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सत्यमेव जयते

Agenda for

38th GST Council Meeting

18 December 2019

Volume – 2

माल और सेवा कर परिषद
GOODS AND SERVICES TAX COUNCIL

File No: 654/38th GSTCM/GSTC/2019
GST Council Secretariat

Room No.275, North Block, New Delhi
Dated: 3rd December 2019

Notice for the 38th Meeting of the GST Council scheduled on 18th December 2019

The undersigned is directed to refer to the subject cited above and to say that the 38th Meeting of the GST Council will be held on 18th December 2019 at NDMC Convention Centre, Sansad Marg, New Delhi. The schedule of the meeting is as follows:

- Wednesday, 18 December 2019 : 14:00 hours onwards

2. In addition, an Officers' Meeting will be held on 17th December 2019 at the same venue as per following schedule:

- Tuesday, 17 December 2019 : 11:00 hours onwards

3. The agenda items for the 38th Meeting of the GST Council will be communicated in due course of time.

4. Please convey the invitation to the Hon'ble Members of the GST Council to attend the 38th 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, Union Territories of Delhi, Puducherry and Jammu and Kashmir with the request to intimate the Minister in charge of Finance/Taxation or any other Minister nominated by the State Government as a Member of the GST Council about the above said meeting.

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

5. Chairman, GST Network

Agenda Items for the 38th Meeting of the GST Council on 18th December 2019

1. Confirmation of the Minutes of 37th GST Council Meeting held on 20th September 2019
2. Issues concerning GST on Lottery
3. Revenue Analysis
   Recommendations of the GoM on Revenue Analysis and
   Deliberations of the Committee of Officers on Revenue Augmentation
4. Report of GoM on Real Estate
5. Issues recommended by the Fitment Committee for the consideration of the GST Council
6. Issues recommended by the Law Committee for the consideration of the GST Council
7. Creation of Public Grievance Redressal Committee as per Hon'ble High Court of Delhi's order in the case of Sales Tax Bar Association
8. Status of Group of Ministers (GoMs) constituted for various agenda items
9. Deemed ratification by the GST Council of Notifications, Circulars and Orders issued by the Central Government
10. Decisions of the GST Implementation Committee (GIC) for information of the Council
11. Decisions/Recommendations of the IT Grievance Redressal Committee for information of the Council
12. Quarterly Report of the NAA for the quarter July to September 2019 for the information of the GST Council
13. Presentation on developments regarding implementation of
    i. GST EWB System – FASTag Integration
    ii. New Return System
    iii. Integrated refund system with disbursal by single authority
    iv. Generation of electronic Invoice Reference Number
    v. Linking GST registration with Aadhaar and proposed changes in the GST Law and GSTN System
14. Clarification on GST rate on fabrics and articles of textiles falling in Chapters 56 to 59 of the tariff pursuant to the order of the Hon'ble High Court of Delhi in Writ petition (Civil) No. 597 of 2019
15. Any other agenda item with the permission of the Chairperson
16. Date of the next meeting of the GST Council

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Agenda Item 3: GST Revenue Augmentation

GST is a landmark reform in the indirect tax regime of India. Prior to introduction of GST, Government had appointed a committee to recommend possible tax rates under GST that would be consistent with the existing level of revenue collection of Centre and States, i.e. revenue neutral rate or RNR. It was to be that single rate that gets converted into a whole rate structure, depending on policy choices. The Committee headed by the then Chief Economic Advisor, Dr. Arvind Subramanian, was of the view that the range of RNR should be between 15% and 15.5% (Centre and states combined). This was in the backdrop of a two-rate structure, a standard rate close to RNR at which maximum tax base would be taxed; and a higher, demerit or sin rate. The RNR recommendation was also based on the assumption that on introduction of GST, the Indian tax administration collection efficiency would move up.

2. In the 3rd and 4th GST Council meeting, the broad principles on the basis of which GST Rates were to be determined were finalised, the most important among those being that the GST rate should be closest to present combined tax incidence (including cascading). In the 14th and 15th GST Council meeting, goods and services were fit in one of the four GST slabs (5%, 12%, 18% and 28%) in addition to the exempted category.

3. Since the introduction of GST, several rate revision and rationalization exercises have been done and several other factors such as increase in the threshold limit for exemption and changes in composition scheme have impacted GST revenue and there is a widening gap between the projected revenue collection and the fund requirement which calls for immediate measures for revenue augmentation. Broadening of tax base, additional resource mobilization and improved tax compliance will help achieve the desired outcome of revenue augmentation.

4. A committee of officers was constituted for the above purpose with terms of reference including *inter-alia*, suggestions of measures for expansion of tax base. States were also requested to provide specific suggestions on GST and compensation cess rates to be levied on various items, review of current exemptions, rate calibration for addressing inverted duty structure, introduction of compliance measures other than those already in existence and any other measures for revenue augmentation.

5. The Committee of Officers so constituted have met two times so far (on the 15th of October and 10th of December, 2019) and has taken into consideration the suggestions received from the States as well. A detailed presentation on the revenue scenarios and policy options would be made in the GST Council Meeting.

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

Agenda Item 6(i): Standard Operating Procedure to be followed in case of non-filers of returns

It has been brought to notice that there is a divergent practice among tax officials of the States; and between tax officials of the States and Centre regarding the procedure to be followed while dealing with non-filers of returns under section 39 i.e. **FORM GSTR-3B** and section 45. The matter was brought before the Law Committee in its meeting held on 26th November, 2019 for further deliberation.

