confederation of India</p> <p>Gujarat, forwarding representation of Akhil Gujarat Tourist Vehicle Operators Federation</p>	<p>Viability Gap Funding is a grant one-time or deferred, provided to support infrastructure projects that are economically justified but fall short of financial viability.</p> <p>VGF is given for un-viable routes for a limited period time. GST is exempted on VGF received from Central Government for the transportation of passenger by air under entry no. 16 of the Exemption Notification No. 12/2017 - Central Tax (Rate) dated 28 June 2017 for a period of three years from the date of commencement of operations of the Regional Connectivity Scheme (RCS) airport as notified by Ministry of Civil Aviation. Further, as per the section 15 (2) (e) of the CGST Act, 2017 the value of the supply shall include subsidies directly linked to the price excluding subsidies</p>	<p>Recommendation:</p> <p>May not be accepted</p> <p>Supply of service by a Government Entity to Central Government, State Government, Union territory, local authority or any person specified by Central Government, State Government, Union territory or local authority against consideration received from Central Government, State Government, Union territory or local authority, in the form of grants, is exempt from GST vide entry 9C of Notification No. 12/2017- Central Tax (Rate) dated 28.06.2017.</p> <p>Taxability of grants given to entities other than Government Entity shall vary from case to case depending on the facts of the case. Therefore, no change in the existing exemption notifications is proposed.</p>

Sl. No.	Proposal	Justification	Fitment Committee Recommendation
		<p>provided by the Central Government and State Governments. VGF is received in form of subsidy not linked with passenger ticket, cannot form part of the transaction value of the passenger ticket. Further, VGF is also not in the nature of consideration for any service provided to the govt. / governmental authority.</p> <p>Applicability of GST on the VGF would only increase the cost of the passenger transportation and will ultimately make the public transport service expensive.</p> <p>In view of above, the receipts on account of VGF for routes of passenger transportation by road should be exempted from the GST.</p>	
34.	<p>GST exemption should be given for operation & maintenance services supplied to the State Transport Undertaking. Or it may be clarified that such services are already covered under the</p>	<p>Currently the services by way of giving on hire a motor vehicle meant to carry more than twelve passengers to a State Transport Undertaking (STU) are exempt vide entry no. 22(a) of the Exemption</p>	<p>Recommendation:</p> <p>May not be accepted</p> <p>Entry 22(a) of notification No. 12/2017-CT(R) exempts services by way of giving on hire to a state transport undertaking, a motor vehicle meant to carry more than twelve passengers.</p>

Sl. No.	Proposal	Justification	Fitment Committee Recommendation
	<p>exemption entry No. 22(a) of notification No. 12/2017-CT(R).</p> <p>Reference: Dr. Kirit Somaiya, Ex-MP forwarding the representation of Bus and Car Operators Confederation of India Gujarat, forwarding representation of Akhil Gujarat Tourist Vehicle Operators Federation</p>	<p>Notification No. 12/2017 - Central Tax (Rate) dated 28 June 2017.</p> <p>Where, the motor vehicle is supplied to STU on hire with or without operation and maintenance, the GST exemption is available. However, it is not clear whether the GST exemption is available where vehicles are owned by the STUs and only operation and maintenance services are supplied.</p> <p>Costs incurred towards operation and maintenance of vehicles (where fuel cost is included) contributes major portion to the cost. If the operation and maintenance services to STUs are not exempted, it will increase the cost of the public transport service. In view of above, the operation and maintenance services to STUs should also be exempted from GST.</p>	<p>Services such as O&M for vehicles owned by STUs are not covered by the exemption. Request is for a new exemption.</p>
35.	<p>GST exemption on route authorization fees and like charges</p> <p>Reference:</p>	<p>Governmental/ local authorities charge route authorization fees and like charges from private bus operators operating</p>	<p>Recommendation:</p> <p>May not be accepted</p>

Sl. No.	Proposal	Justification	Fitment Committee Recommendation
	<p>Dr. KiritSomaiya, Ex-MP forwarding the representation of Bus and Car Operators Confederation of India</p> <p>Gujarat, forwarding representation of Akhil Gujarat Tourist Vehicle Operators Federation</p>	<p>buses in their jurisdiction. Further, where such authorities are covered within the definition of 'Government', the GST is payable by private operators under reverse charge. GST is exempt vide entry no. 15(c) of the Exemption Notification No. 12/2017 - Central Tax (Rate) dated 28 June 2017 on transport of passengers by stage carriage other than air-conditioned stage carriage. Therefore, no ITC is available of GST paid on route authorization fees This increases the cost of public transportation.</p>	<p>This is a request for new exemption. May not be acceded to.</p>
36.	<p>Reduction in the standard rate of GST applicable for telecom services from the present 18% to 12%</p> <p>Reference: ArunaSundararajan, Secretary, Ministry of Communications, Department of Telecommunications</p>	<p>This measure will make telecom services more affordable and will have a multiplier effect on different sectors of the economy. Reduction of GST has the support of the Industry regulator TRAI.</p>	<p>Recommendation:</p> <p>May not be accepted</p> <p>GST rates are based on the recommendations of GST Council made after detailed deliberations, considering, inter alia, the past tax incidence and the revenue neutrality of GST rates.</p> <p>In Service Tax regime, telecommunication service was taxed at the standard rate of 15% and no ITC was available of the VAT paid on inputs and capital goods used for supplying the services. In view of the additional credit</p>

Sl. No.	Proposal	Justification	Fitment Committee Recommendation
			available, tax incidence on the services in general was fixed in GST @18%.
37.	<p>Exempt online e-Resources (SAC 10-998439) from GST</p> <p>Reference: Datanet India</p>	<p>Service tax was being charged at the rate of 15% prior to 1st July 2018. However, w.e.f. 1st July 2018, under GST tax was increased to 18% for both national and international subscribers. "Periodicals" and "journals" were exempt from service tax, while "Online Subscription" category was not exempt though these services were similar.</p> <p>Before 2013-14, online e-Resources were exempt from service tax when provided to international subscribers, the same provided to national subscribers were charged at the rate of 12.36%. From 2014-15 onwards, service tax was made mandatory to be charged from international subscriber also which brought down international subscribers. Now, due to the implementation of</p>	<p>Recommendation:</p> <p>May not be accepted</p> <p>GST on online subscription is 18% which is the standard rate of GST on all services. It was 15% in Service Tax regime. The 3% increase has been on account of availability of ITC of VAT paid on input and capital goods which were not available in the pre-GST regime.</p> <p>In so far as international subscribers are concerned, this is a standard practice across the world. The practice is same as Indian Subscribers being charged GST on say, Netflix subscription.</p> <p>This is a request for new exemption and may not be accepted.</p>

Sl. No.	Proposal	Justification	Fitment Committee Recommendation
		<p>GST and increase in tax rate (from 15% to 18%) subscribers, especially the international subscribers are reluctant to renew the subscription or to take such services.</p>	
38.	<p>Eliminate/ reduce GST on training</p> <p>Reference:NASSC OM</p>	<p>GST on training should be eliminated or at-least taxed at a lower rate of 5% to promote talent development and re-skilling by the industry and remove/ reduce the difference in rate vis a vis academic education.</p>	<p>Recommendation:</p> <p>May not be accepted</p> <p>Prior to GST training was liable to 15% Service Tax without any input credit of VAT paid on inputs and capital goods. In GST, training programmes are liable to standard tax rate of 18% along with ITC of all inputs goods and services used in provision of the training programme.</p> <p>Further, several exemptions have been given for training:</p> <ul style="list-style-type: none"> • Any services provided by the National Skill Development Corporation (NSDC), a Sector Skill Council approved by the NSDC, an assessment agency or training partner approved by the Sector Skill Council or NSDC, in relation to <ul style="list-style-type: none"> (a) the National Skill Development Programme implemented by NSDC (b) a vocational skill development course under the National Skill Certification and Monetary Reward Scheme (c) any other Scheme implemented by NSDC • Training programmes under DeenDayalUpadhyayaGrameenKaushalya Yojana. • Services provided to Govt. under any training programme for which total expenditure is borne by the Govt. <p>Any further rate reduction/ exemption is not recommended.</p>

Sl. No.	Proposal	Justification	Fitment Committee Recommendation
39.	<p>Clarification sought on applicability of reverse charge mechanism for specified services on SEZ unit or SEZ developer</p> <p>Reference: NASSCOM</p>	<p>Clarification be issued providing that specified supplies provided to SEZ unit or SEZ developer are covered within the scope of zero-rated supply and the SEZ unit or SEZ developer is not required to pay tax under reverse charge.</p>	<p>Recommendation:</p> <p>Issue to be transferred to Policy Wing for them to take it to the Law Committee</p> <p>Currently import of goods and services by SEZ unit or developer is exempt vide notification No. 18/2017-IT(R) dt 5.7.17 and 64/2017-Cus dt 5.7.17 issued by DGEP. However, the SEZ unit or developer is required to pay tax on specified supplies under RCM. ITC in respect of such services is available to SEZ units and SEZ developers. SEZ units also have the ITC of supplies cross charged to them by parent unit in DTA as an ISD or otherwise. SEZ units/ developers can take refund of such ITC against their exports, or can use the same for offsetting GST payable on DTA supplies made by them. SEZ units are allowed to file Bill of entry for domestic supplies on authorization from DTA recipient of goods and services under rule 48(2) of SEZ Rules. DGEP may be requested to examine the matter and issue a clarification in this regard.</p> <p>There are very few services under RCM (such as legal services, GTA services, Services by Govt., Sponsorship Services, services of a recovery agent etc.) and value of such services consumed by SEZ units and GST paid on them under RCM would be insignificant as compared to their overall cost of production/ operations. Therefore, the argument that GST paid on such services by SEZ units under RCM results in increase in working capital requirement does not prima facie appear to have any substance.</p>
40.	<p>Clarification sought with respect to GST implications on transactions between head office and branch office located outside India</p>	<p>Clarification should be issued to the effect that transactions of mere cost allocation does not involve any element of supply.</p>	<p>Recommendation:</p> <p>Issue to be transferred to Policy Wing for them to take it to the Law Committee</p> <p>Transactions between head office and branch offices are covered in the scope of supply vide Schedule I to the CGST Act.</p>

Sl. No.	Proposal	Justification	Fitment Committee Recommendation
	Reference: NASSCOM	Exemption provided under inserted entry 10F of the notification 15/2018 should be provided retrospectively with effect from July 1, 2017. An explanation should be inserted in Rule 42 and 43 of the CGST Rules to provide that such HO-BO transactions qualifying as "exempt" would not warrant an input tax reversal	GST Council in the 31 st meeting approved the recommendation of the Fitment Committee that <i>as a matter of principle, retrospective exemption should be avoided as they are required to be given effect through finance bills of center and all the states.</i> As for proportionate input tax reversal, non-availability of ITC in respect of exempt supplies is a generic provision of GST law which is applicable to all sectors of the economy.
41.	Reduction in GST rate on sale of cruise tickets which attracts GST @ 18% Reference: Sh. MansukhMandaviy a, MoS Shipping (Independent Charge), Chemicals & Fertilizers	Sale of cruise tickets/packages attracts GST at a rate of 18% while sale of airline tickets attracts GST of 5% for economy class and 12% for other classes. To popularize cruise shipping in India, the travel by cruise ship may be charged at 5% rate for travel in a single/double room cabin and 12% for travel by suites, if the passenger embarks at Indian Ports. Imposition of GST@ 18% on cruise tickets is dissuading Indian and foreign nationals from boarding cruise ship from any port in India. Most of the	Recommendation: May not be accepted Transportation of passengers by air in economy class is taxed at 5% (without ITC of goods) or at 12% for other than economy class with full ITC. ATF is outside GST and attracts excise duty, VAT besides other indirect levies. Its ITC is not available for paying GST on the output service of transportation by air. However, cruise ships use predominantly bunker fuel which is within GST. Bunker fuels for use in ships and vessels (IFO 180 CST and IFO 380 CST) attract 5% GST and its ITC is available. Further, ITC of all input goods, services, capital goods are available to a cruise ship and therefore, it attracts the standard rate of 18%. Further, the service provided by a cruise is not equivalent to transportation of passengers as the objective of the cruise is to provide luxury accommodation along with entertainment and recreation on board. Quite often the amount charged is for the duration of the stay on board, based on the tour package and also depending

Sl. No.	Proposal	Justification	Fitment Committee Recommendation
		<p>other foreign ports do not impose any GST on cruise tickets. The Indian cruise ship owners also indicated that most of the passenger transport services either are zero-rated or attract GST @ 5% on economy class and @ 12% on other classes.</p>	<p>upon the class of accommodation booked onboard.</p> <p>It is also important to note that at times the place of embarkation and final destination are same in case of cruise packages. Therefore, equating the same to passengers' transportation service may not be appropriate as the service is more akin to hospitality service. [For comparison the accommodation services attract GST @ 28% for accommodations having tariff above Rs 7500/-, and admission to entertainment events attract GST @ 28%]</p> <p>These proposals were examined in the Fitment Committee meeting held on 9th and 10th July, 2018 and in the 28th GST Council meeting held on 21.07.2018. The Council did not accede to the proposals.</p> <p>The GST Council in the 31st meeting held on 22.12.2018 examined the issue again and did not agree to the request for zero rating / waiver of GST on sale of cruise tickets and on-board sale of goods on cruise ships, stating that it is a luxury consumption.</p>
42.	<p>Exemption from GST@ 18% on cruise tickets purchased in India for embarking on a foreign port.</p> <p>Reference: Sh. MansukhMandaviya, MoS Shipping (Independent Charge), Chemicals & Fertilizers</p>	<p>Indian cruise tourists when purchase cruise tickets in India for taking cruise from foreign ports have to pay 18% GST. When the same tourist purchases tickets from foreign agent there is no GST as the service is being provided abroad. Thus, foreign agents earn profit on sale of tickets. About 1,20,000 tourists booked international cruises</p>	<p>Recommendation:</p> <p>May not be accepted</p> <p>Place of Supply of cruise transportation service is the place of embarkation on the cruise. The taxability or otherwise of cruise travel depends on the place where the tourist boards the cruise liner. It is immaterial whether the tickets are purchased from an agent in India or abroad. Therefore, sale of cruise tickets for embarkation at a foreign port, sold by a ticketing agent does not attract tax. Thus, question of exemption of the same does not arise.</p> <p>In the meeting held with Ministry of Shipping on 18.07.2018, information was requested regarding the types of business models adopted by domestic sale agents and tour operators for</p>

Sl. No.	Proposal	Justification	Fitment Committee Recommendation
		<p>from foreign ports in 2016. Agents at present are paying GST only for the airline tickets up to the foreign port. No GST is being paid on cruise tickets if the place of embarkation is outside India as they do not show the sale of ticket for the cruise line in India. As a result of this provision, the ticketing agents in India are not booking ticket for cruise ships for embarkation from ports outside India. There is no gain to the revenue as foreign agents are not required to pay the GST, if cruise ticket is split from air journey. To stimulate Indians to purchase tickets domestically and to retain the profits in India, it is suggested that GST on sale of international tickets by domestic sale agents be also exempted.</p>	<p>further examination. The same have not been received so far. A reminder is being sent.</p> <p>GST on commission received by agent in India for cruises abroad for which consideration is paid by the cruise lines:</p> <p>Place of Supply Provisions: The default place of supply (PoS) of services is the location of recipient.</p> <p>A. When supplier and recipient are both in India:</p> <ul style="list-style-type: none"> • PoS for accommodation in vessel (cruise) is location of vessel. If vessel is located outside India, then PoS is location of recipient. • PoS for passenger transportation is the place where the passenger embarks on the journey. <p>B. When either supplier or recipient is outside India:</p> <ul style="list-style-type: none"> • PoS for accommodation in vessel (cruise) is location of vessel. • PoS for intermediary services is the location of intermediary • PoS for passenger transportation is the place where the passenger embarks on the journey <p>Tour Operator Services Travel arrangement, tour operator and related services are classified under Heading 9985, Group 99855.</p> <p>Tour operator has been defined as any person engaged in the business of planning, scheduling, organizing, arranging tours (which may include arrangements for accommodation, sightseeing or other similar services) by any mode of transport, and includes any person engaged in the business of operating tours.</p> <p>Tour Operator services irrespective of whether it has a cruise component or not, when provided</p>

Sl. No.	Proposal	Justification	Fitment Committee Recommendation
			<p>by an Indian tour operator to a person located in India is taxable at 5% (on face value of tour package). The same tour operator service provided a foreign tour operator to an individual located in India is exempt. This is applicable for all services governed by default rule of PoS.</p> <p>However, where tour operator operates on a commission basis, i.e., bills the amount separately for travel, accommodation, cruise ticket etc. and charges his commission for arranging the same, only his commission shall attract 18% GST.</p> <p>Tax treatment of other models is discussed as under:</p> <ul style="list-style-type: none"> • Commission paid to the Indian ticketing agent by the Indian passenger is liable to tax at 18% • Commission paid to the Indian ticketing agent by foreign cruise liner is also liable to tax at 18%. • Commission paid to a foreign ticketing agent by the Indian passenger for cruise tickets is not taxable under GST. • Commission paid to a foreign ticketing agent by foreign cruise liner is not taxable under GST. <p>In so far as international air travel is concerned, PoS for passenger transportation service is the place where the passenger embarks on the conveyance for a continuous journey. When the journey is in many legs, if the passenger embarks on the journey in India, then PoS is in India and the service is taxable. However, it is quite possible that the passenger may split the journey so as to pay tax only on the first leg. If subsequent part of the journey originates outside India, it will escape taxation. Therefore, the ITC credit accumulation is not unique to the telecom</p>

Sl. No.	Proposal	Justification	Fitment Committee Recommendation
			industry. Therefore, the argument that where the service is taking place outside India, the intermediary should be exempt has many collateral damages, if accepted. The proposal may therefore be rejected.
43.	<p>Refund of accumulated ITC should be allowed in telecom sector</p> <p>Reference:COAI</p>	<p>The industry has a huge amount of accumulated unutilized ITC which is severely impacting the cash flows of the industry. Therefore, refund of such accumulated ITC should be allowed.</p>	<p>Recommendation:</p> <p>May not be accepted.</p> <p>Tax paid by telecom company on its inputs and input services in cash is taken as ITC. This credit is thereafter used to offset the GST on telecom services provided. The industry is not able to fully utilize the credit for payment of GST as they have reduced the telecom service charges to very low level due to excessive price cutting.</p> <p>Spectrum purchase is like capital investment and therefore GST paid on the same has character similar to GST paid on the capital goods. In any industry, when capital goods are installed, there is input tax credit accumulation which gets consumed over a period of time in paying subsequent GST liabilities. Therefore the proposal may not be accepted.</p>
44.	<p>Intra-operator transactions between distinct registrations of TelCos should be prescribed NIL value as per provisions contained in Rule 32(7) of the CGST Rules.</p> <p>Reference:COAI</p>	<p>For providing telecom services the telecom service providers (TSPs) use their all India network. The TSPs are required to report their revenue on the basis of telecom circles for payment of spectrum usage charges and license fee to the Dept. of Telecom. Further, many telecom circles comprise of multiple states. TSPs generally have</p>	<p>Recommendation:</p> <p>No action is required.</p> <p>Rule 32(7) of CGST Rules provides that <i>the value of taxable services provided by such class of service providers as may be notified by the Government, on the recommendations of the Council, as referred to in paragraph 2 of Schedule I of the said Act between distinct persons as referred to in section 25, where input tax credit is available, shall be deemed to be NIL.</i></p> <p>Notification under Rule 32(7) of CGST Rules, requires availability of ITC with the distinct persons. ITC may not always be fully available due to exempt supplies and supplies under RCM. It is felt that 2nd proviso to Rule 28</p>

Sl. No.	Proposal	Justification	Fitment Committee Recommendation
		<p>one point of interconnect (POI) for circles therefore all calls are routed through this POI. The transaction within a telecom circle that may include multiple states are not separately recorded. Thus, many of the services between the states might not be reported by the telecom service providers leading to disputes since in GST, transaction between distinct persons even without consideration are required to be invoiced with GST. Further if deemed revenue is billed between two states, it may be subjected to the license fee under DoT requirement.</p>	<p><i>(Provided further that where the recipient is eligible for full input tax credit, the value declared in the invoice shall be deemed to be the open market value of the goods or services.)</i> takes care of the issue. Under the second proviso to Rule 28 of the GST rules, the Telcos can attribute any value to such inter-State but intra-Circle supplies to their establishment for which separate registration has been obtained under section 25 (5), and that shall be deemed to be the open market value. At best, Fitment Committee may issue a circular that the value declared shall not be opened for investigation, even when it is zero. As of now no such cases have been referred.</p>
45.	<p>Clarification may be issued that repair activity is not covered under the definition of Job Work and accordingly the movement can be done on the delivery challan.</p> <p>Reference: COAI</p>		<p>Recommendation:</p> <p>No action is required.</p> <p>It has been clarified vide Circular No. 1/1/2017-IGST dated 07.07.2017 that inter-State movement of goods including vehicles for repairs may not be treated as a supply.</p>

Sl. No.	Proposal	Justification	Fitment Committee Recommendation
46.	<p>Exempt services provided by the Pension Fund Regulatory and Development Authority (PFRDA) from GST.</p> <p>Reference: PFRDA</p>	<p>With the passage of PFRDA Act, 2013, PFRDA has attained statutory status and discharges statutory functions, enunciated under the said provisions of the Act.</p> <p>Since the services provided by SEBI, EPFO and IRDA have now been exempted, similar dispensation may be accorded to PFRDA as well by issuing appropriate exemptions.</p>	<p>Recommendation:</p> <p>The request may not be acceded to</p> <p>This is a request for a new exemption. There was no exemption in the Service Tax regime. The same may not be accepted. However, there is a case to allow annual filing of return to be examined (or any other simplified compliance regime) for the various statutory bodies provided they pay advance tax on quarterly basis. May be referred to the Law Committee for considering simplified compliance.</p>
47.	<p>Exempt GST on Renewable Energy Certificates.</p> <p>Reference: Assocham through GST Council Secretariat</p>	<p>This will encourage increase in renewable energy generation capacity in the country.</p>	<p>Recommendation:</p> <p>The request for exemption from GST may not be acceded to</p> <p>This is a request for a new exemption. The same may not be accepted.</p>
48.	<p>Reduce GST on Common Effluent Treatment Plants (CETPs) from 12% to 5%.</p> <p>Reference: Sh. K. Subbarayan, M.P (Lok Sabha)</p>	<p>ITC of services is resulting in accumulation of ITC with member dyeing units. This ITC is not eligible for refund.</p> <p>It is creating disparity between In House ETPs and CETPs.</p>	<p>Recommendation:</p> <p>The request may not be accepted</p> <p>1. As recommended by Fitment Committee in its meetings on 10th and 13th January, 2018 and approved by GST Council Meeting held on 18th Jan 2018, GST on CETP was reduced from 18% to 12%.</p> <p>2. The Industry is seeking further rate reduction.</p> <p>3. The request to reduce GST on CETP services from 12% to 5% was again examined by the Fitment Committee meeting held on 11.07.2018 but not agreed to.</p>
49.	<p>Clarification should be issued to state</p>	<p>Telecom industry is presently burdened</p>	<p>Recommendation:</p>

Sl. No.	Proposal	Justification	Fitment Committee Recommendation
	<p>that GST would not be applicable on the Licence Fee, Spectrum Acquisition Fee and Spectrum Usage Fee.</p> <p>Reference: COAI</p>	<p>with huge debt and working capital constraints. Levy of GST on Licence Fee, Spectrum Acquisition Fee and Spectrum Usage Fee is further compounding the operational challenges.</p>	<p>Recommendation:</p> <p>May not be accepted</p> <p>All services provided by the Government or a local authority to ‘business entities’ were made taxable w.e.f 1st April 2016. ‘Service’ was defined in the Finance Act, 1994 to mean any activity carried out by a person for another for a consideration. Assignment by the GOI of the right to use radio frequency spectrum and subsequent transfers thereof was specifically declared as a service under section 66E of the Finance Act, 1994.</p> <p>Section 9 of CGST Act provides that GST would be levied on all supplies of good and services.</p> <p>As per section 7 read with section 9 of the CGST Act, 2017 all forms of supply of goods and services such as sale, transfer, licence, rental etc. made or agreed to be made for a consideration by a person in the course of furtherance of business are a supply subject to GST.</p> <p>Schedule 3 of CGST Act provides in para 5 (e) that agreeing to do an act shall be treated as a supply of service. Therefore, the activity by the Government of India by way of agreeing to assign the right to use radio frequency spectrum against consideration is a supply of service. And thus, taxable under CGST Act. Similarly, services by way of allowing an entity to act as a telecom service provider against licence fee or to use spectrum against consideration in the form of Spectrum User Charges are taxable supplies.</p> <p>Further, a Writ Petition has been filed by Bharti Airtel Limited to challenge the levy of GST on spectrum allocation fees on the ground that the same is not taxable and that no rate has been specified for the same in the rate schedule. The same is being defended on the ground that rates of GST on supply of various services have been</p>

Sl. No.	Proposal	Justification	Fitment Committee Recommendation														
			<p>notified by the Central Government vide notification no. 11/2017- Central Tax (Rate) dated 28.06.2017. Annexure to the said notification provides Scheme of Classification of Services. Further, Explanatory notes to the said Scheme of Classification of Services, as recommended by the Fitment Committee constituted by the GST Council for the purpose of formulation of GST rates have been published and are available on the CBIC website. The Explanatory Notes explain the scope and coverage of the headings, groups and service codes in the Scheme of Classification of Services.</p> <p>II. The Scheme of Classification of Services has been adopted for GST regime. The said classification scheme did not exist prior to introduction of GST. There may be a few overlapping entries in the said classification.</p> <p>III. The rate for the service of assignment of radiofrequency spectrum is prescribed in entry 29 of notification no. 11/2017- Central Tax (Rate) which reads as under:</p> <table border="1" data-bbox="820 1296 1386 2031"> <thead> <tr> <th data-bbox="820 1296 884 1532">Sl No.</th> <th data-bbox="884 1296 1003 1532">Chapter, Section or Heading</th> <th data-bbox="1003 1296 1171 1532">Description of Service</th> <th data-bbox="1171 1296 1256 1532">Rate (per cent.)</th> <th data-bbox="1256 1296 1386 1532">Condition</th> </tr> </thead> <tbody> <tr> <td data-bbox="820 1532 884 2031">29</td> <td data-bbox="884 1532 1003 2031">Heading 9991</td> <td data-bbox="1003 1532 1171 2031">Public administration and other services provided to the community as a whole; compulsory social security services.</td> <td data-bbox="1171 1532 1256 2031">9</td> <td data-bbox="1256 1532 1386 2031">-</td> </tr> </tbody> </table>					Sl No.	Chapter, Section or Heading	Description of Service	Rate (per cent.)	Condition	29	Heading 9991	Public administration and other services provided to the community as a whole; compulsory social security services.	9	-
Sl No.	Chapter, Section or Heading	Description of Service	Rate (per cent.)	Condition													
29	Heading 9991	Public administration and other services provided to the community as a whole; compulsory social security services.	9	-													

Sl. No.	Proposal	Justification	Fitment Committee Recommendation
			<p>IV. The service of assignment of right to use spectrum is covered by Service Code 999113 under the heading 9991 of the Scheme of Classification of Services. Following is the scope of the <i>Service Code 999113- “Public administrative services related to the more efficient operation of business”</i> defined in the Explanatory Notes adopted for classification of services under GST includes, inter alia, administrative services provided by government offices, bureau and programme units concerning:</p> <ul style="list-style-type: none"> • <i>administrative services provided by government offices, bureau and programme units concerning solid fuel, including regulations concerning their exploitation or conservation; petroleum and natural gas; mineral fuel; nuclear and non-commercial fuel, including such fuels as alcohol, wood and wood waste, etc.</i> • <i>administrative services provided by government offices, bureau and programme units concerning discovery, exploitation, conservation, marketing and other aspects of mineral production, including the development and monitoring of regulations concerning prospecting; mining and safety standards; activities designed to develop, expand and improve the position of manufacturing establishments; development and administration of regulations concerning building standards and issuing of occupation certificates; development and monitoring of regulations concerning safety on construction sites.</i> • <i>public administrative services related to regulations governing forest operations, issuing of tree-felling licences, rationalization of forest resources, exploitation, reforestation work, operation</i>

Sl. No.	Proposal	Justification	Fitment Committee Recommendation
			<p><i>and support of game preserves and fish hatcheries, development and monitoring of regulations, including the licensing of fishing and hunting</i></p> <ul style="list-style-type: none"> • <i>public administrative services related to communications, i.e. postal, telephone, telegraph, cable and wireless communications systems and communications satellites</i> <p>V. The above portion of the Explanatory Notes to service code 999113 adopted for GST is in accordance with the UNCPC classification and the Explanatory Notes, on which the classification of services under GST is based.</p> <p>VI. Therefore, the services provided by the Government by way of assignment of right to use natural resources including spectrum are covered by Service Code “999113” of the Scheme of Classification of Services and accordingly attract GST@18%.</p> <p>VII. The request is that the service in question is classifiable under the heading 9973. In the Scheme of Classification annexed to notification no. 11/2017- CT (R), “Licensing services for right to use other natural resources including telecommunication spectrum” has been mentioned under Service Code 997338. There is an overlap between entries in the service code 997337 and 999113. The rate for the service in question has been prescribed under 9991.</p> <p>VIII. Though the service provided by the Government by way of assignment of other natural resources including spectrum has also been mentioned under 9973; the rate for the same has been prescribed under entry 29 of notification no. 11/2017- Central Tax (Rate), heading 9991- the heading which covers public services provided by the Government. The rate prescribed under heading 9973 was primarily for</p>

Sl. No.	Proposal	Justification	Fitment Committee Recommendation
			<p>leasing or renting services where the underlying supply is mainly of goods.</p> <p>IX. It has always been the intention of the Government to tax the service provided by the Government by way of assignment of natural resources including spectrum at the rate of 18% under the heading 9991. With effect from 1st January 2019, the same rate of 18% has also been prescribed under the residuary heading 9973, Sl. No. 8 (i) of notification no. 11/2017 - Central Tax (Rate) dated 28.06.2017. Hence, it can be said that prior to 01.01.2019, the service of assignment of spectrum attracted GST @ 18% only under heading 9991. Post 01.01.2019, it attracts GST @ 18% under the overlapping entries of 9973 and 9991.</p> <p>X. The rate applicable to the said services under service tax was also the standard rate of 15%. Further, as guideline for Fitment of various goods and services in tax rate brackets, it was decided by GST Council in its 4th meeting held on 3rd & 4th November, 2016 that supply of services shall be generally taxed at the rate of 18%. The GST Council approved in its 14th meeting held on 18th & 19th May, 2019, the schedule of services at 5%, 12%, 18% and 28% tax rates mentioning specifically the services covered in those schedules. All the residuary services were put in the 18% schedule. The service in question did not appear in the 5%, 12% or 28% schedule. Clearly, the recommendation of the GST Council was to tax these services at 18%.</p>
50.	All the goods and personnel travelling in military special train (railway/defence owned coaches) may be	Indian Railways is charging GST on the Air-Conditioned Coaches owned by Army (procured and maintained by Army).	<p>Recommendation:</p> <p>May not be accepted.</p> <p>Presently, transportation of passengers, with or without accompanied belongings, by railways</p>

Sl. No.	Proposal	Justification	Fitment Committee Recommendation
	<p>exempted from GST</p> <p>Reference:Strategic Movement Directorate (Rail & Air)</p>		<p>in a class other than (i) first class or (ii) an air-conditioned coach is exempt vide entry no. 17 of Notification No. 12/2017- Central Tax (Rate) dated 28.06.2017.</p> <p>Also, services by way of transportation by rail or a vessel from one place in India to another of defence or military equipment are also exempt vide entry no. 20 of Notification No. 12/2017- Central Tax (Rate) dated 28.06.2017.</p> <p>The above exemptions have been continued from the service tax period.</p> <p>The request is for a new exemption. End use-based exemptions are difficult to monitor and prone to misuse. They also result in additional compliance burden on service providers by way of reversal of ITC. May not be accepted.</p>
51.	<p>Definition of “Scheduled air transport service” be suitably amended to include charter aircrafts used by Defence forces and Para Military Forces on annual contract basis</p> <p>Reference:Strategic Movement Directorate (Rail & Air)</p>	<p>Indian Army centrally hires charter aircrafts which run on fixed dates and are scheduled for the entire year.</p>	<p>Recommendation:</p> <p>May not be accepted.</p> <p>With regard to charter aircrafts, entry no. 15 (iv) of Notification No. 11/2017- Central Tax (Rate) dated 28.06.2017 provides that leasing of aircrafts by an operator for operating scheduled air transport service or scheduled air cargo service by way of transaction covered by clause (f) paragraph 5 of Schedule II of the Central Goods and Services Act, 2017 will be chargeable to GST @ 5%, where “scheduled air transport service” means an air transport service undertaken between the same two or more places operated according to a published time table or with flights so regular or frequent that they constitute a recognisable systematic series, each flight being open to use by members of the public.</p> <p>Charter flights, hired by Indian Army, which run on fixed dates and are scheduled for the entire year, are chargeable to GST @ 18% as they are not covered by the aforesaid definition</p>