2. Upon examination of the legal provisions and the divergent practices, the Law Committee suggested issuance of a Circular clarifying the procedure to be followed in such cases, as below:–

(i) A system generated message will be sent to all return defaulters immediately after the due date to the effect that he has not filed his return;

(ii) A notice in **FORM GSTR 3A** shall be sent to the defaulter by the proper officer five days after the due date of filing;

(iii) In case the return is still not filed, assessment under section 62 and order in **FORM ASMT-13** shall be issued and **FORM DRC-07** to be uploaded;

(iv) For the purpose of this assessment, the proper officer to take into account the **GSTR-1**, if any filed, by the non-filer of return, supplies auto-populated from **GSTR-2A**, where available, information available from e-way bills, if any and information available from any other source, including from inspection under section 71 or any other source;

(v) In case the return still remains unfurnished within the statutory period of 30 days from issuance of **FORM GST ASMT 13** then recovery proceedings u/s 78 to be initiated;

(vi) In deserving cases action under section 83 may be contemplated before issuance of **FORM GST ASMT 13**;

(vii) In cases where the return has not been filed for 6 consecutive months/three tax periods in case composition taxpayers, action under section 29 for cancellation of registration to be initiated.

3**.** Accordingly, a draft circular was placed before the Law Committee in its meeting held on 11.12.2019. The Law Committee has vetted the circular and recommended issuance of same; the same is placed as Annexure-A to the Agenda.

4. The agenda is placed before the GST Council for approval of the Circular.

Annexure A

CBEC-20/16/04/18-GST
Government of India
Ministry of Finance
Department of Revenue
Central Board of Indirect Taxes and Customs
GST Policy Wing
****

New Delhi, Dated the 18th November, 2019

To,

The Principal Chief Commissioners/Chief Commissioners/Principal Commissioners/ Commissioners of Central Tax (All) / The Principal Director Generals/ Director Generals (All)
The Principal Chief Controller of Accounts (CBIC)
Madam/Sir,

Subject: Standard Operating Procedure to be followed in case of non-filers of returns

Doubts have been raised across the field formations in respect of the appropriate procedure to be followed in case of non-furnishing of return under section 39 or section 44 or section 45 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the CGST Act). It has further been brought to the notice that divergent practices are being followed in case of non-furnishing of the said returns.

2. The matter has been examined. In order to clarify the issue and to ensure uniformity in the implementation of the provisions of the law across field formations, the Board, in exercise of its powers conferred by section 168 (1) of the CGST Act, hereby issues the following clarifications and guidelines.

3. Section 46 of the CGST Act read with rule 68 of the Central Goods and Services Rules, 2017 (hereinafter referred to as the "CGST Rules") requires issuance of a notice in **FORM GSTR-3A** to a registered person who fails to furnish return under section 39 or section 44 or section 45 (hereinafter referred to as the "defaulter") requiring him to furnish such return within fifteen days. Further section 62 provides for assessment of non-filers of return of registered persons who fails to furnish return under section 39 or section 45 even after service of notice under section 46. FORM GSTR-3A provides as under:

"Notice to return defaulter u/s 46 for not filing return

Tax Period - *Type of Return -*

Being a registered taxpayer, you are required to furnish return for the supplies made or received and to discharge resultant tax liability for the aforesaid tax period by due date. It has been noticed that you have not filed the said return till date.

1. *You are, therefore, requested to furnish the said return within 15 days failing which the tax liability may be assessed u/s 62 of the Act, based on the relevant material available with this office. Please note that in addition to tax so assessed, you will also be liable to pay interest and penalty as per provisions of the Act.*

2. *Please note that no further communication will be issued for assessing the liability.*

3. *The notice shall be deemed to have been withdrawn in case the return referred above, is filed by you before issue of the assessment order."*

As such, no separate notice is required to be issued for best judgment assessment under Section 62 and in case of failure to file return within 15 days of issuance of GSTR-3A, the best judgment assessment in FORM ASMT-13 can be issued without any further communication.

4. Following guidelines are hereby prescribed to deal with each of the aforesaid scenarios to ensure uniformity in the implementation of the provisions of law across the field formations:

(i) Preferably, a system generated message would be sent to all the registered persons 3 days before the due date to nudge them about filing of the return for the tax period by the due date.

(ii) Once the due date for furnishing the return under section 39 is over, a system generated mail / message would be sent to all the defaulters immediately after the due date to the effect that the said registered person has not furnished his return for the said tax period; the said mail/message is to be sent to the authorized signatory as well as the proprietor/partner/director/karta, etc.

(iii) Five days after the due date of furnishing the return, a notice in FORM GSTR-3A (under section 46 of the CGST Act read with rule 68 of the CGST Rules) shall be issued electronically to such a registered person who fails to furnish return under section 39, requiring him to furnish such return within fifteen days;

(iv) In case the said return is still not filed by the defaulter within 15 days of the said notice, the proper officer may proceed to assess the tax liability of the said person under section 62 of the CGST Act, to the best of his judgement taking into account all the relevant material which is available or which he has gathered and would issue order under rule 100 of the CGST Rules in **FORM GST ASMT-13.** The proper officer would then be required to upload the summary thereof in **FORM GST DRC-07;**

(v) For the purpose of assessment of tax liability under section 62 of the CGST Act, the proper officer may take into account the details of outward supplies available in the statement furnished under section 37 (**FORM GSTR-1**), details of supplies auto-populated in **FORM GSTR-2A**, information available from e-way bills, or any other information available from any other source, including from inspection under section 71;

(vi) In case the defaulter furnishes a valid return within thirty days of the service of assessment order in **FORM GST ASMT-13,** the said assessment order shall be deemed to have been withdrawn in terms of provision of sub-section (2) of section 62 of the CGST Act**.** However, if the said return remains unfurnished within the statutory period of 30 days from issuance of order in **FORM ASMT-13,** then proper officer may initiate proceedings under section 78 and recovery under section 79 of the CGST Act;

5. Above general guidelines may be followed by the proper officer in case of non-furnishing of return. In deserving cases, based on the facts of the case, the Commissioner may resort to provisional attachment to protect revenue under section 83 of the CGST Act before issuance of **FORM GST ASMT-13.**

6. Further, the proper officer would initiate action under section 29(2) of the CGST Act for cancellation of registration in cases where the return has not been furnished for the period specified in section 29.