Sl. No.	Proposal	Justification	Fitment Committee Recommendation
			<p>of “scheduled air transport service”. These flights are neither undertaken between the same two or more places operated according to a published time table nor are they open to use by members of the public.</p> <p>Further, the view of MoCA on this request of Strategic Movement Directorate (Rail & Air) are as under:</p> <p><i>“Scheduled air transport service means an air transport service undertaken between the same two or more places operated according to a published time table or with flights so regular or frequent that they constitute a recognisable systematic series, each flight being open to use by members of the public. There are no other criteria for determining the classification as scheduled or non-scheduled. Further, in case a full aircraft is being hired or chartered from a Scheduled Operator by the Armed Forces for troop movement, it would be deemed a Chartered flight and the Scheduled Operator would have to ensure that the Scheduled operations are not impacted by this movement.”.</i></p> <p>Since the definition of “scheduled air transport service” adopted under GST is a standard definition also used by the Ministry of Civil Aviation, it would not be prudent to alter the said definition. The referred service may continue to be charged at the rate of 18% GST.</p>
52.	<p>Renting of Warehouse may be exempted from GST. Reference: Secretary, Ministry of Agriculture and Farmers Welfare</p>	<p>The GST paid on renting of warehouse is not available as credit, resulting in increase in the cost of warehousing.</p>	<p>Recommendation:</p> <p>The request for exemption from GST may not be acceded to.</p> <p>Warehousing of agricultural produce is exempt. Request is for deepening of exemption/zero rating. The same may not be accepted.</p>
53.	<p>Services provided by WDRA may be</p>	<p>WDRA is set up by an act of Parliament.</p>	<p>Recommendation:</p>

Sl. No.	Proposal	Justification	Fitment Committee Recommendation
	<p>exempted from GST.</p> <p>Reference: Warehousing Development and Regulatory Authority (WDRA)</p>	<p>RBI, PFRDA, IRDAI, SEBI etc. are exempt from GST. WDRA works on the same footing as it is not engaged in any business activities nor do they function for profit.</p>	<p>The request for exemption from GST may not be acceded to.</p> <p>This is a request for a new exemption. There was no exemption in the Service Tax regime. The same may not be accepted.</p>
54.	<p>Exempt services supplied by the Food Safety and Standards Authority of India (FSSAI) from Service Tax/ GST prior to 27.07.2018.</p> <p>Reference: Additional Secretary, Ministry of Health and Family Welfare</p>	<p>Services by way of licensing, registration and analysis or testing of food samples supplied by the Food Safety and Standards Authority of India (FSSAI) to Food Business Operators have been exempted from GST w.e.f 27.07.2018.</p>	<p>Recommendation:</p> <p>The request may not be accepted.</p> <p>This would require retrospective exemption and provision for this would be required to be made in the Union Budget and the Budgets of all the State Governments.</p> <p>It was decided in 32nd GST Council meeting that as a matter of principle, retrospective exemptions would be avoided.</p>
55.	<p>Modification in Notification No. 12/2017 - Central Tax (Rate) dated 28.06.2017, entry 65B, as described in table below.</p> <p>Exemption provided to the ERCC may be made effective from 01.07.2017.</p> <p>Reference: Additional Chief Secretary, Finance, Rajasthan</p>	<p>ERCC is not in a position to ascertain whether or not mine lease holders have paid the GST since ERCC and mining lease holders are two separate legal entities with ERCC having no legal control over books and records of mine lease holders. Payment of GST under RCM by mining lease holders is the legal liability of the mining lease holders and certification of GST</p>	<p>Recommendation:</p> <p>The proposal to amend the condition of exemption may not be considered.</p> <p>As per present condition in Notification No. 14/2018- Central Tax (Rate), ERCC is required to submit an account to the State Government and certify that the amount of goods and services tax deposited by mining lease holders on royalty is more than the goods and services tax exempted on the service provided by State Government to the ERCC by way of assignment of right to collect royalty and where such amount of GST paid by mining lease holders is less than the amount of goods and services tax exempted, ERCC is required to pay the difference between GST exempted on the service provided by State Government to the ERCC of assignment of right to collect royalty</p>

Sl. No.	Proposal	Justification	Fitment Committee Recommendation
		<p>compliance of a third party cannot be ascertained by ERCC. Moreover, ERCC submits the details of the total Royalty amount collected to the state government periodically.</p>	<p>and GST paid by the mining lease holders on royalty. The proposal will shift the responsibility of ensuring tax payment by miners, which presently is on ERCC, to the tax authorities. This may lead to loss of revenue. The request was earlier examined in the Fitment Committee meeting held in Dec, 2018 and was not found feasible. The State Government may devise suitable mechanism for collecting/flow of information between miners, ERCC and the Department.</p>
<i>Existing condition</i>		<i>Proposed</i>	
<p><i>“Provided that at the end of the contract period, ERCC shall submit an account to the State Government and certify that the amount of goods and services tax deposited by mining lease holders on royalty is more than the goods and services tax exempted on the service provided by State Government to the ERCC of assignment of right to collect royalty and where such amount of goods and services tax paid by mining lease holders is less than the amount of goods and services tax exempted, the exemption shall be restricted to such amount as is equal to the amount of goods and services tax paid by the mining lease holders and the ERCC shall pay the difference between goods and services tax exempted on the service provided by State Government to the ERCC of assignment of right to collect royalty and goods and services tax paid by the mining lease holders on royalty.”</i></p>		<p><i>“Provided that at the end of the contract period, ERCC shall submit an account to the State Government and certify that the amount of goods and services tax deposited by royalty collected from mining lease holders on royalty is more than the goods and services tax exempted on consideration for the service provided by State Government to the ERCC of assignment of right to collect royalty and where such amount of goods and services tax paid by royalty collected from mining lease holders is less than the amount of goods and services tax exempted consideration paid to the Government, the exemption shall be restricted to such amount as is equal to the amount of goods and services tax paid by payable on the royalty collected from the mining lease holders and the ERCC shall pay the tax on difference between goods and services tax exempted on the consideration for the service provided by State Government to the ERCC of assignment of right to collect royalty and goods and services tax paid by amount of royalty collected from the mining lease holders on royalty.”</i></p>	
56.	<p>Clarify that there is no GST on royalty.</p> <p>Reference: ONGC</p>	<p>Royalty is an impost on exploitation of mineral rights and accordingly, there is no rendition of service involved. There is no quid-pro-quo.</p>	<p>Recommendation:</p> <p>May not be accepted.</p> <p>All services provided by the Government or a local authority to ‘business entities’ were made taxable w.e.f 1st April 2016. ‘Service’ was defined in the Finance Act, 1994 to mean any</p>

Sl. No.	Proposal	Justification	Fitment Committee Recommendation
			<p>activity carried out by a person for another for a consideration.</p> <p>Section 9 of CGST Act provides that GST would be levied on all supplies of good and services.</p> <p>As per section 7 read with section 9 of the CGST Act, 2017 all forms of supply of goods and services such as sale, transfer, licence, rental etc. made or agreed to be made for a consideration by a person in the course of furtherance of business are a supply subject to GST.</p> <p>Schedule 3 of CGST Act provides in para 5 (e) that agreeing to do an act shall be treated as a supply of service. Therefore, the activity by the Government of India by way of agreeing to assign the right to explore and exploit minerals against consideration is a supply of service. And thus taxable under CGST Act.</p> <p>Rajasthan High Court in the case of Udaipur Chamber of Commerce and Industry has held in the judgement dated 24-10-2017 that royalty is consideration for service and that the activity of grant of mining lease against payment of royalty is a service.</p>
57.	<p>Restore GST rate of 5% as it existed prior to 31.12.2018 on “Royalty payable to Central/ State Government for granting mineral rights.”</p> <p>Reference: M/s The Singareni Collieries Company Limited M/s Hindalco Industries Limited</p>	<p>The company is engaged in production of coal from coal mine for which royalty and other charges are paid to the Central/State Governments.</p> <p>As per their submission, royalty is a considerable portion of their input services. The rate of GST on royalty is 18% whereas rate of GST</p>	<p>Recommendation:</p> <p>May not be accepted.</p> <p>Rates of GST on supply of various services have been notified by the Central Government vide notification no. 11/2017- Central Tax (Rate) dated 28.06.2017. Annexure to the said notification provides Scheme of Classification of Services. Further, Explanatory notes to the said Scheme of Classification of Services, as recommended by the Fitment Committee constituted by the GST Council for the purpose of formulation of GST rates have been published and are available on the CBIC website. The Explanatory Notes explain the scope and coverage of the headings, groups and service</p>

Sl. No.	Proposal	Justification	Fitment Committee Recommendation														
		<p>on final product i.e. coal is 5%.</p> <p>This is leading to huge accumulation of ITC at their end and is leading to inversion. Further, refund of ITC in case of inversion is not available for input services. This is leading to huge blockage of capital.</p>	<p>codes in the Scheme of Classification of Services.</p> <p>II. The rate for the service of assignment of mineral rights is prescribed in entry 29 of notification no. 11/2017- Central Tax (Rate) which reads as under:</p> <table border="1" data-bbox="820 600 1382 1339"> <thead> <tr> <th data-bbox="820 600 884 831">Sl No.</th> <th data-bbox="884 600 1002 831">Chapter, Section or Heading</th> <th data-bbox="1002 600 1169 831">Description of Service</th> <th data-bbox="1169 600 1257 831">Rate (per cent.)</th> <th data-bbox="1257 600 1382 831">Condition</th> </tr> </thead> <tbody> <tr> <td data-bbox="820 831 884 1339">29</td> <td data-bbox="884 831 1002 1339">Heading 9991</td> <td data-bbox="1002 831 1169 1339">Public administration and other services provided to the community as a whole; compulsory social security services.</td> <td data-bbox="1169 831 1257 1339">9</td> <td data-bbox="1257 831 1382 1339">-</td> </tr> </tbody> </table> <p>III. The service of assignment of right to use minerals is covered by Service Code 999113 under the heading 9991 of the Scheme of Classification of Services. Following is the scope of the <i>Service Code 999113- “Public administrative services related to the more efficient operation of business”</i> defined in the Explanatory Notes adopted for classification of services under GST includes, inter alia, administrative services provided by government offices, bureau and programme units concerning:</p> <ul style="list-style-type: none"> • <i>administrative services provided by government offices, bureau and programme units concerning solid fuel, including regulations concerning their</i> 					Sl No.	Chapter, Section or Heading	Description of Service	Rate (per cent.)	Condition	29	Heading 9991	Public administration and other services provided to the community as a whole; compulsory social security services.	9	-
Sl No.	Chapter, Section or Heading	Description of Service	Rate (per cent.)	Condition													
29	Heading 9991	Public administration and other services provided to the community as a whole; compulsory social security services.	9	-													

Sl. No.	Proposal	Justification	Fitment Committee Recommendation
			<p><i>exploitation or conservation; petroleum and natural gas; mineral fuel; nuclear and non-commercial fuel, including such fuels as alcohol, wood and wood waste, etc.</i></p> <ul style="list-style-type: none"> • <i>administrative services provided by government offices, bureau and programme units concerning discovery, exploitation, conservation, marketing and other aspects of mineral production, including the development and monitoring of regulations concerning prospecting; mining and safety standards; activities designed to develop, expand and improve the position of manufacturing establishments; development and administration of regulations concerning building standards and issuing of occupation certificates; development and monitoring of regulations concerning safety on construction sites.</i> • <i>public administrative services related to regulations governing forest operations, issuing of tree-felling licences, rationalization of forest resources, exploitation, reforestation work, operation and support of game preserves and fish hatcheries, development and monitoring of regulations, including the licensing of fishing and hunting</i> • <i>public administrative services related to communications, i.e. postal, telephone, telegraph, cable and wireless communications systems and communications satellites</i> <p>IV. The above portion of the Explanatory Notes to service code 999113 adopted for GST is in accordance with the UNCPC classification and the Explanatory Notes, on which the classification of services under GST is based.</p>

Sl. No.	Proposal	Justification	Fitment Committee Recommendation														
			<p>V. Therefore, the services provided by the Government by way of assignment of right to use natural resources are covered by Service Code “999113” of the Scheme of Classification of Services and accordingly attract GST@18%.</p> <p>VI. The request is based on the assumption that the service in question is classifiable under the heading 9973. In the Scheme of Classification annexed to notification no. 11/2017- CT (R), “Licensing services for right to use other natural resources including telecommunication spectrum” has been mentioned under Service Code 997338. There is an overlap between entries in the service code 997337 and 999113. The rate for the service in question has been prescribed under 9991.</p> <p>VII. Though the service provided by the Government by way of assignment of other natural resources has also been mentioned under 9973; the rate for the same has been prescribed under entry 29 of notification no. 11/2017- Central Tax (Rate), heading 9991- the heading which covers public services provided by the Government. The rate prescribed under heading 9973 was primarily for leasing or renting services where the underlying supply is mainly of goods.</p> <p>VIII. Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017, Sr. nos. 42, 63 and 64 exempts services provided by the Government by granting right to use natural resources including radio frequency spectrum. This also includes the exemption quoted by the petitioner. The service in these exemption entries is grouped under the heading 9991. The exemption entries are quoted as under:</p> <table border="1" data-bbox="868 1794 1385 2022"> <thead> <tr> <th data-bbox="868 1794 932 2022">Sl. No.</th> <th data-bbox="932 1794 1038 2022">Chapter, Section, Heading,</th> <th data-bbox="1038 1794 1187 2022">Description of Services</th> <th data-bbox="1187 1794 1267 2022">Rate (per cent.)</th> <th data-bbox="1267 1794 1385 2022">Condition</th> </tr> </thead> <tbody> <tr> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> </tbody> </table>					Sl. No.	Chapter, Section, Heading,	Description of Services	Rate (per cent.)	Condition					
Sl. No.	Chapter, Section, Heading,	Description of Services	Rate (per cent.)	Condition													

Sl. No.	Proposal	Justification	Fitment Committee Recommendation				
				Group or Service Code (Tariff)			
			42	Heading 9973 or Heading 9991	Services provided by the Central Government, State Government, Union territory or local authority by way of allowing a business entity to operate as a telecom service provider or use radio frequency spectrum during the period prior to the 1 st April, 2016, on payment	Nil	Nil

Sl. No.	Proposal	Justification	Fitment Committee Recommendation				
					of licence fee or spectrum user charges, as the case may be.		
			63	Heading 9991	Services provided by the Central Government, State Government, Union territory or local authority by way of assignment of right to use natural resources to an individual farmer for cultivation of plants and rearing of all life forms of animals, except the rearing	Nil	Nil

Sl. No.	Proposal	Justification	Fitment Committee Recommendation				
					of horses, for food, fibre, fuel, raw material or other similar products .		
			64	Head ing 9991 or Head ing 9973	Services provided by the Central Govern ment, State Govern ment, Union territory or local authority by way of assignm ent of right to use any natural resource where such right to use was assigned by the Central Govern ment, State Govern ment, Union territory	Nil	Nil

Sl. No.	Proposal	Justification	Fitment Committee Recommendation				
					<p>or local authority before the 1st April, 2016:</p> <p>Provided that the exemption shall apply only to tax payable on one time charge payable, in full upfront or in instalments, for assignment of right to use such natural resource</p>		
			<p>IX. It has always been the intention of the Government to tax the service provided by the Government by way of assignment of natural resources including spectrum at the rate of 18% under the heading 9991. With effect from 1st January 2019, the same rate of 18% has also been prescribed under the residuary heading 9973, Sl. No. 8 (i) of notification no. 11/2017 - Central Tax (Rate) dated 28.06.2017. Hence, it can be said that prior to 01.01.2019, the service of assignment of spectrum attracted GST @ 18% only under heading 9991. Post 01.01.2019,</p>				

Sl. No.	Proposal	Justification	Fitment Committee Recommendation
			<p>it attracts GST @ 18% under the overlapping entries of 9973 and 9991.</p> <p>X. The rate applicable to the said services under service tax was also the standard rate of 15%. Further, as guideline for Fitment of various goods and services in tax rate brackets, it was decided by GST Council in its 4th meeting held on 3rd & 4th November, 2016 that supply of services shall be generally taxed at the rate of 18%. The GST Council approved in its 14th meeting held on 18th & 19th May, 2019, the schedule of services at 5%, 12%, 18% and 28% tax rates mentioning specifically the services covered in those schedules. All the residuary services were put in the 18% schedule. The service in question did not appear in the 5%, 12% or 28% schedule. Clearly, the recommendation of the GST Council was to tax these services at 18%.</p>
58.	<p>Clarification regarding Taxability of subsidy/ grant provided by USOF under various schemes.</p> <p>Reference: Universal Service Obligation Fund, Department of Telecom.</p>	<p>USOF provides subsidy/grant to various Universal Service Providers (USPs) for carrying out various projects of USOF. The work allocation of USP is usually through tenders floated by separate dealing units of USOF. In such cases, CAPEX and OPEX are reimbursed to USPs.</p> <p>Further, USOF provides funding to BBNL for creation of BharatNet. Similarly, there are various other schemes which are funded by USOF.</p>	<p>Recommendation:</p> <p>May not be accepted.</p> <p>Supply of service by a Government Entity to Central Government, State Government, Union territory, local authority or any person specified by Central Government, State Government, Union territory or local authority against consideration received from Central Government, State Government, Union territory or local authority, in the form of grants, is exempt from GST vide entry 9C of Notification No. 12/2017- Central Tax (Rate) dated 28.06.2017.</p> <p>Taxability of grants given to entities other than Government Entity shall vary from case to case depending on the facts of the case.</p>

Sl. No.	Proposal	Justification	Fitment Committee Recommendation
		<p>Except in BharatNet, USOF just provides the subsidy with an obligation on the USP to continue to provide services for a number of years.</p> <p>In such cases, USOF is of the view that the subsidy provided by USOF, in case of assets created and held by USP in its own name is excluded from the levy of GST.</p>	
59.	<p>Exempt job work service of hulling of rice. Reference: Federation of Tamil Nadu Rice Mill Owners and Paddy-rice Dealers Association through Govt. of Tamil Nadu</p>	<p>This would reduce the cost of rice, which is a staple food.</p>	<p>Recommendation:</p> <p>May not be accepted.</p> <p>Request for new exemption. The rate on job work related to food products has been reduced to 5%. Further, hullers of rice would be eligible to take input tax credit of GST paid on the input goods, input services and capital goods used in hulling of rice. This ITC would get blocked if hulling of Rice is exempt and would be added as cost.</p>
60.	<p>Request to provide two rates of GST to restaurant service i.e existing 5% without ITC and also new rate of 12% with ITC (similar to service of goods transport agency)</p> <p>Ref: NRAI</p>	<p>GST may be increased from 5% to 12% with ITC as an option to restaurants with huge ITC. Nearly 50% of the inputs are from unregistered service providers to reduce to operating cost by 4%. Input costs are high from rent, air</p>	<p>Recommendation:</p> <p>Request to provide two rates of GST to restaurant service i.e existing 5% without ITC and also new rate of 12% with ITC (similar to service of goods transport agency) may not be accepted.</p> <p>This is a request to increase GST rate from 5% to 12% with ITC. The 22nd Meeting of the GST Council held on 6th October, 2017, taking note</p>

Sl. No.	Proposal	Justification	Fitment Committee Recommendation
		<p>conditioners, furniture, manpower supply, performing artists.</p> <p>Government is losing revenue in excess of Rs 4,000 crores per annum because of break in the supply chain of restaurant due to ITC blockage. Also, growth of restaurant chains has decreased and more than 20,000 restaurants closed down in FY 2018-19 due to high input costs.</p>	<p>of the concerns of SMEs, a Group of Ministers (GoM) was constituted to examine measures to make the Composition Scheme more attractive and to revisit GST Tax Structure on Restaurants. GoM met twice on 15.10.2017 and 29.10.2017 and had wide ranging consultations with the office bearers of the Organizations and Associations of MSMEs, including National Restaurants Association of India. The tax rate structure with input tax credit benefit was also considered.</p> <p>Recommendations of Group of Ministers (GoM) on Composition and tax structure on restaurants was taken as Agenda item 9 of 23rd GST Council meeting held on 10 November 2017. After noting the recommendations of GoM and the practice of profiteering by restaurants by not passing the benefit of input tax credit as price reduction to the customer, the rate of 5% without input tax credit was fixed by the GST Council. But due to blockage of ITC in restaurant service, business is resorting to sourcing of inputs and input services from unregistered persons or by cash transactions to decrease operating costs. As per the reports of NRAI, government is losing revenue upto Rs 4,000 Cr per year.</p> <p>Providing additional optional levy of GST of 12% with ITC will result in escalation in cost of food supply by the restaurants as they may not pass the benefit of ITC to the customers as in past. Therefore, the request may not be acceded to.</p>
61.	In case of an Ongoing project opting for old rates of 8%/ 12% with ITC, whether the TDR purchased on or after 1.4.2019 will be liable to		<p>Recommendation:</p> <p>May not be accepted.</p> <p>The proposal to amend notification No. 12/2017- CTR dated 28.06.2017 (Sl. No. 41A and 41B) may not be accepted as it might lead to issues for the period from 1.04.2019 to the date</p>

Sl. No.	Proposal	Justification	Fitment Committee Recommendation
	<p>effective rate of tax @ 18% on the full value or limited to 1% or 5%, as the case may be of the value of apartments remaining unsold at the time of issuance of completion certificate?</p> <p>Reference: TRU and various states</p>		<p>of amendment. The notification as worded presently is pro trade.</p>

Issues referred by the Fitment Committee in relation to services for a suitable decision by GST Council

Sl. No.	Proposal	Fitment Committee Decision
1.	<p>Whether a uniform rate of GST be levied on lottery instead of existing two rates. (Presently, the lotteries run by the State are taxed at the rate of 12% whereas the lotteries authorized by State Government are taxed at the rate of 28%).</p> <p>Reference: 35th GST Council meeting</p>	<p>Pursuant to 35th GST Council meeting held on 21.06.2019, the following three questions of law have been referred for the legal opinion of the Learned Attorney General of India: -</p> <p>(i) Whether or not place of supply of lottery, if made from one state to another through two distributors, one located in organizing state and another in consuming state, with distributor in the consuming state having no direct link with or responsibility towards discharge of non-tax revenue to the organizing state, would be ultra vires of the Lotteries (Regulation) Act, 1998.</p> <p>(ii) Whether levy of a uniform rate of tax on lottery would be violative of any provisions of the Constitution or any other law for the time being in force.</p> <p>(iii) Whether the levy of differential tax rates on lottery i.e. @ 12% on State-run lottery and @ 28% on lottery authorized by a State is violative of Article 304 of the Indian Constitution.</p> <p>Legal opinion of the Ld. AG on three questions of law as listed above is placed before the Council for appropriate decision (Enclosure 4 to Annexure VII)</p>
2.	<p>Request for GST exemption on long term lease of land for setting up industrial parks by private entities.</p> <p>Reference: Shri Manpreet Singh Badal, Minister, Govt. of Punjab</p>	<p>Recommendation:</p> <p>(i) The matter may be placed before GST Council for a decision. The reasons for seeking exemption as submitted by the Govt. of Punjab are enclosed as enclosure 5 to Annexure VII</p> <p>(ii) GST council may decide the matter on merit.</p>

Enclosure 4

OFFICE OF THE ATTORNEY GENERAL FOR INDIA

Three queries, to which I shall presently advert, have been posed for my opinion, in regard to the imposition of Goods and Services Tax (GST) on lotteries. The principal issue emanates from the existence of different rates of GST for 'State Run Lotteries' and 'State Authorized Lotteries'. The rate of GST for 'State Run Lotteries' is 12% and for 'State Authorized Lotteries' is 28%. My opinion has been sought in the backdrop of a proposal to equalize these rates.

For the purpose of this opinion, I shall proceed on the basis that the expression 'State Run Lotteries' refers to lotteries 'organized' by the State Government, covered by Entry 40 of List I of Schedule 7 to the Constitution of India. Entry 40 covers "Lotteries organized by the Government of India or the Government of a State".

It is worth noting that the existence of 'State Run Lotteries' and 'State Authorized Lotteries' has been statutorily recognized for more than 100 years. Section 294A of the Indian Penal Code, 1860, which was inserted in the year 1870, refers to both these kinds of lotteries. To the extent relevant, Section 294A reads thus:

"294A. Keeping lottery office.—Whoever keeps any office or place for the purpose of drawing any lottery not being a State lottery or a lottery authorised by the State Government, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both....." (emphasis supplied)

The distinction between the 'State Run Lotteries' and 'State Authorized Lotteries' was also noted by a Constitution Bench of the Supreme Court of India in *State of Haryana vs. Suman Enterprises* - (1994) 4 SCC 217. The Court observed, *inter alia*, that:

"5. If the basic and essential features indicated above are ensured, it might be possible to raise a presumption that the lottery is one that could be said to have been 'organized' by the State itself and not one merely authorized by the State under which the so-called 'agent' himself organizes the lottery....."

This distinction was again adverted to by the Supreme Court in *B.R. Enterprises vs. State of U.P.* - (1999) 9 SCC 700, where it observed thus:

"12. Shri F.S. Nariman, learned Senior Counsel for the State of Nagaland submits that carrying on State-organised lottery is permitted by the Constitution by placing it within the exclusive competence of Parliament (Item 40 of List I of the Seventh Schedule). A distinction is drawn between State-organised lotteries and State-authorized lotteries in State of Haryana v. Suman Enterprises⁷ (5 Judges). A reference was also made to Article 298, the executive power of the State

which extends to carrying on any trade or business, even beyond its territory. It is only because of Article 298 and the premise implicit therein that the business of organising State lotteries by the State was comprehended within its extended executive power.”

“82. Before entering to decide the rival contentions within the approved wide field of interpretation, we look back to the history of the law pertaining to lotteries which is the subject-matter for consideration..... Even in India this lottery was looked down upon as an evil of the society and diagnosed as pernicious in nature. It is this which ultimately led to bringing in Section 294-A IPC in the 19th Century making it a penal offence. It excludes from its purview the State-authorized lotteries, i.e., both falling under Entry 40 List I and falling under Entry 34 List II. Collection of funds through lotteries was never considered laudable or conscienceable (sic conscionable) but has been and is resorted to in the exigencies of the situations recognised for a limited purpose, maybe for a limited period. Why not “laudable or conscienceable”? Because it is a gambling as we have held. How can gambling be held to be conscienceable though it may be legitimised for limited objectives..... This eliminates or reduces to the minimum the prospering clandestine lotteries. The State lotteries or State-authorized lotteries have been excluded from the purview of Section 294-A IPC. They are placed in distinct entries in the lists of the Seventh Schedule, both in the Government of India Act and the Constitution of India..... ..”

A perusal of the file reveals that the differential rate of GST on ‘State Run Lotteries’ and ‘State Authorized Lotteries’ was upheld by the Calcutta High Court in its judgment in *Teesta Distributors vs. Union of India* (WP No. 18424W of 2017). The High Court appears to have relied on the settled legal principle that the legislature enjoys a very wide latitude while classifying goods or items for the purpose of taxation. The High Court observes that the State is allowed to “pick and choose districts, objects, persons, methods and even rates for taxation if it is done reasonably”. Based, principally, on this reasoning, the High Court concluded thus:

“The rates imposed by the GST Council are decisions which a Writ Court is slow to examine. The rationale for imposing differential rate or the rates by themselves have not been substantiated to be breach of any provision of the Constitution.....

..... In the present case, the States of Sikkim, Mizoram, Nagaland and Arunachal Pradesh have supported the writ petitioner on the score that the rates of taxes are discriminatory. Such States were present in the GST Council Meetings. The resolution was carried by requisite majority.

Article 279A contemplates establishment of a mechanism to adjudicate any dispute between one or more States or between the Government of India and any State or States on one side and one more States on the other side or between two or more States. However it should not be construed that, the decisions or the resolutions of the Goods and Services Tax Council is immune from judicial review or that they are not justiciable. In a given case, where, a resolution adopted in the Goods and Services Tax Council Meeting is substantiated to be breaching any fundamental right or any provision of the Constitution of India, the same can be adjudicated upon by a Writ Court.

The Goods and Services Tax Council established under Article 279A of the Constitution of India at its 17th meeting deliberated extensively with regard to the rate of tax to be imposed on lotteries. Differential rate of tax was introduced in the 17th Goods and Services Tax Council Meeting held on June 18, 2017. The States before the Court were present in such meeting. It was after extensive deliberations that, the GST Council had approved the rates as presently obtaining in respect of lottery. It is within the domain of such Council to decide the rate of tax. In such circumstances, the third issue is answered by holding that differential levy of tax is permissible.”

The file also reveals that a Writ Petition under Article 32 of the Constitution of India has been filed in the Supreme Court of India, by *M/s. Skill Lotto Solutions Private Limited*. The issues raised in this petition, which is numbered as W.P. (C) No. 961/2018 and is currently pending before the Court, appear to include the constitutionality of the very levy of GST on lotteries. Given that the case is currently pending in the Supreme Court, and the queries posed for my opinion do not pertain to this issue, I need not express any view on this aspect.

In this background, I shall now proceed to answer each of the specific queries posed for my opinion.

(i) Whether or not place of supply of lottery, if made from one state to another through two distributors, one located in organizing state and another in consuming state, with distributor in the consuming state having no direct link with or responsibility towards discharge of non-tax revenue to the organizing state, would be ultra vires of Lotteries (Regulation) Act, 1998?

As I have noted earlier, two categories of lotteries have been recognised in Section 294A of the Indian Penal Code, as well as in the aforementioned judgments of the Supreme Court. This query appears to pertain to ‘State Authorised Lotteries’, where the right to organise the lottery is conferred on a private person authorised by the State. In such a case, the prohibitions contained in the Lotteries (Regulation) Act, 1998 would not be applicable, as

this statute would cover only lotteries 'organised', 'conducted' or 'promoted' by a State Government [See Sections 3 and 4 of the Act]. The question of a 'State Authorised Lottery', therefore, violating the provisions of the Lotteries (Regulation) Act, 1998 would not arise, even if the situation mentioned in the query were to exist.

I answer this query accordingly.

(ii) Whether levy of a uniform rate of tax on lottery would be violative of any provisions of the Constitution or any other law for the time being in force?

I am of the opinion that there would be no impediment arising out of the Constitution of India, to the levy of a uniform rate of GST on 'State Run Lotteries' and 'State Authorised Lotteries'. As has been observed by the Supreme Court in the *B.R. Enterprises* case, lotteries have been regarded as "an evil of the society and diagnosed as pernicious in nature". Therefore, having a uniform high rate of GST for 'State Run Lotteries' and 'State Authorized Lotteries', both of which have the same deleterious social effects, in order to discourage public participation in such activities, cannot be said to be impermissible.

I answer this query accordingly.

(iii) Whether the levy of differential tax rates on lottery i.e. @ 12% on State-run lottery and @ 28% on lottery authorized by a State is violative of Article 304 of the Indian Constitution ?

Article 304 of the Constitution, to the extent relevant, reads thus:

"304. Restrictions on trade, commerce and intercourse among States Notwithstanding anything in Article 301 or Article 303, the Legislature of a State may by law

(a) impose on goods imported from other States or the Union territories any tax to which similar goods manufactured or produced in that State are subject, so, however, as not to discriminate between goods so imported and goods so manufactured or produced; and

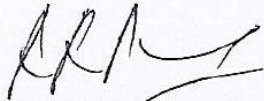
(b) impose such reasonable restrictions on the freedom of trade, commerce or intercourse with or within that State as may be required in the public interest: Provided that no Bill or amendment for the purposes of clause shall be introduced or moved in the Legislature of a State without the previous sanction of the President....."

Article 304 applies only to the State Legislatures. It authorises the Legislature of any State to tax goods coming from other states or Union

Territories, so as to place the said goods on the same footing as similar goods manufactured or produced within that State itself. This would ensure that the manufacturers of similar goods within that State are not placed at any disadvantage on account of any tax which is being levied on the goods manufactured within that State. The two kinds of lotteries, in this case, could well be said not to constitute 'similar goods' at all. What is more, according to the notings on the file, the 'State Authorized Lotteries' (which bear the higher GST rate of 28%) may be sold not only outside the boundaries of the authorising State but also within that State itself. In either scenario, the same rate (i.e. 28%) of GST is imposed.

In my view, therefore, Article 304 would have no bearing on the levy of differential GST rates on 'State Run Lotteries' and 'State Authorized Lotteries'.

I advise accordingly.



(K. K. Venugopal)
Attorney General for India
09.09.2018

Enclosure 5

Request to exempt GST on long term lease of land for setting up of industrial parks.

Hon'ble Finance Minister from Punjab vide his letter dated 25.02.2019 has requested for GST exemption on long term lease of land for setting up of industrial parks by private entities. Levy of GST on long term lease of land has been referred by GST Council to the GoM on Real estate.

Present GST rate:

Vide Sl. No. 41 of the notification No. 12/2017- CT@ dated 28.06.2017 GST exemption is available on upfront amount payable in respect of service by way of granting of long term lease of industrial plot or plot for development of infrastructure for financial business, provided by the State Government Industrial Development Corporation or undertaking or by any other entity having 50% or more ownership of Government. The entry reads as under:-

“Upfront amount (called as premium, salami, cost, price, development charges or by any other name) payable in respect of service by way of granting of long term lease of thirty years or more of industrial plot or plot for development of infrastructure for financial business, provided by the State Government Industrial Development Corporation or undertaking or by any other entity having 50% or more ownership of Central Government, State Government, Union Territory to the industrial unit or the developer in any industrial or financial business area.”

Justification for exemption (as mentioned in letter of the Hon'ble FM of Punjab):

- India is now critically poised to attract foreign investments particularly by the possible relocation of many MNCs located in China in the context of ongoing tariff war and global economic recession. India offers an attractive destination for investment by way of FDI due to its high domestic consumption base.
- GST on long term lease of land presently attracts GST of 18% along with stamp duty of 6-7% levied by states. This high rate of tax makes new projects unviable particularly when tax credit of GST on such leasing is not available for construction of immovable property.
- Taxation on leasing of land is the only area in GST where there is an overlap between GST and powers of States to levy a parallel tax. Similar concession has already been given to GIFT city.

Review of GST rate on supplies of setting up of Solar Power Plants and Wind Turbine based Plants on the direction of the Hon'ble High Court of Delhi

The annexure VIII is regarding the applicable GST rate on the supplies relating to Solar Power projects and Wind Based power projects and the re-examination of the 70:30 formula prescribed for applying GST rate on the supply by way of setting up of solar and wind turbine based power plants consequent to the direction of Hon'ble High Court of Delhi.

Background

2.1 Briefly stated, under GST regime, a concessional rate of 5% was prescribed on **renewable energy devices and parts for their manufacture** [vide S. No. 234 of notification No. 1/2017-Central Tax (rate) dated 28th June, 2017]. Thus, supply by way of setting up of solar power plants or wind power plants is not covered by this heading. In pre-GST regime, such activity was treated as works contract and subject to tax accordingly. Service portion was subject to tax after giving an abatement of 60% on original works contract.