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

8. 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 6(ii): Proposed amendments in the CGST Act, 2017

Various representations, suggestions received and other feedbacks brought to notice through social, electronic and print media regarding issues / difficulties in the GST regime faced by trade and industry. On examination and analysis of the above, it was felt that certain amendments in the GST laws may be carried out. The Law Committee in its meeting on 11th and 12th December, 2019 has recommended some of the amendments in the GST law. The rationale and the proposed amendment is annexed to this Agenda Note **(Annexure 1)**. The proposed amendments can broadly be classified under Revenue Augmentation measures, Trade facilitation and Simplification measures; and Enforcement measures.

2. Following sections are proposed to be amended.

Sl. No.	**Sections to be amended**	**Purpose**
1.	Supply schedules (Section 7)	Trade facilitation and Simplification measures
2.	10 (Composition Scheme)	Trade facilitation and Simplification measures and Revenue Augmentation
3.	16 (4)	Trade facilitation and Simplification measures
4.	29	Trade facilitation and Simplification measures
5.	31	Trade facilitation and Simplification measures and Revenue Augmentation and Enforcement measures
6.	49	Revenue Augmentation and Enforcement measures
7.	51	Trade facilitation and Simplification measures
8.	122 & 132	Revenue Augmentation and Enforcement measures
9.	Section 140	Simplification measures
10.	Section 168	Trade facilitation and Simplification measures
11.	Section 172	Administrative measures
12.	Section 17	Trade facilitation and Simplification measures

3. The above proposals for amendment in the CGST Act, 2017, as recommended by the Law Committee is placed before the GST Council for approval. The exact wordings of the amendments shall be finalised in consultation with the Union Law Ministry. Similar amendments in law would have to be made in the respective SGST Acts as well.

Annexure 1

LAW AMENDMENT PROPOSALS – CGST Act, 2017

Sl. No.	Section	Gist of issue	Proposal	Suggested formulation	Consequential changes
1.	**Supply schedules**	**1.** Clause (c) of sub-section (1) of section 7 of the CGST Act specifies that supplies would include *the activities specified in Schedule I, made or agreed to be made without a consideration*; and accordingly, 4 entries have been made in Schedule I. **2.** Further, Schedule II of the CGST Act specifies whether certain transactions, which constitute a supply, are to be treated as supply of Goods or as supply of services i.e. Schedule II is for the purposes of classifying a transaction and not for making it a supply. With the amendment made in 2018 w.e.f. 01.02.2019, any entry in Schedule II doesn't become a supply by itself. **3.** Schedule II has, *inter-alia*, the following entries	Accordingly, the Law Committee recommended that the entries at 4(a) & 4(b) in Schedule II may be rectified by omitting the term "***whether or not for a consideration***" retrospectively, w.e.f. 01.07.2017.	SCHEDULE II [*See* Section7] ACTIVITIES [1][OR TRANSACTIONS] TO BE TREATED AS SUPPLY OF GOODS OR SUPPLY OF SERVICES 1. Transfer (a) any transfer of the title in goods is a supply of goods; (b) any transfer of right in goods or of undivided share in goods without the transfer of title thereof, is a supply of services; (c) any transfer of title in goods under an agreement which stipulates that property in goods shall pass at a future date upon payment of full consideration as agreed, is a supply of goods. 2. Land and Building (a) any lease, tenancy, easement, licence to	

[1] Ins. by Act 31 of 2018, s. 31, (w.e.f. 01.07.2017)

		at entry 4: *4. Transfer of business assets* *(a) where goods forming part of the assets of a business are transferred or disposed of by or under the directions of the person carrying on the business so as no longer to form part of those assets,* ***whether or not for a consideration****,* *such transfer or disposal is a supply of goods by the person;* *(b) where, by or under the direction of a person carrying on a business, goods held or used for the purposes of the business are put to any private use or are used, or made available to any person for use, for any purpose other than*		occupy land is a supply of services; (b) any lease or letting out of the building including a commercial, industrial or residential complex for business or commerce, either wholly or partly, is a supply of services. 3. Treatment or process Any treatment or process which is applied to another person's goods is a supply of services. 4. Transfer of business assets (a) where goods forming part of the assets of a business are transferred or disposed of by or under the directions of the person carrying on the business so as no longer to form part of those assets, ~~whether or not for a consideration~~, such transfer or disposal is a supply of goods by the person; (b) where, by or under the direction of a person carrying on a business, goods held or used for the purposes of the business are put to any private use	

		*a purpose of the business, **whether or not for a consideration**, the usage or making available of such goods is a supply of services;* **4.** It is noteworthy that the above transactions, made without a consideration, are not explicitly getting covered as supplies, but have been classified under Schedule II. The Law Committee examined the matter and it was felt that transactions mentioned in entry 4 (a) and 4 (b) of Schedule II, when not for a consideration, are either getting covered by an entry in Schedule I or the law mandates reversal of ITC for the said transactions, and therefore it is not required to specifically cover them under Schedule I.		or are used, or made available to any person for use, for any purpose other than a purpose of the business, ~~whether or not for a consideration~~, the usage or making available of such goods is a supply of services; (c) where any person ceases to be a taxable person, any goods forming part of the assets of any business carried on by him shall be deemed to be supplied by him in the course or furtherance of his business immediately before he ceases to be a taxable person, unless— (i) the business is transferred as a going concern to another person; or (ii) the business is carried on by a personal representative who is deemed to be a taxable person. 5. Supply of services The following shall be treated as supply of services, namely:- (a) renting of immovable property;	