2.2 In this context various solar power plant developers approached Authority on Advanced Rulings (AAR) in various states to obtain clarity regarding the applicable GST rate on the activity involving EPC contract in solar power plants/systems. In the said applications, EPC contractors stated that the Solar Power Plants are composite supply with SPGS is the principle supply and therefore, entire contract of Solar Power Plants should attract 5% GST. Typically, a contract of EPC to set up a Solar Power Plant includes supply of various goods (such as modules, structures, inverters etc.) as well as complete design, engineering, development, transportation, unloading, storage and site handling, installation and commissioning of all equipment and material, complete project management as well as supply and construction (such as erection and civil work) to complete Solar Power Plant.

2.3 Contrasting views were taken by various AARs and in most cases such contracts have been held to be works contract taxable at 18%. It is also held that even if it is a composite supply involving works contract, it shall be treated as a supply of service in terms of entry 6 of Schedule II of the CGST Act, and applicable GST rate on entire project is 18%. In one ruling it was concluded that applicable rate would be 5%.

3 In this background various representations were received from the Industry as well as the Ministry of New and Renewable Energy (MNRE) seeking clarification on the rate of Solar Power plants and requesting that the applicable GST rate should be made 5% on entire value of the solar power plant contract (including goods and services components).

4. Based on the available information and data provided by the Industry (essentially for Solar segment) through MNRE, the matter was examined and it was found that the share of goods covered in the said entry (entry No. 234) in the supply of solar power plants constitutes around 70% while remaining parts/goods (not covered by S No. 234) and services constitutes around 30% of the value of such EPC contracts. Therefore, a deemed value was prescribed in which 70% value of the total contract was prescribed for GST at 5% and the remaining 30% value was prescribed for GST at 18% [31st GST Council meeting held on 22.12.2018]. This was uniformly applied to all such plants (Solar, wind and others).

Writ Petitions

5 Subsequently, a writ petition was filed by Solar Power Developers Association (SPDA) in Hon'ble Delhi High Court challenging the new valuation process alleging that the 70:30 ratio does not provide the correct breakup of goods and services.

5.1 In the said writ petition, SPDA has stated that the said breakup of 70:30 significantly, differs from the actual split of 93:7 for Solar Power Generating System (SPGS); that this basis of presumptive valuation has been made mandatory for the petitioners by way of introducing a deeming provision which leaves no avenue for the petitioners to pay tax on the basis of the actual split of values between goods and services.

5.2 Accordingly, the petitioner (SPDA) in its prayer to the Hon'ble Court has requested that the scope of SPGS under Sl. No. 234 of the notification No. 1/2017-Central Tax (rate) dated 28.6.2017 be declared as:

- (a) supply of SPGS (including incidental services) is taxable at 5%; or
- (b) the supply of all goods towards SPGS is taxable at 5% (if necessary, subject to fulfillment of an end use condition) and incidental services at 18%, based on actual values.

5.3 Parallely, the Indian Wind Turbine Manufacturers Association (IWTMA) also filed a separate writ petition in Hon'ble Delhi High Court in line of the petition filed by SPDA. In the said writ petition filed by IWTMA, it is alleged that the GST Council in its meeting held on 22.12.2018 while recommending the 70:30 ratio has considered only one kind of supplier /manufacturer of renewable energy devices as per entry No. 234 of notification No. 1/2017. IWTMA requested for issuance of direction to consider their representation.

Interim Directions of the Hon'ble High Court of Delhi

6.1 The Hon'ble High Court of Delhi vide its order dated 3rd May, 2019 (SPDA case) and order dated 29th May, 2019 (IWTMA case), has directed the Union of India to re-look into the matter after having consultations with the Industry along with the MNRE within 4 weeks from the issuance of the order. The court further stated that the deliberations of the consultation be placed before GST council for consideration.

6.2 To comply with Hon'ble Court's direction, a consultative meeting with representatives of SPDA and MNRE was held on 27th May, 2019. In the meeting, representatives of SPDA alleged that the 70:30 ratio doesn't represent the real picture of composition of goods and services and ratio should be 93:7. Accordingly, SPDA were asked to provide the data in support of their claim.

6.3 Subsequently, SPDA have submitted relevant information and submitted the data vide letter dated 14th June, 2019. In the said letter, SPDA have again made a request that, -

- a) concessional rate of 5% may be provided to all supplies (both goods and services) made to a solar power project;
- b) alternatively, the ratio of 70:30 can either be based on actual split of goods and service or around a more realistic/correct breakup which is around 93:07.

6.4 Similarly, a consultative meeting with the representatives of the IWTMA was held on 18th June, 2019. In the meeting, representatives of IWTMA alleged that the 70:30 ratio doesn't represent the real

picture of composition of goods and services and ratio should be 85:15. IWTMA submitted the data vide their letter dated 12th July, 2019.

6.6 The above described factual position was placed in the 34th GST Council meeting held on 19th June, 2019 in which it was decided that the matter may be examined by Fitment Committee first and then placed in the next GST Council meeting.

Examination of Issue by Fitment Committee

A. Setting up of a solar power plant:

7.1 Supply by way of execution of power project involves supplies of specified renewable devices and parts falling covered under said entry No. 234 (attracting 5% GST), other goods such as mounting structures, general items and cement etc (attracting 18% or 28% rate), civil work, installation and commissioning as well as complete design, engineering, and studies transportation, unloading, storage and site handling, installation and commissioning of all equipment and material, complete project management. The liability of the contractor may not end with the procurement of the material but it extends till successful testing and commissioning of system.

7.2 The documents provided by the SPDA vide letter dated 14th June, 2019 has been examined and from the BoQ (Bill of Quantity) for different contracts provided by them, the breakup of components (services and goods) attracting GST rate of 18% or 5% was on an average found to be in the ratio of 32:68.

7.3 The bench mark costing in past has been by CERC and State Regulatory Authority. Illustratively, Uttarakhand Electricity Regulatory Authority (UERC) has issued a draft order to review the Benchmark Capital Cost for Solar PV and Rooftop solar projects for the year 2019-20. As per the said order, **the share of each component of Ground mounted Solar PV project is as under:-**

S. No.	Particulars	Approved Capital Cost for FY 2018-19 (Rs. Lakh/MW)	% of Total Cost	Proposed Capital Cost for FY 2019-20 (Rs. Lakh/MW)	% of Total Cost
1	PV Modules	226.94	58.48%	235.65	58.85%
2	Land Cost	50.00	12.86%	50.00	12.49%
3	Civil and General Works	21.38	5.51%	22.05	5.51%
4	Mounting Structures	21.38	5.51%	22.05	5.51%
5	Power Conditioning Unit	21.38	5.51%	22.05	5.51%
6	Evacuation cost upto interconnection point (Cables and Transformers)	26.88	6.92%	27.72	6.92%
7	Preliminary & Pre-operative expenses including IDC & contingency etc.	20.24	5.21%	20.87	5.21%
	Total Capital Cost	388.19	100.00%	400.40	100.00%

7.4 Many EPC contractors had approached the Central Electricity Regulatory Commission (CERC) seeking compensation from state entities on account of 'Change in Law' due to enactment of GST Act. The petitioners had provided the operating data to buttress their claims. As per the data submitted by EPC contractors only about 66% capital cost of a solar power plant constituents attract 5% and remaining 34% attracts 18%/28% GST.

7.5 The manner of bench mark costing and "change in law petition" reveals the ratio of 70: 30 is reasonable.

B. Wind Based Power Systems:

8.1 During the discussions with the representatives of wind turbine manufacturers, it was found that the major component of wind driven power project is wind turbine and that it is the responsibility of the manufacturer of the wind turbine manufacturer to install and commission the said wind turbine at the location of the developer and make it a working system. In general, a wind turbine manufacturer signs a turnkey contract with the developer and along with the turbine (which is manufactured by the contractor), they install and commission it also. They provided sample contracts, cost sheet and GST return. These return revealed that these contractors discharged GST on their supply through ITC only

8.2 The pricing break-up of wind industry and sample cost sheet provided for four members of IWTMA revealed that the ratio for wind turbine-based power plants was approximately 75:25 (including part of cost shown as BOP). However, bench mark capital cost order by a regulatory authority was not available for wind turbine.

Recommendation by Fitment Committee:

9. In case of Solar Power projects, Fitment Committee is satisfied with the ratio of 70:30 based valuation based on the data provided by the Solar Industry, Benchmark Capital Cost Order by Uttarakhand Electricity Regulatory Commission and Pass through order by CERC. Therefore, for the Solar Power Plant, it is recommended that the ratio of 70:30 may continue.

9.1 As regards, wind operated power projects, the fitment committee felt that while analysis of the sample data provided by the industry may indicate slightly higher ratio towards goods covered by entry 234, it would not be desirable to have different rate on account of such variation. In taxation, prescribing a general uniform rate for a group of supplies/goods/services is an accepted norm. The 70: 30 ratio was prescribed to resolve the disputes arose due divergent rulings by AAR. Therefore, Fitment Committee felt that 70:30 ratio may also apply for wind operated power plants for uniformity in rates.

9.2 Accordingly, **Fitment Committee recommends the continuation of 70:30 ratio as prescribed in the 31st GST Council meeting for all the renewable energy projects as mentioned in the Sr. No. 234 of Schedule I of the notification No. 1/2017-Central Tax (rate) dated 28th June, 2017.**

Note on High Court judgement in the matter relating to lapsing of accumulated ITC on fabric for the period prior to 31.07.2018

On rollout of GST, fabrics were placed in 5% slab with the condition that refund of accumulated credit on account of inverted duty on fabrics shall not be allowed. The domestic fabric industry demanded refund of accumulating ITC citing hardships caused to them. The matter was discussed by the GST Council in its 28th meeting held on 21st July, 2018 wherein it was decided to allow refund of input tax credit on account of inverted duty structure in the textile sector prospectively from 1st August, 2018 and the earlier input tax credit lying in balance which was accumulated on account of inverted duty structure on the date of notification shall stand lapsed. This was implemented by amending notification No. 5/2017- Central Tax (Rate) dated 28.06.2017 to this effect. Subsequently, to clarify the doubts as regards the manner of lapsing and computation of credit to be lapsed, detailed circular (No.56/30/2018-GST dated 24.08.2018) was issued after consultation with the states and taxpayers. It was clarified that the amount of ITC to be lapsed as per the clarification shall, upon self-assessment, be furnished by such person in his GSTR 3B return for the month of August, 2018 and verification of accumulated ITC amount so lapsed may be done at the time of filing of first refund (on account of inverted duty structure on fabrics) by such person.

2. The decision of the Council has been contested by trade before the Hon'ble High Court of Gujarat seeking restoration of accumulated ITC that was made to lapse on account of the decision of the Council. The case was defended and the court was apprised of the facts and circumstances that lead to the decision of the Council.

3. Hon'ble Gujarat High Court vide order dated 17.07.2019 in Special Civil Application No. 16213 of 2018 filed by M/s. Shabnam Petrofils Pvt. Ltd. Vs. UOI & Ors. and (ii) Special Civil Application No. 20626/2018 filed by M/s. Federation of Gujarat Weavers Welfare Association observed that the proviso (ii) of the opening paragraph of the Notification No.05/2017-C.T. (Rate) dated 28.06.2017, (which provides for lapsing of accumulated ITC), inserted vide Notification No. 20/2018-C.T. (Rate) dated 26.07.2018, is ex-facie invalid and liable to be strike down as being without any authority of law as there is no express provision for lapsing of such accumulated ITC and that a taxpayer has a vested right to unutilised ITC accumulated on account of rate of tax on inputs being higher than the rate of tax on the output supplies.

4. A SLP against the order of the Gujarat High Court is under process to be filed in the Hon'ble Supreme Court.

Agenda Item 9: Status update on Report of the Committee of Officers on Use of RFID Data for Strengthening Of E-Way Bill System Under GST

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

2. Another Committee headed by Dr John Joseph, Member CBIC was constituted earlier to come up with an operational plan for achieving the objective of harmonizing the track and trace efforts of the different stakeholders. The Committee co-opted NHAI, IHMCL, NPCI, GSTN, NIC & DMIDC and has submitted its report on "Integration of FAST-ag program of NHAI with e-way bill mechanism and integration of LDB program of DMIDC with customs E-seal program of CBIC & FAST-ag program". The Committee has recommended use of FAST-ag and sharing of data by NPCI with E-Way Bill system for which required technical details have also been worked out by the Committee.

3. Both the reports were discussed in officer's meeting held on 9th January 2019 at New Delhi and a committee of officers on "use of RFID data for strengthening of e-way bill system under GST" was constituted with members from Centre, States and GSTN to deliberate and suggest on following Terms of reference (ToR).

- a) Building an inter-operable robust system and examine the feasibility and advantages of existing system Vs FASTag.
- b) Conduct Stakeholder's consultation
- c) Identify legal requirements, if any

4. Shri Neeraj Prasad, Commissioner (GST-Inv) CBIC and Shri Anurag Goel, CCT, Government of Assam were the Co-Conveners of the Committee. The report was circulated to States and also placed before the 35th GST Council Meeting. On the basis of conclusions drawn in the report following recommendations were made in 35th GST Council Meeting:

- a. The Committee recommended that, FASTag based EWB tracking mechanism should be adopted by GST Council. Integration of NETC system with EWB system would exhibit a classic case of convergence of two flagship Programmes of the Government complementing one another. The integration would prove to be beneficial for both the programmes.
- b. Government could consider formulating a centrally sponsored scheme in this regard, where RFID based tracking infrastructure at identified locations should be installed under the aegis of the centrally sponsored scheme under suitable cost sharing formula with the assistance of MoRTH.

5. The Council agreed, in principle, to the implementation of the recommendations of Committee of Officers on use of RFID data for strengthening of e-Way bill system under GST. In pursuance of this decision, it was requested to NIC and GSTN to coordinate and develop a plan of action and implement it. The report was also forwarded to the Pr. Commissioner, GST Policy Wing, CBIC (Co-Convener, Law Committee) to discuss in Law Committee on the legal provisions related to the recommendations of the Committee for smooth implementation.

6. The main recommendations of the Committee were as follows:
- a. FASTag based EWB tracking mechanism be adopted by all States. Integration of NETC system with EWB system will exhibit a classic case of convergence of two flagship Programmes of the Government complementing one another. The integration will prove to be beneficial for both the programmes.
 - b. That there should be a single FASTag used, such that the data of NETC can be integrated with E Way Bill system so as to harmonise and synergise the vehicle tracking through the NETC-EWBS integration.
 - c. While NETC toll plazas are available on national highways, the States need to identify locations on the State Highways where the States would like to install toll infrastructure to maximise the vehicle tracking under this programme.
 - d. The Committee also proposed a standard toll infrastructure guideline to be used for such vehicle tracking gantry systems.
 - e. By integrating with FASTag the EWB system will have a quicker turn-around time by adopting a system which shall be able to track the movement of commercial vehicles across the extensive network of all tolled National Highways as well as selected state highways in India.
 - f. Similarly, NETC programme will also get the much-needed boost in terms of ETC penetration and proliferation in the FASTag issuance.
 - g. Analytics be performed on the data collected through the integration of the NETC with the E-Way Bill System to enable:
 - i. Movement of vehicles without E-way Bills.
 - ii. Recycling of the E-way bills.
 - iii. Generation of E-way bills, but no movement of goods.
 - iv. Tracking the E-way bills and Vehicles.
 - v. Detecting the over weighing consignments.
 - vi. Diversion of goods to another place.
 - vii. Watching the movement of goods of the selected Tax payers, Transporters and Vehicles.
 - viii. Finding out time taken for the movement of the goods between important locations.

7. FASTag has been mandated by Government of India through Gazette notification - GSR – 1361 (E) dated 02.11.17 - For Category M and N Vehicles manufactured/sold after December 1st 2017 and GSR – 1081 (E) dated 02.11.18 - For issuance of National Permit for which timeline is 1st October 2019. The Technical specifications of FASTag have been defined by MoRTH. FASTag is based on the open specifications which can be developed by any eligible and empanelled service provider. The National Payments Corporation of India (NPCI) is running an interoperable system with robust clearing and settlement system for National Electronic Toll Collection (NETC) Programme. There are 23 issuer Member Banks and 10 acquirers in the NETC programme. This is an interoperable system with multiple issuer entities and acquiring entities. More than 12 RFID tag manufacturers are enabled, most of which are Micro, Small and Medium Enterprise (MSME).

8. The present status of the NETC-EWBS integration is as follows:
- a. The current count of FASTag (RFIDs) sold stands at: 57.18 lakhs.
 - b. Current number of vehicles affixed with RFIDs: 52.20 lakhs.
 - c. Number of Banks associated with RFIDs: 23 Issuer banks and 10 acquirer banks.
 - d. Number of toll plazas with NETC system on national highways: 526
 - e. Current Points of Sale for FASTag (POS) are 10,500. NHAI planning to ensure 35,000 POS by September end.
 - f. MoRTH has mandated 100 % electronic toll payment using FASTag by 01st December 2019.