				(b) construction of a complex, building, civil structure or a part thereof, including a complex or building intended for sale to a buyer, wholly or partly, except where the entire consideration has been received after issuance of completion certificate, where required, by the competent authority or after its first occupation, whichever is earlier. *Explanation*.—For the purposes of this clause— (1) the expression "competent authority" means the Government or any authority authorised to issue completion certificate under any law for the time being in force and in case of non-requirement of such certificate from such authority, from any of the following, namely:– (i) an architect registered with the Council of Architecture constituted under the Architects Act, 1972 (20 of 1972); or (ii) a chartered engineer registered with the	

				Institution of Engineers (India); or (iii) a licensed surveyor of the respective local body of the city or town or village or development or planning authority; (2) the expression "construction" includes additions, alterations, replacements or remodeling of any existing civil structure*;* (c) temporary transfer or permitting the use or enjoyment of any intellectual property right; (d)development, design, programming, customisation, adaptation, upgradation, enhancement, implementation of information technology software; (e)agreeing to the obligation to refrain from an act, or to tolerate an act or a situation, or to do an act; and (f) 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.	
2.	**10**	**1**. The Composition scheme as per section 10 was originally envisaged for suppliers of goods (and services referred to in clause (b) of paragraph 6 of Schedule II). With the amendment made in 2018 w.e.f. 01.02.2019, the scheme was modified such that the suppliers of goods opting for the scheme may supply services (other than those referred to in clause (b) of paragraph 6 of Schedule II), of value not exceeding ten per cent. of turnover in a State or Union territory in the preceding financial year or five lakh rupees, whichever is higher. Subsequently, it was decided to introduce a composition scheme for suppliers not eligible for the earlier composition scheme. The same was introduced by a notification; and subsequently law was amended to provide for the said alternate composition scheme for residual	The Law Committee examined the matter and recommended that the section 10(2) may be harmonized by inserting the term "***or services***" in the clauses (b), (c) and (d).	**10. Composition levy.-** . . (2) . (b) he is not engaged in making any supply of goods or services which are not leviable to tax under this Act; (c) he is not engaged in making any inter-State outward supplies of goods or services; (d) he is not engaged in making any supply of goods or services through an electronic commerce operator who is required to collect tax at source under section 52;	

		suppliers. The said provisions [Section 10(2A)] have not been notified yet. **2.** In accordance with Section 10(2)(c), a registered person is eligible to opt for Composition Scheme under Section 10(1) if he is not engaged in making any inter-State outward supply of **goods**. Further, according to Section 10(2A)(b), a registered person is eligible to opt for Composition Scheme under Section 10(2A), if he is not engaged in making any inter-State outward supplies of **goods or services**. Similarly, in accordance with Section 10(2)(d), a registered person is eligible to opt for Composition Scheme under Section 10(1) if he is not he is not engaged in making any supply of **goods** through an electronic commerce operator who is required to collect tax at source under section 52. Further, according to Section 10(2A)(c), a registered			

		person is eligible to opt for Composition Scheme under Section 10(2A), if he is not engaged in making any supply of **goods or services** through an electronic commerce operator who is required to collect tax at source under section 52. **3.** Thus, there is a disharmony in the two aforementioned provisions as a registered person, who makes inter-state supply of services, or is engaged in making supply of services through an electronic commerce operator is **eligible** to opt for composition scheme under Section 10(1). However, a registered person who intends to opt for composition scheme under section 10(2A) is **not eligible** for making inter-state supply of services for making such supplies through an electronic commerce operator. **4.** Similarly, in accordance with Section 10(2)(b), a registered person is eligible to opt for Composition Scheme			

		under Section 10(1) if he is not engaged in making any supply of goods which are not leviable to tax under this Act. In contrast, Section 10(2A)(a) provides that a registered person is eligible to opt for Composition Scheme under Section 10(2A), if he is not engaged in making any supply of **goods or services** which are not leviable to tax under this Act.			
3.	**16**	**1.** Section 34 (3) allows issuance of debit note where "*a tax invoice has been issued for supply of any goods or services or both and the taxable value or tax charged in that tax invoice is found to be less than the taxable value or tax payable in respect of such supply*". Moreover, as per section 16(4), a registered person is not entitled to take credit of a debit note beyond "*the due date of furnishing of the return under section 39 for the month of September following the end of financial year to which*	The Law Committee examined the matter and felt that credit may be allowed for debit notes irrespective of the date of issuance of the underlying invoice <u>as anyway interest is being paid when tax liability is discharged</u> in case of debit note. Accordingly, the Law Committee recommended **to amend the**	**16.** . (4) A registered person shall not be entitled to take input tax credit in respect of any invoice or debit note for supply of goods or services or both after the due date of furnishing of the return under section 39 for the month of September following the end of financial year to which such invoice or ~~invoice relating to such~~ debit note pertains or furnishing of the relevant annual return, whichever is earlier.	

		such invoice or <u>invoice relating to such debit note</u> pertains or furnishing of the relevant annual return, whichever is earlier". **2.** Plain reading of the provisions suggests that in case debit note relating to an invoice is issued beyond September of the next financial year, the same is barred from claiming ITC by the recipient. This is leading to a problem for sectors such as Automobiles, Heavy Engg. PSUs etc. where a price revision is inbuilt in the contract, and as per the provisions, in case of escalation on this account a debit note can be issued and corresponding tax shall be collected and deposited to the Government along with interest, but corresponding credit to the recipient is barred.	**provisions of section 16(4) to allow ITC on debit notes by linking it to the date of issuance of the debit note by omitting the words "invoice relating to such".**	"Provided that the registered person shall be entitled to take input tax credit after the due date of furnishing of the return under section 39 for the month of September, 2018 till the due date of furnishing of the return under the said section for the month of March, 2019 in respect of any invoice or invoice relating to such debit note for supply of goods or services or both made during the financial year 2017-18, the details of which have been uploaded by the supplier under sub-section (1) of section 37 till the due date for furnishing the details under sub-section (1) of said section for the month of March, 2019."	
4.	**29**	**1.** It has been brought to notice that a taxpayer who has taken registration on voluntary basis cannot cancel his registration. **2.** The issue was discussed in the Law Committee in	Accordingly, Law Committee has recommended amendment in clause (c) of sub-section (1) of section 29 to	29. (1) The proper officer may, either on his own motion or on an application filed by the registered person or by his legal heirs, in case of death of such person,	