- g. Points of Sale for the FASTag to be ramped up to meet the deadline of 01st December 2019.
 - h. Number of APIs prepared by NIC: 5 (heartbeat check, FASTag data push, toll plaza data push, transaction data push, data recon API).
 - i. APIs are ready and available on sandbox. Testing to be completed by 15 Oct '19.
 - j. NPCI to extend its network to NIC EWBS by end October 2019.
 - k. Meeting held on 19th August 2019 between officers of NHAI, GSTN, NPCI to discuss the modalities to integrate EWB with FASTag. It was also discussed that MoRTH is targeting 100% digital toll payments via FASTag by 1st December 2019. This will boost the demand of FASTag and in view of these developments, it was suggested that GST Council may also consider preponing the date of FASTag mandate for EWB generation, from existing timeline of 1st April 2020 to 1st February 2020. It was also decided in the meeting that NPCI shall co-ordinate with NIC/GSTN and keep IHMCL updated on the progress status regularly (Copy of Minutes enclosed as **Annexure-1**).
 - l. Meeting held with NPCI and NIC on 05th September 2019 for technical integration discussion.
 - m. Meeting held on 11.09.2019 on the issue of Integration of EWB with the FASTag under the chairmanship of Additional Secretary (Revenue) with officers from NIC, GSTN, DoR, CBIC, MoRTH and GST Council Secretariat. The meeting was in view of some discrepancies noticed during matching of VAHAN data base and EWB data base such that for many vehicles e-way bill was generated, but there was no corresponding entry in the VAHAN data base for those vehicles. This gap was significant in some States. Accordingly, it was desired by the Additional Secretary, DoR that MoRTH shall conduct the following exercise:
 - i. Study the data base of some States for correctness.
 - ii. Identify the duplicate entries in the VAHAN data base and clean them.
 - iii. Develop a firm strategy to correct discrepancies in data base in time bound manner, so that EWB linkage with FASTag for issue of EWB may be made mandatory.
9. Above status of the Integration of EWB with the FASTag is put up for the information of the Council.

Minutes of the Meeting on GST EWB System – FASTag Integration

Date: 19 August 2019

Venue: NHAI HQ, Dwarka, New Delhi

List of Participants – As provided in Annexure 1

1. The meeting started with the discussion on the in-principle approval of the GST council on the recommendation of the Committee of Officers (CoO) to integrate E-way Bill System (EWB system) with NETC system and to mandate FASTag for generation EWB from 1st April 2019 onwards. It was highlighted that this integration will bring major compliance in GST revenue generation. FASTag programme shall also benefit in terms of issuance once it is mandated for EWB generation.
2. It was discussed that the recent mandate of the MoRT&H targeting 100% digital toll payments via FASTag by 1st December 2019, shall boost the demand of FASTag and accordingly NHAI/IHMCL has taken various initiatives to amplify the distribution channels of FASTag via banks and authorised service providers of IHMCL. In view of this development, it was suggested that GST Council may also consider preponing the date of FASTag mandate for EWB generation, from existing timeline of 1st April 2020 to 1st Feb 2020.
3. Member (Finance), NHAI expressed that some publicity may also be carried out by the Ministry of Finance/GST council/GSTN regarding the mandate of FASTag for EWB generation. Publicity of the mandate shall bring in more awareness among the transporters and fleet owners to opt for FASTag within timelines. It was also proposed that a joint marketing campaign can also be done by IHMCL and GSTN.
4. It was informed that NHAI/IHMCL is in process of ramping up the Point-of-Sale (POS) for FASTag. A letter from MoRTH and NHAI has already been issued to all States/UTs for allowing banks and authorised service providers of IHMCL to set up POS at RTO premises. Similar letter may be sent by GSTNGST Council to State/UT to facilitate the process of setting up of POS for FASTag distribution.
5. It was proposed that a meeting may be convened by DFS with the NETC Member Banks to bring in more seriousness in extending the distribution channels for FASTag sales. A follow up meeting with GSTC, CBIC and NHAI to happen to discuss and finalise a plan of action.
6. NPCI was directed to complete requisite development work in NETC System by 15th October 2019. A detailed work break-down schedule shall be submitted by NPCI at the earliest so that project status can be tracked on regular basis. NPCI shall co-ordinate with NIC/GSTN and keep IHMCL updated on the progress status regularly.

Annexure 1: List of Participants

S. No.	Name of the Person	Designation & Department/Organization
1.	Sh. Asheesh Sharma	Member (Finance), NHAI and CMD, IHMCL
2.	Sh. Neeraj Prasad	Commissioner, CBIC
3.	Sh. Shailesh Yadav	GM/COO IHMCL
4.	Sh. Rajeev Agarwal	Sr. VP – GSTN
5.	Sh. Pankaj Dixit	Sr. VP – GSTN
6.	Mr. Amrit Singha	V.P - Operations, IHMCL
7.	Mr. Kaushal Singh	Sr. Associate- NPCI

Agenda Item 21: Status of payment of Advance User Charges (AUC) by the States and CBIC and interest on delayed payment

1. Background

- i. Agenda 12 of the 35th GST Council Meeting was on “Waiver of Interest on delayed receipt of Advance User Charges (AUC) from few States and CBIC” wherein the Council approved the following:
 - a. The States and CBIC which had not yet paid the Advance User Charges (AUC) for FY 2017-18 and 2018-19 would be asked to pay their share positively by 31st July 2019 failing which interest on delayed payment of AUC may be levied by GSTN as per the approved Revenue Model.
 - b. The interest payable by the defaulting Governments due to delayed payment of AUC up to 31st July 2019 be waived off. This would be a one-time waiver.
- ii. As per the Revenue Model of GSTN approved by the Empowered Committee of State Finance Ministers (EC) in its meeting held on 30th August 2016 (copy attached as **Annexure-I**), the GST System Project is being implemented by GSTN as per approval of the Cabinet and the cost incurred on the project (Capex and Opex) along with GSTN’s own expenses is to be shared equally by the CBIC, States and UTs in the form of User Charges to be remitted by them in two (2) installments on a half-yearly basis by 1st March and 1st September of each year.
- iii. Further, as per Para iii(b) of the Revenue Model, “any Government that fails to pay the Advance User Charges (AUC) before the due date will pay the defaulted amount together with interest at the rate at which GSTN borrows money from the banks for this purpose”.

2. Status of Payment of AUC as on 31st August 2019

- i. As per the approved Revenue Model, GSTN had raised demand for the payment of AUC with the Central and State Governments for the FY 2017-18, 2018-19 and 2019-20. The status of AUC demanded and received as on 31st August 2019 is under:

(Rs. in Crores)

Financial Year	Amount demanded	Amount received	Amount Pending	Pending States
2017-18 – 1 st Instalment	306.01	306.01	0	NA
2017-18 – 2 nd Instalment	266.06	262.19	3.87	Telangana: 3.87
2018-19 – 1 st Instalment	261.43	251.33	10.10	Punjab: 5.29 Telangana: 4.81
2018-19 – 2 nd Instalment	261.43	117.69	143.74	As per Annexure -II
2019-20 – 1 st & 2 nd Instalment	181.79	11.15	170.64	As per Annexure -II

- ii. Continuous follow-ups have been made with the States and CBIC since the issuance of request letters for FY 2017-18 and 2018-19 (1st Instalment). However, in spite of various reminders and DO letters (dated 3rd October 2018 and 14th August 2019), the User Charges have not been received from the States of Telangana and Punjab till date.

- iii. All the States have been requested for timely payment of User Charges to avoid further interest liability, as it was waived of only till July 2019 as per decision taken by the GST Council in its 35th Meeting held on 21st June 2019.

Further communications have been sent to the States and CBIC for payment of Advance User Charges for FY 2019-20 along with the fund utilization statement.

3. Queries received from States regarding Fund Utilization

- i. GSTN has been receiving queries from some States regarding utilization of the amount of User Charges and surplus amount, if any. The replies to the queries have been provided to the States showing the complete picture of utilization of funds and available balance to be carried forward to next years for a particular State, if any.
- ii. Further, CBIC has also sought clarification on the available fund and refund of excess amount, if any, vide Letters dated 21st June 2019 and 23rd July 2019. GSTN has clarified this to CBIC by providing the statement of receipt and expenditure vide Letter dated 30th July 2019.

A complete picture of Fund Utilization is attached as **Annexure-III** for perusal.

4. Interest Liability on delayed Payment of AUC as on 31st August 2019

- i. It is submitted that a few States have paid the AUC after the due date. The GST Council in its meeting of 21st June 2019 had approved the waiver of interest on delayed payment of AUC only till 31st July 2019 and any delayed payment received on or after 1st August 2019 will attract Interest as per the approved Revenue Model of GSTN. The interest on delayed payment for FY 2019-20 will be levied on or after 1st September 2019. The details of amount of AUC received from States and CBIC after 31st July 2019 and the details of amounts yet to be received along with interest calculation are placed at **Annexure-II**.
- ii. A summary of interest payable by the Central and some State Governments for delay in remitting the AUC after the expiry of waiver period, i.e. 31st July 2019, for the period up to 2018-19, is given below:

Sr. No.	Name of the State/Centre	Interest on delayed payment of AUC (In Rs.)
1.	CBIC	1,57,916
2.	Andhra Pradesh	2,99,390
3.	Maharashtra	18,446
4.	Manipur	7,022
5.	Odisha	16,920
6.	Punjab	1,26,356
7.	Telangana	9,27,327
8.	Lakshadweep	310
	Total	15,53,687

5. Proposal:

Keeping into consideration the above facts and to ensure that the States and CBIC settle their dues in time, the following is proposed for consideration of the Council:

- i. The States, UTs and CBIC who have not yet paid the AUC for FY 2017-18, 2018-19 and 2019-20 may be requested to pay their share at the earliest along with the interest on delayed payment of AUC as detailed in Annexure-II in accordance with the approved Revenue Model.
- ii. The States, UTs and CBIC may be requested to pay their future share of AUC also in time to avoid levy of interest on delayed payment.

REVISED REVENUE MODEL OF GSTN**i. Sharing of User Charges Between Centre and States**

The GST System infrastructure managed by GSTN will be used by taxpayers, tax administrations, banks, etc. but the user charges will be paid entirely by the Central Government and the State Governments in equal proportion i.e. 50:50 on behalf of all users. The State share will be apportioned to individual States in proportion to the number of dealers in the State. For calculating individual State's share for the first year, the number of dealers in the State under VAT, as communicated by all the States to GSTN in May 2015, will be used. For the second and subsequent years, the total number of dealers in the State as on 1st October of the previous year will be taken.

ii. Pre-operative Expenses

GSTN will raise a term loan from a commercial bank to meet the pre-operative expenses. The amount of loan repayment (principal + Interest) will be included in the calculation of user charges payable by the Central and State Governments.

iii. Operating Expenses

- a. On 1st October every year, GSTN will raise bills for advance payment of user charges for the next year and send them to the Central and the State Governments.
- b. The respective Governments will make payment to GSTN before 1st March of the FY in which the bills for advance user charges are raised. Any Government that fails to pay the advance user charges before 1st March will pay the defaulted amount together with interest @ 12% per annum for the period of delay.
- c. The total amount of user charge for the next year will be equal to the sum of the following components:
 1. Operating expense payments to be made to the Managed Service Provider next year (as per contract);
 2. Payment actually made to the MSP for changes in software up to 1st October
 3. Payment made up to 1st October for undertaking new activity based on new requirements;

4. GSTN's own estimated annual operational expenditure for next year;
 5. Depreciation amount as per Company Law (equal to one fifth of the capitalized value of Pre-operative Expenses before Go Live);
 6. Amount of loan installments (principal + interest) payable to the bank next year; and
 7. Guarantee fee payable to the GoI next year.
- d. The Central Government will pay 50% of the total amount mentioned in para 5(iii) (c) above and the State Governments will pay the balance 50% in proportion to number of dealers in each State.
 - e. After GST operations begin, GSTN will raise the following user charge bills every month:

1. Bills for the use of GST Portal and Services (the Front End)

- i. For this purpose, the monthly per dealer user charge will be calculated by subtracting expenses on backend system as per contract from total amount of user charges as defined in para 5(iii)(c) above and dividing this amount by two (since this expense is to be shared equally by the Central and State Govts) and further dividing the amount so obtained by total number of dealers divided further by 12 (12 months of a year).
- ii. Bill for the Central Govt will be raised by multiplying per dealer monthly charges as derived in sub-para 5(iii) (e) (1) (i) above with the total number of GST dealers as on the last day of the month.
- iii. Bill for each State Govt will be raised by multiplying per dealer monthly charges as derived in sub-para 5(iii) (e) (1) (i) with the number of GST dealers in that state as on the last day of the month.

2. Bills for the use of Back End of GST System

- i. For this purpose, the monthly per dealer user charge will be calculated by dividing total expenses on backend system as per contract by 12 (number of months in a year) and further dividing it by total number of dealers in Model-2 states.
- ii. Bill for each Model 2 state will be raised by multiplying

monthly per dealer user charge as derived in sub-para 5(iii)(e)(2)(i) above with the number of GST dealers in that state as on the last day of the month.

- f. The amount of these bills will be set off against the advance user charges paid by the respective Government in the manner indicated below:
 1. If the advance user charges paid by a Government exceeds the total amount of the bills for the year, the excess amount will be adjusted against the advance payment to be made by that Government for the next year.
 2. If the advance user charges paid by a Government is less than the total amount of the bills for the year, the amount of shortfall will be paid by that Government by 30th April of the following year.

v. Working Capital Credit from Bank

- a. GSTN will obtain working capital credit limit from a commercial bank and avail credit under this arrangement as and when necessary in order to meet the shortfall in advance user charge receipts.
- b. If the total amount of advance user charges received from the Central and the State Governments gets exhausted any time during the course of a year, GSTN will draw working capital credit from the Bank to defray its operational expenses. In such an eventuality, GSTN will raise bills to the Central and the State Governments for additional contributions to repay the loan raised from Bank.

Annexure-III

Fund Utilisation of Advance User Charges since inception as on 31st August 2019		Annexure - III
Particulars		Amount (Rs. In Crores)
Advance User Charges Received		
1st Instalment - 2017-18		266.82
2nd Instalment - 2017-18		264.73
1st Instalment - 2018-19		251.34
2nd Instalment - 2018-19		117.69
Total (a)		900.58
Service Tax Refund Received * (b)		34.24
Other Amount Received (c)		-0.02
Total d=(a+b+c)		934.80
Less : Utilisation		
Invoice raised against Advance User Charges of FY 2017-18		150.71
Invoice raised against Advance User Charges of FY 2018-19		305.35
Adjustment of outstanding of TINXSYS Project		4.41
Centre / States Share in Capital Expenditure and Assets creation as on 31st March 2019		330.23
Share in TDS Deducted by State/ Centre Government lying with Income Tax Authorities / other Advance		41.49
Total (e)		832.18
Credit Balance as on 31st August 2019 f=(d-e)		102.62
Amount to be received against pending instalments as on 31st August 2019 (g)		157.72
Balance of FY 2018-19 to be Carried Forward to next year (after receiving pending instalments mentioned in g) h=(f+g)		260.34
Estimated Expenditure of FY 2019-20 as per approved Budget (i)		441.27
Request sent for Advance User Charges for FY 2019-20 to States/ Centre j=(i-h) **		180.93
* Centre has provided the exemption to Goods and Services Tax Network from Service Tax since inception vide Clause 106 of Finance Act 2018, hence the Service Tax deposited by GSTN in cash has been refunded and same has been shared between States and Centre.		
** The request for Advance User Charges for FY 2019-20 is made of Rs.180.93 Crores while as per budget it is Rs.441.27. it shows that we have considered all the earlier receipt and adjusted all the surplus if any.		

Agenda Item 22: Any other agenda item with the permission of the Chairperson

Agenda Item 22(i): Resubmission of refund application after filing NIL refund in FORM GST RFD-01A

Several registered persons have inadvertently filed a NIL refund claim for a certain period under a particular category on the common portal in **FORM GST RFD-01A** in spite of the fact that they had a genuine claim for refund for that period under the said category. Once a NIL refund claim is filed, the common portal does not allow the registered person to re-file the refund claim for that period under the said category. Representations have been received requesting that registered persons may be allowed to re-file the refund claim for the period and the category under which the NIL claim has inadvertently been filed.

2. Law Committee deliberated on this issue in the meeting held on 29th – 30th July 2019 and it was decided to allow registered persons to re-file refund claims in **FORM GST RFD-01A** on the common portal for the period and the category under which a NIL refund claim has been filed, provided that no subsequent refund claims have been filed by the registered person in **FORM GST RFD-01A** under the same category for any subsequent period. 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 circular was again deliberated by the Law Committee in its meeting held on 13th September, 2019 and was approved. The same is enclosed as **Annexure-A** and is placed before the Council for deliberation and approval.
3. The issue is placed before the Council for deliberation and approval of the Circular.