		its meeting held on 29.07.2019 and it was felt that someone who has taken voluntary registration should be allowed to also cancel his registration.	allow for the same.	cancel the registration, in such manner and within such period as may be prescribed, having regard to the circumstances where,— (a) the business has been discontinued, transferred fully for any reason including death of the proprietor, amalgamated with other legal entity, demerged or otherwise disposed of; or (b) there is any change in the constitution of the business; or (c) the taxable person, ~~other than the person registered under sub-section (3) of section 25,~~ is no longer liable to be registered under section 22 or section 24.	
5.	**31**	**1.** The Government intends to mandate taxpayers to issue invoices in an electronic manner. In order to provide for issuance of e-invoices, it was found that the legal provisions, as in section 31 of the CGST Act, do not provide for the manner of invoices to be prescribed in case of a registered	Accordingly, Law Committee recommended to make necessary amendments in section 31.	(2) A registered person supplying taxable services shall, before or after the provision of service but within a prescribed period, issue a tax invoice, showing the description, value, tax charged thereon and such other particulars as may be prescribed: Provided that the	

		person supplying taxable services. **2.** It was felt that the enabling provision to prescribe the manner of invoices in case of a registered person supplying taxable services may be created in sub-section (2) of section 31.		Government may, on the recommendations of the Council, by notification and subject to such conditions within such time and in such manner as may be mentioned therein, specify the categories of services in respect of which— (a) any other document issued in relation to the supply shall be deemed to be a tax invoice; or (b) tax invoice may not be issued.	
6.	**49**	**1.** Fraudulent ITC availment based on fake invoices has become quite rampant. As investigations get initiated, if the utilisation of such suspected credit continues, the investigation efforts get frustrated. However, at present there appears no explicit provision in the GST law allowing the authorities to block the ITC of business with the intent to safeguard Government revenue. Moreover, it was learnt that GSTN has already developed a utility for blocking and unblocking	Accordingly, the Law Committee recommended to have an enabling provision in the Act allowing for blocking of utilisation of ITC by way of insertion of a new proviso to sub-section (4) of section 49. This would allow the Commissioner, or an officer authorised by him in this behalf to restrict utilization of full or part	Amendment in **section 49 (4)** to insert the following**:** **"Provided that, where during the pendency of any proceedings under Chapter XIV of this Act, the Commissioner or an officer authorised by him in this behalf, may, for reasons to be recorded in writing and for the purpose of protecting the interest of the Government revenue, restrict utilization of full or part amount, from the credit available in the electronic credit ledger,**	

		ITC. **2.** The issue was discussed in the Law Committee and it was felt that enabling provision for blocking utilization of ITC by the tax authorities should be provided.	amount, from the credit available in the electronic credit ledger, for making any payment towards output tax or claiming input tax credit refund in a prescribed manner.	**for making any payment towards output tax or claiming input tax credit refund under this Act or under the Integrated Goods and Services Act in such manner as may be prescribed.”**	
7.	**51 / 51 (3) / (4)**	**1.** Various representations have been received from Government and Government organisations; as well as from trade and industry regarding difficulty in compliance and non-issuance of the TDS Certificate as per the provisions of sub-sections (3) and (4) of section 51. The matter was resolved in the system by making the certificate a system generated, downloadable document, thereby alleviating the requirement that the said certificate be issued by the deductor. Consequently, the late fee for non-issuance of the said certificate also lost its relevance. 2. It was felt appropriate	Accordingly, Law Committee recommended providing for system-generation of the certificate by amendment in sub-section (3) and doing away with the late fees requirement by omission of sub-section (4) of section 51.	**51. Tax deduction at source** .... (3) ~~The deductor shall furnish to the deductee a~~ A certificate ~~mentioning therein the contract value, rate of deduction, amount deducted, amount paid to the Government and such other particulars~~ in relation to the deduction shall be issued in such manner as may be prescribed. ~~(4) If any deductor fails to furnish to the deductee the certificate, after deducting the tax at source, within five days of crediting the amount so deducted to the Government, the deductor shall pay, by way of a late~~	

		that requisite amendments in section 51 may be carried out to do away with the legal requirement of late fees for delay in issuance of TDS certificate.		~~fee, a sum of one hundred rupees per day from the day after the expiry of such five days period until the failure is rectified, subject to a maximum amount of five thousand rupees.~~	
8.	**122 & 132**	**1.** Section 132 provides for various offences and penalties and punishment thereof. A lot of cases have been booked by preventive formations wherein ITC has been claimed without supporting invoices or receipt of goods or services. The said offence is classifiable in terms of section 132(1)(e) of the CGST Act, 2017. This type of offence is as grave as an offence under section 132(1)(c), having equal repercussions on the government revenue. **2.** Further, under section 69(1) of the CGST Act, the power to arrest is available only in cases where a person has committed any offence specified in clauses (a) to (d) of section 132(1) of the CGST Act. It appears that	Accordingly, the Law Committee recommended omission of the offence from clause (e) and insertion in clause (c) of sub-section (1) of section 132. The Law Committee further felt that such persons who are the beneficiaries of such transactions carried out by the dummy companies should also be commensurately financially penalised. Accordingly, the Law Committee recommended to make necessary amendments in	132 (1) Whoever commits any of the following offences, namely: — ... (c) avails input tax credit using such invoice or bill referred to in clause (b) or fraudulently avails input tax credit without invoice or bill; (d) collects any amount as tax but fails to pay the same to the Government beyond a period of three months from the date on which such payment becomes due; (e) evades tax, ~~fraudulently avails input tax credit or~~ fraudulently obtains refund and where such offence is not covered under clauses (a) to (d);	122. A new sub-section (1A) to be inserted as follows: .... "(1A) Every natural person who retains the benefit of a transaction covered under clauses (i), (ii), (vii) and (ix) of sub-section (1) and at whose instance such transaction is or was being conducted shall be liable to a penalty of an amount equivalent to the tax evaded or input tax credit availed of or passed on."

		an offence as grave as the instant case does not get covered under the ambit of section 69(1) of the CGST Act, 2017. **3.** A *modus operandi* has been noticed, wherein it can be seen that a mastermind engages other persons like daily wagers, rickshaw pullers etc. to open multiple firms to issue invoices without supply of goods or services to pass on the input tax credit. The mastermind also arranges for actual suppliers of goods or services, to whom, on payment of agreed amount of money, these invoices will be sold. These suppliers then avail this fraudulent credit of tax involved in respect of these fake invoices and then utilize this credit to either discharge duty liability or take fraudulent refund of duty paid on export of overvalued goods. In the entire operation/fraud, the person who is the mastermind is the key person who abets or causes the commission	section 132 by inserting an explanation to make any natural person who retains the benefit of the transaction liable for punishment; and insertion of a new sub-section in section 122 to make such persons liable for penalty.	. . . Explanation.- For the purposes of sub-section(1), the expression "whoever" shall include any natural person who retains the benefit of the transaction and at whose instance such transaction is or was being conducted.	

		of an offence. But, in the present scheme of GST law, stringent penal provisions are not available for such persons causing / abetting the offence. **4.** It was felt that the offence of fraudulently availment of input tax credit without invoice or bill in cases where the amount of tax evaded or the amount of input tax credit wrongly availed or utilised or the amount of refund wrongly taken exceeds five hundred lakh rupees, should be punishable with imprisonment for a term which may extend to five years and with fine and shall be cognizable and non-bailable.			
9.	**Section 140**	**1.** Section 140 provides for availment of credit in respect of eligible duties and taxes **in such manner as may be prescribed**, and there is no mention of any such condition/ limitation for availment of transitional in Section 140 in form of time limit or one time revision in the	Accordingly, Law Committee recommended to make necessary amendments in section 140 to this effect w.e.f. 01.07.17, and the **draft shall be finalized in consultation**	140. (1) A registered person, other than a person opting to pay tax under section 10, shall be entitled to take, in his electronic credit ledger, the amount of CENVAT credit carried forward in the return relating to the period ending with the day immediately	

		Act, other than the conditions provided under various sub-sections of Section 140**.** Such limitation of filing declaration in Form TRAN-1/ TRAN-2 within due date and facility of one time revision only is provided in Rule 117/ 117A and Rule 120A respectively. **2.** The same has been challenged in various judicial fora on the grounds that only the relevant rules provide for a time while there is no restriction for availment of transitional credit in the relevant section of the Act. While the department has challenged the above mentioned court cases in appropriate legal forum, it may be better to create the corresponding enabling provision in law. **3.** The matter was discussed in the Law Committee and it was felt that there is a need to have an enabling provision in the Act for prescribing such time limit (conditions and limitations) to take	**with Law Ministry**.	preceding the appointed day, furnished by him under the existing law in such manner and within such time as may be prescribed: Provided that the registered person shall not be allowed to take credit in the following circumstances, namely:— (i) where the said amount of credit is not admissible as input tax credit under this Act; or (ii) where he has not furnished all the returns required under the existing law for the period of six months immediately preceding the appointed date; or (iii) where the said amount of credit relates to goods manufactured and cleared under such exemption notifications as are notified by the Government. (2) A registered person, other than a person opting to pay tax under section 10, shall be entitled to take, in his electronic credit ledger, credit of the unavailed CENVAT	

		transitional credit in the Rules on availment of transitional credit retrospectively, w.e.f. 01.07.17.		credit in respect of capital goods, not carried forward in a return, furnished under the existing law by him, for the period ending with the day immediately preceding the appointed day in such manner and within such time as may be prescribed: Provided that the registered person shall not be allowed to take credit unless the said credit was admissible as CENVAT credit under the existing law and is also admissible as input tax credit under this Act Explanation.—For the purposes of this sub-section, the expression "unavailed CENVAT credit" means the amount that remains after subtracting the amount of CENVAT credit already availed in respect of capital goods by the taxable person under the existing law from the aggregate amount of CENVAT credit to which the said person was entitled in respect of the	

				said capital goods under the existing law. (3) A registered person, who was not liable to be registered under the existing law, or who was engaged in the manufacture of exempted goods or provision of exempted services, or who was providing works contract service and was availing of the benefit of notification No. 26/2012—Service Tax, dated the 20th June, 2012 or a first stage dealer or a second stage dealer or a registered importer or a depot of a manufacturer, shall be entitled to take, in his electronic credit ledger, credit of eligible duties in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the appointed day in such manner and within such time as may be prescribed and subject to the following conditions, namely:— (i) such inputs or goods are used or intended to be	

				used for making taxable supplies under this Act; (ii) the said registered person is eligible for input tax credit on such inputs under this Act; (iii) the said registered person is in possession of invoice or other prescribed documents evidencing payment of duty under the existing law in respect of such inputs; (iv) such invoices or other prescribed documents were issued not earlier than twelve months immediately preceding the appointed day; and (v) the supplier of services is not eligible for any abatement under this Act: Provided that where a registered person, other than a manufacturer or a supplier of services, is not in possession of an invoice or any other documents evidencing payment of duty in respect of inputs, then, such registered person shall, subject to such conditions, limitations	