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: Eligibility to file a refund application in FORM GST RFD-01A for a period and category under which a NIL refund application has already been filed – regarding

Several registered persons have inadvertently filed a NIL refund claim for a certain period under a particular category on the common portal in **FORM GST RFD-01A** in spite of the fact that they had a genuine claim for refund for that period under the said category. Once a NIL refund claim is filed, the common portal does not allow the registered person to re-file the refund claim for that period under the said category. Representations have been received requesting that registered persons may be allowed to re-file the refund claim for the period and the category under which the NIL claim has inadvertently been filed. 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. Whenever a registered person proceeds to claim refund in **FORM GST RFD-01A** under a category for a particular period on the common portal, the system pops up a message box asking whether he wants to apply for ‘NIL’ refund for the selected period. This is to ensure that all refund applications under a particular category are filed chronologically. However, certain registered persons may have inadvertently opted for filing of ‘NIL’ refund. Once a ‘NIL’ refund claim has been filed for a period under a particular category, the common portal does not allow the registered person to re-file the refund claim for that period under the said category.

3. It is now clarified that a registered person who has filed a NIL refund claim in **FORM GST RFD-01A** for a given period under a particular category, may again apply for refund for the said period under the same category only if he satisfies the following two conditions:

- a. The registered person must have filed a NIL refund claim in **FORM GST RFD-01A** for a certain period under a particular category; and
- b. No refund claims in **FORM GST RFD-01A** must have been filed by the registered person under the same category for any subsequent period.

It may be noted that condition (b) above is only applicable for refund claims falling under the following categories:

- a. Refund of unutilized input tax credit (ITC) on account of exports without payment of tax;
- b. Refund of unutilized ITC on account of supplies made to SEZ Unit/SEZ Developer without payment of tax;
- c. Refund of unutilized ITC on account of accumulation due to inverted tax structure;

In all other cases, registered persons shall be allowed to re-apply even if the condition (b) is not satisfied

4. Registered persons satisfying the above conditions may file the refund claim under “Any Other” category instead of the category under which the NIL refund claim has already been filed. However, the refund claim should pertain to the same period for which the NIL application was filed. The application under the “Any Other” category shall also be accompanied by all the supporting documents which would be required to be otherwise submitted with the refund claim.

5. On receipt of the claim, the proper officer shall calculate the admissible refund amount as per the applicable rules and in the manner detailed in para 3 of Circular No.59/33/2018-GST dated 04.09.2018, wherever applicable. Further, upon scrutiny of the application for completeness and eligibility, if the proper officer is satisfied that the whole or any part of the amount claimed is payable as refund, he shall request the taxpayer in writing, if required, to debit the said amount from his electronic credit ledger through **FORM GST DRC-03**. Once the proof of such debit is received by the proper officer, he shall proceed to issue the refund order in **FORM GST RFD-06** and the payment advice in **FORM GST RFD-05**.

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 22(ii): Circular No. 107/26/2019-GST dated 18.07.2019 on supply of Information Technology enabled Services (ITeS services) –further clarification

Since issue of Circular No. 107/26/2019-GST dated 18.07.2019, several representations have been received from NASSCOM and ASSOCHAM citing confusion on classification of IT / ITeS services as intermediary services in certain scenarios which is reportedly leading to denial of export benefits on such services.

2. It is relevant that the ‘Intermediary’ has been defined in the sub-section (13) of section 2 of the IGST Act as under –

Intermediary means a broker, an agent or any other person, by whatever name called, who arranges or facilitates the supply of goods or services or both, or securities, between two or more persons, but does not include a person who supplies such goods or services or both or securities on his own account.

3. The definition of intermediary inter alia has specific exclusion of a person i.e. that of a person who supplies such goods or services or both or securities **on his own account**. It may be recalled that in the circular dated 18.07.2019, the definition of ITeS under Rule 10TA of the Income Tax rules had been adopted for defining IT/ ITeS services. The circular provides for three scenarios as under to examine whether ITeS services are to be classified as intermediary services or not.

Scenario 1

3.1.1 Scenario 1 clarifies that pure ITeS services provided on own account and as listed in Rule 10TA of the Income Tax Rules do not qualify for intermediary services. It has been represented that Rule 10TA of the Income Tax Rules excludes all research and development services including contract research and development services from the definition of ITeS services and as the above circular only refers to ITeS service, **all research and development services including contract research and development services, even** when the same is provided on own account also **gets excluded in Scenario 1**. This may give rise to doubts whether Research and Development services of ITeS sector, provided on own account, are excluded from intermediary or not.

Scenario 2

3.2.1 Scenario 2 of the Circular dated 18.07.2019 clarifies that backend services including support services, during pre-delivery, delivery and post-delivery of supply (such as order placement and delivery and logistical support, obtaining relevant Government clearances, transportation of goods, post-sales support and other services, etc.) fall under the ambit of intermediary under sub-section (13) of section 2 of the IGST Act as these services are merely for arranging or facilitating the supply of goods or services or both between two or more persons. **It may be noted that the circular does not specifically mention the words “on his own account” in this scenario.**

3.2.2 It has been represented that there is no clear demarcation between the services defined under Scenario 1 and Scenario 2 and therefore, there is confusion in applicability of the scenarios. Scenario 2 reconfirms the judgement of VSERVEGLOBAL where the company is merely facilitating the supply of services / goods between overseas clients and customers of overseas clients. It has been stated that there is a disconnect between the legal position of the definition of intermediary in the Service tax domain vis-à-vis GST.

3.2.3 It is noted that in service tax regime, an intermediary was the one providing broker services and the concept was not extended to support services. The clarification provided vide circular dated 18.07.2019 seems to have expanded the scope of intermediary to cover even those pre-delivery, delivery

and post-delivery support services which are provided on own account. For example, a call centre to manage pre-delivery enquiries on product specifications, prices or post-delivery support on goods like installation, after sales service etc. also appear to be getting covered in the scope of intermediary services covered in scenario 2 of the said circular.

3.2.4 However, Scenario 2 primarily covers only those backend services which are not provided by the service provider on his own account i.e. where such a service provider is connected to the supply chain of delivery of goods or service between his customer and the client. Typically, the remuneration for such services is linked to the value of supplies, commonly known as ‘commission’ in the trade parlance. It is noteworthy that similar definition and principles were developed under the Service Tax. The definition and treatment of intermediary service as provided in the Education Guide to Service Tax is detailed in **Annexure II**.

4. Similarly, request has also been made to delete the Scenario 3 as it states that when the supplier does the supply in both ways viz. ‘on his account’ as well as ‘not on his own account’, then the supply needs to be determined on case to case basis.

5. In order to remove ambiguity, the issue was placed before the Law Committee in its meeting held on 13.09.2019 along with a draft Circular. Law Committee had deliberated on the issue and recommended issuance of the circular; the same is enclosed as **Annexure I**.

6. The issue is placed before the Council for further deliberation and approval.

CBEC-20/X/X/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: Clarification on doubts related to supply of Information Technology enabled Services (ITeS services) –reg.

Circular No. 107/26/2019-GST dated 18.07.2019 was issued clarifying various aspects of supply of Information Technology enabled Services (ITeS services).

2. Various representations have since been received citing ambiguity caused in interpretation on account of 3 scenarios mentioned in the said circular. In view of prescription in Scenario 1 and Scenario 2, specific clarification has been sought on issues related to supply of Information Technology enabled Services (hereinafter referred to as “ITeS services”) such as call centre, business process outsourcing services, etc. and “Intermediaries” to overseas entities under GST law and whether they qualify to be “export of services” or otherwise.

3. 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 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”), in supersession of Circular No. 107/26/2019-GST dated 18.07.2019, hereby clarifies the issues in succeeding paragraphs.

4 ‘Intermediary’ has been defined in the sub-section (13) of section 2 of the Integrated Goods and Service Tax Act, 2017 (hereinafter referred to as “IGST” Act) as under –

“Intermediary means a broker, an agent or any other person, by whatever name called, who arranges or facilitates the supply of goods or services or both, or securities, between two or more persons, but does not include a person who supplies such goods or services or both or securities on his own account.”

4.1 The definition of intermediary inter alia provides specific exclusion of a person who supplies such goods or services or both or securities on his own account. It is noteworthy that the supplies involving intermediary services would involve two supplies in the same transaction i.e. a principal

supply of goods and services and a supply of intermediary service facilitating the principal supply provided either to the supplier or the recipient.

4.2 Information Technology enabled Services (ITeS services), though not defined under the GST law, have been defined under the sub-rule (e) of rule 10 TA of the Income-tax Rules, 1962 which pertains to Safe Harbour Rules for International Transactions. It defines ITeS services as-

"information technology enabled services" means the following business process outsourcing services provided mainly with the assistance or use of information technology, namely:—

- (i) *back office operations;*
 - (ii) *call centres or contact centre services;*
 - (iii) *data processing and data mining;*
 - (iv) *insurance claim processing;*
 - (v) *legal databases;*
 - (vi) *creation and maintenance of medical transcription excluding medical advice;*
 - (vii) *translation services;*
 - (viii) *payroll;*
 - (ix) *remote maintenance;*
 - (x) *revenue accounting;*
 - (xi) *support centres;*
 - (xii) *website services;*
 - (xiii) *data search integration and analysis;*
 - (xiv) *remote education excluding education content development; or*
 - (xv) *clinical database management services excluding clinical trials,*
- but does not include any research and development services whether or not in the nature of contract research and development services”*

5. Generally, an “intermediary” is a person who arranges or facilitates a supply of goods, or a provision of service, or both, between two persons, without material alteration or further processing. In order to ascertain whether a supply made by a registered person falls under the ambit of “intermediary services”, following salient features need to be kept in consideration -

- I. **Number of parties and supplies:** Intermediary service involves minimum three parties and the service provider providing intermediary service is typically involved with two supplies at any one time (i) the supply between the principal and the third party; and (ii) the supply by intermediary of his own service (agency service) to his principal, for which a fee or commission is usually charged..
- II. **Nature and value:** An intermediary cannot alter the nature or value of the services or goods, the supply of which he facilitates on behalf of his principal, although the principal may authorize the intermediary to negotiate a different price. Also, the principal must know the exact value at which the services or goods are supplied on his behalf, and any discounts that the intermediary obtains must be passed back to the principal.
- III. **Separation of value:** The value of an intermediary’s service is invariably identifiable from the main supply of service or goods that he is arranging. It can be based on an

agreed percentage of the sale or purchase price. Generally, the amount charged by an agent from his principal is referred to as “commission”.

IV. Identity and title: The service provided by the intermediary on behalf of the principal is clearly identifiable.

6. Applying the abovementioned guiding principles, services provided by the Travel Agent, Tour Operator, Commission agent, etc. will qualify as ‘intermediary services’. Even in other cases, wherever a provider of any service acts as an intermediary for another person, the above guiding principles will apply. Normally, it is expected that the intermediary or agent would have documentary evidence authorizing him to act on behalf of the provider of the ‘main service’.

Illustration:

There may be various scenarios when a supplier of ITeS services located in India supplies services to or on behalf of his client located abroad. Some of the scenarios are discussed below:

Case I -

‘X’ operates a call centre on his own account, from where he is providing call centre service to his client ‘Y’ by dealing with the customers of the client on the client’s behalf. In this case, though ‘X’ is dealing with the customers of his client on the client’s behalf, the supply of call centre service by ‘X’ is to ‘Y’ and is on his own account on principal to principal basis. Therefore, as per definition of sub-section (13) of section 2 of Integrated Goods and Service Tax Act, 2017, X cannot be considered an intermediary in this case.

Case II-

‘A’, who is located out of India, uses service of ‘B’, located in India, to procure purchase orders for his ITeS service. ‘B’ contacts potential customers for ITeS service of ‘A’, markets and promotes the services of ‘A’, provides quotations, negotiates the price as well as the terms and conditions of the supply on behalf of ‘A’ and assist in finalizing or closing the deal/ contract/ agreement/ order with ‘C’. ‘B’ receives consideration from ‘A’ in form of fee/ commission/ brokerage which may be a percentage of the value of the principal supply made by ‘A’ to ‘C’, or based on some other agreed terms. In such a case, principal supply is between ‘A’ and ‘C’, while ‘B’ is merely arranging or facilitating the supply of services between ‘A’ and ‘C’, and such principal supply of services is not on his own account. Accordingly, in this case, ‘B’ acts as an intermediary as per definition of sub-section (13) of section 2 of Integrated Goods and Service Tax Act, 2017.

Case III-

P, who is located outside India, wants insurance claims processing service (an ITeS service) for his company and for this purpose, he utilizes the service of Q, located in India, for arranging insurance claims processing service. Q contacts R, who is in business of providing insurance claims processing service, and arranges supply of insurance claims processing service by R to P. Q charges P a commission or service charge of 1% of the value of insurance claims processing service provided by R to P. In such a case, Q acts as an intermediary.

Case IV:

‘A’, who is located outside India, requires software technical support services to be provided to his clients in India or abroad, which include activities like trouble shooting, bug fixing, software upgrades etc. He outsources some of this work to ‘B’, located in India, who deals with the clients of ‘A’ for

providing such technical support on behalf of 'A'. In this case also, the service of technical support has been provided by B to A on his own account on principal to principal basis and therefore, 'B' cannot be considered as an intermediary in respect of the said service.

6.1 It is possible that a person may be intermediary for one supply while for other supply, he may not be intermediary, as it will depend upon the nature of the particular supply.

7. Further, it is also clarified that supplier of ITeS services who is not an intermediary in terms of sub-section (13) of section 2 of the IGST Act, can avail benefits of export of services, subject to satisfaction of the criteria mentioned in sub-section (6) of section 2 of the IGST Act, 2017 and subject to other provisions of IGST Act, 2017. Provisions of sub-section (6) of section 2 of the IGST Act, 2017 read as under –

“export of services means the supply of any service when,—

(i) the supplier of service is located in India;

(ii) the recipient of service is located outside India;

(iii) the place of supply of service is outside India;

(iv) the payment for such service has been received by the supplier of service in convertible foreign exchange; and

(v) the supplier of service and the recipient of service are not merely establishments of a distinct person in accordance with Explanation 1 in section 8.”

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

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

(Yogendra Garg)
Principal Commissioner GST

5.9.6 What are “Intermediary Services”?

Generally, an “intermediary” is a person who arranges or facilitates a supply of goods, or a provision of service, or both, between two persons, without material alteration or further processing.

Thus, an intermediary is involved with two supplies at any one time:

- i) the supply between the principal and the third party; and
- ii) the supply of his own service (agency service) to his principal, for which a fee or commission is usually charged.

For the purpose of this rule, an intermediary in respect of goods (such as a commission agent i.e. a buying or selling agent, or a stockbroker) is excluded by definition.

Also excluded from this sub-rule is a person who arranges or facilitates a provision of a service (referred to in the rules as “the main service”), **but provides the main service on his own account.**

In order to determine whether a person is acting as an intermediary or not, the following factors need to be considered:-

Nature and value: An intermediary cannot alter the nature or value of the service, the supply of which he facilitates on behalf of his principal, although the principal may authorize the intermediary to negotiate a different price. Also, the principal must know the exact value at which the service is supplied (or obtained) on his behalf, and any discounts that the intermediary obtains must be passed back to the principal.

Separation of value: The value of an intermediary’s service is invariably identifiable from the main supply of service that he is arranging. It can be based on an agreed percentage of the sale or purchase price. Generally, the amount charged by an agent from his principal is referred to as “commission”.

Identity and title: The service provided by the intermediary on behalf of the principal is clearly identifiable.

In accordance with the above guiding principles, services provided by the following persons will qualify as ‘intermediary services’:-

- i) Travel Agent (any mode of travel)
- ii) Tour Operator
- iii) Commission agent for a service [an agent for buying or selling of goods is excluded]
- iv) Recovery Agent

Even in other cases, wherever a provider of any service acts as an intermediary for another person, as identified by the guiding principles outlined above, this rule will apply. Normally, it is expected that the intermediary or agent would have documentary evidence authorizing him to act on behalf of the provider of the ‘main service’.

Illustration: A freight forwarder arranges for export and import shipments. There could be two possible situations here- one when he acts on his own account, and the other, when he acts as an intermediary.

When the freight forwarder acts on his own account (say, for an export shipment)

A freight forwarder provides domestic transportation within taxable territory (say, from the exporter’s factory located in Pune to Mumbai port) as well as international freight service (say, from Mumbai port to the international destination), under a single contract, on his own account (i.e. he buys-in and sells freight transport as a principal), and charges a consolidated amount to the exporter. This is a service of

transportation of goods for which the place of supply is the destination of goods. Since the destination of goods is outside taxable territory, this service will not attract service tax. Here, it is presumed that ancillary freight services (i.e. services ancillary to transportation- loading, unloading, handling etc) are “bundled” with the principal service owing to a single contract or a single price (consideration). On an import shipment with similar conditions, the place of supply will be in the taxable territory, and so the service tax will be attracted.

When the freight forwarder acts as an intermediary

Where the freight forwarder acts as an intermediary, the place of provision will be his location. Service tax will be payable on the services provided by him. However, when he provides a service to an exporter of goods, the exporter can claim refund of service tax paid under notification for this purpose. Similarly, persons such as call centres, who provide services to their clients by dealing with the customers of the client on the client’s behalf, but actually provided these services on their own account, will not be categorized as intermediaries.