				and safeguards as may be prescribed, including that the said taxable person shall pass on the benefit of such credit by way of reduced prices to the recipient, be allowed to take credit at such rate and in such manner as may be prescribed. (4) A registered person, who was engaged in the manufacture of taxable as well as exempted goods under the Central Excise Act, 1944 or provision of taxable as well as exempted services under Chapter V of the Finance Act, 1994, but which are liable to tax under this Act, shall be entitled to take, in his electronic credit ledger,— (a) the amount of CENVAT credit carried forward in a return furnished under the existing law by him in accordance with the provisions of sub-section (1); and (b) the amount of CENVAT credit of eligible duties in respect of inputs held in stock	

				and inputs contained in semi-finished or finished goods held in stock on the appointed day, relating to such exempted goods or services, in accordance with the provisions of sub-section (3). (5) A registered person shall be entitled to take, in his electronic credit ledger, credit of eligible duties and taxes in respect of inputs or input services received on or after the appointed day but the duty or tax in respect of which has been paid by the supplier under the existing law in such manner and within such time as may be prescribed and subject to the condition that the invoice or any other duty or tax paying document of the same was recorded in the books of account of such person within a period of thirty days from the appointed day: Provided that the period of thirty days may, on sufficient cause being shown, be extended by the Commissioner for a	

				further period not exceeding thirty days: Provided further that said registered person shall furnish a statement, in such manner as may be prescribed, in respect of credit that has been taken under this sub-section. (6) A registered person, who was either paying tax at a fixed rate or paying a fixed amount in lieu of the tax payable under the existing law shall be entitled to take, in his electronic credit ledger, credit of eligible duties in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the appointed day, in such manner and within such time as may be prescribed and subject to the following conditions, namely:— (i) such inputs or goods are used or intended to be used for making taxable supplies under this Act; (ii) the said registered person is not paying tax under section 10;	

				(iii) the said registered person is eligible for input tax credit on such inputs under this Act; (iv) the said registered person is in possession of invoice or other prescribed documents evidencing payment of duty under the existing law in respect of inputs; and (v) such invoices or other prescribed documents were issued not earlier than twelve months immediately preceding the appointed day. (7) Notwithstanding anything to the contrary contained in this Act, the input tax credit on account of any services received prior to the appointed day by an Input Service Distributor shall be eligible for distribution as credit under this Act in such manner and within such time as may be prescribed, even if the invoices relating to such services are received on or after the appointed day. (8) Where a registered person having centralised	

				registration under the existing law has obtained a registration under this Act, such person shall be allowed to take, in his electronic credit ledger, credit of the amount of CENVAT credit carried forward in a return, furnished under the existing law by him, in respect of the period ending with the day immediately preceding the appointed day in such manner and within such time as may be prescribed: Provided that if the registered person furnishes his return for the period ending with the day immediately preceding the appointed day within three months of the appointed day, such credit shall be allowed subject to the condition that the said return is either an original return or a revised return where the credit has been reduced from that claimed earlier: Provided further that the registered person shall not be allowed to take credit	

				unless the said amount is admissible as input tax credit under this Act: Provided also that such credit may be transferred to any of the registered persons having the same Permanent Account Number for which the centralised registration was obtained under the existing law. (9) Where any CENVAT credit availed for the input services provided under the existing law has been reversed due to non-payment of the consideration within a period of three months, such credit can be reclaimed in such manner and within such time as may be prescribed and subject to the condition that the registered person has made the payment of the consideration for that supply of services within a period of three months from the appointed day.	
10.	**Section 168**	**1.** In terms of second proviso to section 143(1), read with section 168(2) of the CGST Act, the proper	Accordingly, Law Committee recommended to make necessary	**Section 168. Power to issue instructions or directions.-** (1)…	

		officer for extending the time limit for goods sent on job work is the Commissioner/ Joint Secretary posted in the Board. This would mean every request from a taxpayer for extension of under section 143(1) would have to be dealt on case by case basis by the Commissioner/ Joint Secretary posted in the Board. **2.** It appears that the intent of insertion of the proviso to sub-section (1) of section 143 of the CGST Act was to empower the field officers to extend the time limit for goods sent on job work. Accordingly, it is proposed that Section 168 of the CGST Act be amended so as to empower jurisdictional commissioner to exercise powers conferred under second proviso to section 143(1) of the CGST Act. **3.** Further, under section 66(5) the expenses of the examination and audit of records under section 66(1) including the remuneration of chartered	amendments in section 168.	(2) The Commissioner specified in clause (91) of section 2, sub-section (3) of section 5, clause (b) of sub-section (9) of section 25, sub-sections (3) and (4) of section 35, sub-section (1) of section 37, sub-section (2) of section 38, sub-section (6) of section 39, ~~sub-section (5) of section 66,~~ sub-section (1) of section 143, except the second proviso to sub-section (1) of section 143, sub-section (1) of section 151, clause (l) of sub-section (3) of section 158 and section 167 shall mean a Commissioner or Joint Secretary posted in the Board and such Commissioner or Joint Secretary shall exercise the powers specified in the said sections with the approval of the Board.	

		accountants or cost accountant, shall be determined and paid by the Commissioner. According to section 168(2), the proper officer for section 66(5) is the Commissioner/ Joint Secretary posted in the Board. It appears that the intent was to empower the jurisdictional commissioner to exercise these powers. **4.** It was felt that it is appropriate that such functions be exercised by the jurisdictional Commissioner.			
11.	**Section 172**	**1.** It has been observed that various new initiatives, like e-invoicing, the new return System are being introduced in the GST law and systems and, in case of unforeseen circumstances, certain difficulties might arise. Moreover, the time up to which such orders may be issued under the GST Law is only till three years i.e. 01.07.2020. **2.** Accordingly, it may be prudent to have the power to issue removal of	Accordingly, the Law Committee has recommended substituting the word "three" by "five" in proviso to section 172.	172. (1) If any difficulty arises in giving effect to any provisions of this Act, the Government may, on the recommendations of the Council, by a general or a special order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act or the rules or regulations made thereunder, as may be necessary or expedient for the purpose of removing the said	