Agenda Item 22(iii): Single disbursement related amendments of rule 91 of the CGST Rules

Several amendments, related to the single disbursement process, were carried out in rule 92 (order sanctioning refund) of the CGST Rules vide Notification No. 31/2019 – Central Tax dated 28.06.2019. These amendments will be operationalized with effect from a date to be notified later. However, similar amendments also need to be carried out in rule 92 (grant of provisional refund) of the CGST Rules. The matter was discussed in the meeting of the Law Committee held on 13.09.2019 and certain amendments to rule 91 of the CGST Rules were recommended to bring the same at par with rule 92. The same are enclosed as **Annexure-A** (proposed amendments are shown in **red and underlined**).

2. The recommended amendments are placed before the Council for consideration and approval.

Amendments in rule 91 of the CGST Rules recommended by the Law Committee

91(3) The proper officer shall issue a payment order in **FORM GST RFD-05** for the amount sanctioned under sub-rule (2) and the same shall be electronically credited to any of the bank accounts of the applicant mentioned in his registration particulars and as specified in the application for refund on the basis of a consolidated payment advice:

Provided that the payment order in **FORM GST RFD-05** shall be required to be revalidated where the refund has not been disbursed within the same financial year in which the said payment order was issued.

(3A) The Central Government shall disburse the refund based on the consolidated payment advice issued under sub-rule (3).

Agenda Item 22(iv): Doubts raised on treatment of secondary or post-sales discounts under GST

It may be recalled that Circular No. 92/11/2019-GST dated 07.03.2019 was issued to clarify issues related to treatment of sales promotion schemes under GST. Para 2 D of the said circular specifically clarifies issues related to secondary / post-sales discount. However, further queries were received from trade and industry regarding treatment of post-sales discount and accordingly the issue was re-clarified in Circular No. 105/24/2019-GST dated 28.06.2019. The relevant provisions of the said Circulars are as below:

Circular No. 92/11/2019-GST

“2 Diii.It is hereby clarified that financial / commercial credit note(s) can be issued by the supplier even if the conditions mentioned in clause (b) of sub-section (3) of section 15 of the said Act are not satisfied. In other words, credit note(s) can be issued as a commercial transaction between the two contracting parties.

iv. It is further clarified that such secondary discounts shall not be excluded while determining the value of supply as such discounts are not known at the time of supply and the conditions laid down in clause (b) of sub-section (3) of section 15 of the said Act are not satisfied.

v. In other words, value of supply shall not include any discount by way of issuance of credit note(s) as explained above in para 2 (D)(iii) or by any other means, except in cases where the provisions contained in clause (b) of sub-section (3) of section 15 of the said Act are satisfied.

vi. There is no impact on availability or otherwise of ITC in the hands of supplier in this case.”

Circular No. 105/24/2019-GST

*“3. It is clarified that if the post-sale discount is given by the supplier of goods to the dealer without any further obligation or action required at the dealer’s end, then the post sales discount Circular No. 105/24/2019-GST Page 2 of 3 given by the said supplier will be related to the original supply of goods and it would not be included in the value of supply, in the hands of supplier of goods, subject to the fulfilment of provisions of sub-section (3) of section 15 of the CGST Act. However, if the additional discount given by the supplier of goods to the dealer is the post-sale incentive **requiring the dealer to do some act like undertaking special sales drive, advertisement campaign, exhibition etc.**, then such transaction would be a separate transaction and the additional discount will be the consideration for undertaking such activity and therefore would be in relation to supply of service by dealer to the supplier of goods. The dealer, being supplier of services, would be required to charge applicable GST on the value of such additional discount and the supplier of goods, being recipient of services, will be eligible to claim input tax credit (hereinafter referred to as the “ITC”) of the GST so charged by the dealer.*

4. It is further clarified that if the additional discount is given by the supplier of goods to the dealer to offer a special reduced price by the dealer to the customer to augment the sales volume, then such additional discount would represent the consideration flowing from the supplier of goods to the dealer for the supply made by dealer to the customer. This additional discount as consideration, payable by any person (supplier of goods in this case) would be liable to be added to the consideration payable by the customer, for the purpose of arriving value of supply, in the hands of the dealer, under section 15 of the CGST Act. The customer, if registered, would be eligible to claim ITC of the tax charged by the dealer only to the extent of the tax paid by the said customer to the dealer in view of second proviso to sub-section (2) of section 16 of the CGST Act.”

2. Numerous representations have been received in this regard from retailers, Consumer Durable suppliers and Automobile associations expressing apprehensions on the implications of Para 3 and 4 of Circular No. 105/24/2019-GST dated 28.06.2019. It has been represented that **undertaking special sales drive, advertisement campaign, exhibition etc.** by the dealer on directions of the supplier is a very wide term and may lead to disputes. Also it has been interpreted that the prescription that the value of supply from the dealer to the customer in cases of special sales promotion discount shall include the discount offered by the principal supplier (OEM) to the dealer would lead to a surge in price of the discounted product being sold from the dealer to the customers, thus taking away the promotional aspect of such a scheme meant to attract the potential customer. It has been informed that in during the festive season, in a sluggish economy and in the end of accounting year, such discounts are a norm in the retail sector and automobile industry and that the clarification vide circular dated 28.06.2019 needs to be revisited.

3. In this regard, it is pertinent to reiterate the understanding of the provisions of the said Circulars before further analysis. The issue relates to supply of goods made by an OEM to a Dealer and then further from the dealer to the end customer. The gist of the present understanding, on combined reading of the above mentioned 2 Circulars, is detailed below:

- (a) Any discount by the OEM (principal supplier) to the dealer/retailer which is not relatable to the agreement or not mentioned in the invoice (secondary / post-sale discount) issued at the time of supply made by the OEM will not lead to any change in originally stated value of supply for the purpose of taxation and thus no tax adjustment would be permissible on account of such a post sales discount.
- (b) Secondly, there is no bar in issuance of a commercial Credit Note by the OEM to the dealer in order to offer the said secondary / post-sale discount.

4.1. As regards para 3 of the Circular dated 28.06.2019, it has been represented that it is not clear to whether post-sale discount linked only with purchases made by a dealer from supplier of goods pass the test of expression 'without any further obligation or action required at the dealer's end' or even the post-sale discount schemes linked to or contingent upon the quantity of actual secondary sales of the dealer to retailer will be covered by the said expression. It has been submitted that post purchasing goods from the supplier, existence of redistribution of goods is contractual obligation of the dealer and the redistribution margin in the hands of dealer is being subjected to GST with characterization of goods. It has been argued re-distribution involves many activities attached to it and augmentation of sales volume is inherently connected to the activity of the re-distributors primary role as a trade intermediary. It has been requested that Government should explain the true contours of the above expression used in the circular with the help of couple of illustrations in order to give complete clarity on the issue.

4.2. Further it has been submitted that it is not clear as to what all activities at dealer's end will be construed as separate transaction of 'service' between the dealer and supplier of goods and that the examples of undertaking special sales drive and advertisement campaign are very vague leading to further ambiguity in the matter, as supplier of goods extends discount to a dealer for achieving certain quantity targets of sales by dealer to retailers in market during a specified period. If there is no such stipulation or mandate for dealer to undertake certain activities, but as a regular business practice, dealer in order to become eligible for such discounts undertakes specific measures in the market through special efforts of its sales team in order to augment its own revenue/sales. It has been submitted that the condition to perform a service, is distinct from condition to achieve higher sales turnover, that too involving transactions on P to P basis. It has been argued that in a sales scenario, enhanced discounts are issued to achieve higher sales turnover, which does benefit both the distributor and manufacturer

and that one can't be a service provider and also a beneficiary of service. Will every sales augmentation effort on the part of dealer entitling him for post sales discount qualify as separate transaction of 'service' in the hands of dealer when dealer in the normal course even in the absence of any discount scheme extended by supplier of goods undertakes such sales efforts in order to maximize its profitability? It has been requested that the Government should explain the true contours of this clarification with the help of couple of illustrations in order to give complete clarity on the issue. For example, if dealer gives special financial incentives/bonus to its own sales team to motivate them to put sincere efforts in achieving best sales in the market, which in turn enables the dealer to qualify for discounts extended by supplier of goods, what would be the treatment of such discounts.

4.3. In this regard, it is proposed to clarify that :If a post sales discount in form of a credit note is passed on compensating the dealer for undertaking an advertisement campaign, free gifts given along with the principal supply, exchange bonus and the like activities on the directions of the principal supplier where the dealer may or may not have also contributed, the same would be treated as a consideration for the promotional activities (referred to as 'business auxiliary services' in the Service Tax regime) provided by the dealer to the principal supplier and chargeable to tax separately and the principal supplier would be eligible to avail ITC of the same. Any quantity discount known at the time of supply but which are linked to volume of supplies in specified period arrived at after the supplies have been made, aren't covered as a consideration for undertaking sales promotion activities and eligible for tax adjustment as provided in Section 15(3)(b) of the CGST Act ,2017. The tax treatment of such a discount would remain the same even if the dealer undertakes a promotional activity to achieve the requisite sales volumes, the same being on his own account and not being on the directions of the principal supplier.

5.1 As regards the provisions of para 4 of the Circular dated 28.06.2019, various scenarios have been examined and are tabulated below:

A (OEM) sells say a car to B (dealer) at Rs. 5,00,000 which is further sold to C (customer) at 10% markup. The tax rate has been considered as 30%:-

Normal Supply:

	A	B	C
<i>Value</i>	5,00,000	5,00,000	5,50,000
<i>Tax Paid</i>		150,000	165,000
<i>Tax collected</i>	150,000	165,000	
<i>Credit availed</i>		150,000	
<i>Profit</i>		50,000	
<i>Net Received</i>	500,000	50,000	(-) 7,15,000

Sales Promotion Scenario

(i) Assuming a 10% discount offered by the principal supplier to dealer for offering the same to the final customer of that car. Without the application of the Circular dated 28.06.2019, the following will be the calculations: -

	A	B	C
<i>Value</i>	5,00,000	4,50,000	5,00,000
<i>Discount offered</i>	50,000 (10%)		
<i>Value for the purpose of taxation</i>		5,00,000	5,00,000
<i>Tax Paid</i>		1,50,000	1,50,000
<i>Tax collected</i>	150,000	1,50,000	
<i>Credit availed</i>		1,50,000	
<i>Profit</i>		50,000	
<i>Net Received</i>	4,50,000	50,000	(-) 6,50,000

(ii) If the Circular dated 28.06.2019 is applied, the following will be the calculations: -

	A	B	C
<i>Value</i>	500,000	4,50,000	5,00,000
<i>Discount offered</i>	50,000 (10%)		
<i>Value for the purpose of taxation</i>		500,000	5,50,000
<i>Tax Paid</i>		150,000	1,65,000
<i>Tax collected (customer agrees to pay tax on higher value)</i>	150,000	1,65,000	
<i>Tax collected (customer doesn't agree to pay tax on higher value)</i>		1,50,000 + 15000 (borne by the dealer)	
<i>Credit availed</i>		150,000	
<i>Profit</i>		35,000	
<i>Net Received</i>	4,50,000	35,000	(-) 6,65,000

Therefore, due to the circular the cost of the car to the dealer increased by Rs. 15,000 due to additional tax burden on the post-sales discount offered to the dealer by the OEM (discount of Rs. 50,000).

5.2 The underlying principle of the clarification in para 4 of circular dated 28.06.2019 appears to be that the reimbursement or payment for supplies of goods or services from anyone other than the customer is still part of the consideration for the supply to the customer in view of the definition of 'consideration' in Section 2(31) of the CGST Act, 2017 being the payment for the inducement of the supply by 'any other person'. Now the issue in dispute is whether 'any other person' includes a person in the original supply chain also i.e. the principal supplier in this example or does it mean any other person not connected with this supply chain. For example, if a real estate developer issues a voucher to every home buyer which is redeemable at car dealership for Rs. 50,000 discount in value of car, then there is no doubt that the car is being supplied for Rs. 5,50,000 only but the customer is paying only Rs. 5,00,000 and Rs. 50,000 is being paid by another person. In this scenario the taxable value shall be Rs. 5,50,000 only. However, when the principal supplier issues a credit note to the dealer, such a supplier is in effect reducing the value of supply received by the dealer though without any tax adjustment in view of restriction under Section 15(3)(b) of the CGST Act, 2017. It appears that the clarification dated 28.06.2019 deeming such a discount also as a consideration for final consumption without allowing any tax adjustment for the primary supply needs to be revised.

5.3. Further, in terms of sub-section (1) of section 15 of the CGST Act when the supplier of the goods and the recipient are not related and price is the sole consideration for the supply, the value of the supply of goods shall be the transaction value, which is the price actually paid or payable for the said supply.

6. There is possibility that field officers may have initiated actions based on interpretation in para 3 and 4 of Circular No. 105/24/2019-GST dated 28.06.2019. This would adversely affect the taxpayers and retail sectors as explained in above paras and the same requires corrective action and clarification. The Law Committee in its meeting held on 13th September, 2019 has deliberated on the issue along with the proposed Circular (enclosed as Annexure). Law Committee recommended that the whole issue requires holistic examination, and Circular No. 105/24/2019-GST dated 28.06.2019 may be rescinded. Accordingly, it is proposed to rescind Circular No. 105/24/2019-GST dated 28.06.2019, *ab-initio*.

7. Accordingly, the matter is placed before the GST Council for further deliberation.

CBEC-XX/YY/ZZ/2018-GST
Government of India
Ministry of Finance
Department of Revenue
Central Board of Indirect Taxes and Customs
GST Policy Wing

New Delhi, Dated the 28th June, 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: Clarification on various doubts related to treatment of secondary or post-sales discounts under GST - reg.

Circular No. 105/24/2019-GST, dated 28.06.2019, was issued to clarify various doubts related to treatment of secondary or post-sales discount under GST. Post issuance of the circular, various representations have been received from trade and industry expressing apprehensions on the implications of Para 3 and 4 of Circular No. 105/24/2019-GST.

2. It has been represented that **undertaking special sales drive, advertisement campaign, exhibition etc.** by the dealer on directions of the supplier is a very wide term and may lead to disputes. It has been submitted that post purchasing goods from the supplier, redistribution of goods is a contractual obligation of the dealer. It has been argued re-distribution involves many activities attached to it and augmentation of sales volume is inherently connected to the activity of the re-distributors primary role as a trade intermediary. It has also been represented that adding the special sales promotion discount offered by the principal supplier to the dealer to value of supply from the dealer to the customer would lead to surge in price and would defeat the promotional aspect of such a scheme meant to attract the potential customer.

3. The matter has been examined. In order to ensure uniformity in the implementation of the law across the field formations, the Board, in exercise of its powers conferred under sub-section (1) of section 168 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as “the CGST Act”) clarifies the issues as under.

Sl. No.	Issue	Clarification
1.	Whether the post-sales discount offered by the manufacturer to the dealer shall be treated as a consideration for a separate transaction of supply of services by the dealer to the manufacturer in all the cases?	1. Any <u>quantity discount</u> known at the time of supply but which are linked to volume of supplies in specified period arrived at after the supplies have been made, are not covered as a consideration for undertaking sales promotion activities (i.e. no <u>further obligation or action required at the dealer's end</u>) and eligible for tax adjustment as

		<p>provided in sun-clause (b) of sub-section (3) of section 15 of the CGST Act, 2017. The tax treatment of such a discount would remain the same even if the dealer undertakes a promotional activity to achieve the requisite sales volumes on his own account and not on the directions of the principal supplier.</p> <p>2. A post-sale discount (in form of a credit note) passed on for compensating the dealer to undertake activities (on the directions of the principal supplier) like advertisement campaign, free gifts given along with the principal supply, exchange bonus and the like activities on the directions of the principal supplier, where the dealer may or may not have also contributed, would be treated as a consideration for a <u>‘separate transaction’</u> in the nature of promotional activities (referred to as ‘business auxiliary services’ in the Service Tax regime) provided by the dealer to the principal supplier. The same would be chargeable to tax separately and the principal supplier would be eligible to avail ITC of the same.</p>
2.	<p>Will the post-sale discount given by the manufacturer to the dealer impact the valuation of the subsequent supply by the dealer to the customer?</p>	<p>1. In terms of sub-section (1) of section 15 of the CGST Act when the supplier of the goods and the recipient are not related and price is the sole consideration for the supply, the value of the supply of goods shall be the transaction value, which is the price actually paid or payable for the said supply.</p> <p>2. The post-sale discount offered by the manufacturer to the dealer shall only be relevant for the valuation of supply between the manufacturer and the dealer and will not impact the valuation of the subsequent supply by the dealer(s) to the customer in any manner. However, it is clarified that if the reimbursement or payment for the inducement of the supply (by the dealer to the end customer at a reduced rate) is received from ‘any other person’ (other than the customer) it shall still form a part of the consideration for the value of the supply to the customer in view of the definition of ‘consideration’ in Section 2(31) of the CGST Act, 2017.</p>

4. Circular No. 105/24/2019-GST, dated 28.06.2019 is modified to the extent of clarification given above. It is requested that suitable trade notices may be issued to publicize the contents of this circular.
5. Difficulty if any, in the implementation of this Circular may be brought to the notice of the Board. Hindi version will follow.

(Yogendra Garg)
Principal Commissioner (GST)