		Difficulties Order for some more time. Some other statutes were perused and it was observed that the general practice is to have the power to remove difficulties till five years from the date of coming into effect of the statute. **3.** It was felt that given the dynamic changes that are envisaged and being implemented in the GST laws, it may be appropriate to have the power to remove difficulties for another two years i.e. 01.07.2022.		difficulty: Provided that no such order shall be made after the expiry of a period of ~~three~~ five years from the date of commencement of this Act.	
12.	**Section 17**	**1.** Representations have been received from offshore oil drilling industry regarding the restriction on availing ITC (Input Tax Credit) for GST paid on vessels and aircrafts and related expenses under section sub-sections (aa) and (ab) of section 17(5) of the CGST Act, 2017. It has been stated that the amendment to section 17(5) of the CGST Act *vide* CGST (Amendment) Act, 2018 (31 of 2018) has	Accordingly, the Law Committee deliberated in the issue and recommended retrospective amendment to section 17(5) of the CGST Act, 2017 w.e.f. 01.02.2019. **Draft shall be finalized in consultation with Law Ministry**	The draft shall be finalized in consultation with Law Ministry	

		created scope for interpretational litigations on account of eligibility of ITC for GST paid for rigs/vessels etc. including GST paid on operational expenses such as insurance, repairs etc. This will be detrimental to offshore drilling industry and increase the cost of doing business. **2.** It may be noted that amended section 17(5)(a) of the CGST Act mentions only 'motor vehicles' and the term 'other conveyances' has been omitted. Also, a new sub-section 17(5)(aa) has been inserted which explicitly places restriction on ITC in respect of '**vessels and aircrafts'**, with a few exceptions. Further, section 17(5)(ab) has been inserted which restricts ITC in respect of services of general insurance, servicing, repair and maintenance in so far as they relate to motor vehicles, vessels or aircraft. **3.** It may be noted that drilling rigs, FPSO			

		(Floating Production Storage and Offloading) and other equipments used in the oil and gas industry are not meant for conveyance purpose alone. For example, FPSOs are vessels that are equipped with processing equipment for the separation, storage and offloading of oil and gas that comes from sub-sea oil wells or platforms. When oil and gas is processed, it is safely stored in the FPSO until it can be offloaded onto a tanker or a pipeline for transportation ashore. Similarly, drilling rigs are used to drill earth's sub-surface and to explore, extract, store, and process petroleum and natural gas which lies in rock formations beneath the seabed. Although these equipments are also used for transportation, its main use is for non-transportation activities such as processing, storage, exploration of oil and gas. In terms of the original version (before amendment) of section			

		17(5)(a), these equipments neither came under the category of '**motor vehicles'** nor '**other conveyances'**. Instead, they are generally classified as '**vessels**' under existing Customs classification (HSN code Chapter 89). For example, **HSN 8905** covers light-vessels, fire-floats, dredgers, floating cranes and other vessels the navigability of which is subsidiary to their main function; floating docks; floating or submersible drilling or production platforms. Accordingly, oil drilling industry was able to avail ITC in respect of 'vessels' earlier. However, ITC in respect of '**vessels**' is now explicitly barred as they do not fall under the exception of (i) or (ii) of section 17 (5)(aa), thereby leading to an unintended interpretation that ITC is not available. The denial of ITC would escalate the business cost. The Press Note dated 21.07.2018 (**Annexure-A)** issued after 28th GST Council meeting			

		(refer S. No. 9) clearly stated that the scope of ITC is being widened while proposing amendment to section 17 of CGST Act. Since drilling rigs, FPSO etc. are part of business inputs and are utilized in the course or furtherance of business, denial of ITC seems inadvertent and incoherent with the intent of bringing amendment to section 17 (5) of CGST Act, 2017.			

Agenda Item 7: Creation of Public Grievance Redressal Committee as per Hon'ble High Court of Delhi's order in the case of Sales Tax Bar Association

Annexure B

Annexure - B

~~Annexure-1~~

REPORTING OF GRIEVANCES BY NODAL OFFICER

1. The grievances which cannot be addressed at the local level and require policy or technology intervention would be escalated to the concerned authority by entering the relevant data using the following data entry screen of the Portal. They will be provided user ID and password for the same. Similarly, Login right would also be made available for officers of GST Council Secretariat, GST Policy Wing, and GSTN.

2. The data would have information regarding whether the issue is a policy issue or a technology issue, so that it could be directed to the concerned office. The resolution the grievance would be communicated to the officer through this reporting portal itself. The status of the resolution could be updated from time to time, and the resolution comments could be entered into the system by the concerned office, namely, GST Council Secretariat, GST Policy Wing or GSTN, as the case may be.

Data Entry Screen for Convener of the Grievance Committee

State/UT	<auto-populated>	
Date of Entry	<auto-populated>	
Subject	<Registration> <Return> <Refund> etc. *if not covered in drop down* <others, please specify>	*drop down*
Type of Issue	<Policy issue> <Portal/IT issue> <Both>	*drop down*
Description of the Issue	<500 words>	
GSTIN / ARN / TRN / IEC	<optional field>	'+' button to add more entries
Act	<CGST & SGST/UTGST> <IGST> <Customs>	*drop down*
Main Section of Act	<user input>	*only Numeric field allowed*
Main Rule	<user input>	
Notification	<user input>	
Circular/Order	<user input>	
Supporting document(s)	<JPEG/PDF document upload>	Total size of all documents not above 5 MB

Screen for Nodal Officers of GST Council Secretariat, GST Policy Wing and GSTN :

GSTIN / ARN/ TRN/ IEC	Type of Issue (drop-dow)		Act	Rule	Notification	Circular/ Order	Grievance		Resolution Comments	Resolution Status (*drop-down*)	Assigned to (*drop-down*)
	Type of Issue (*drop-down*)	Re-allocate (*if required*)					Description of Issue	Supporting Documents			
	<All> <Policy Issue> <Portal/IT Issue> <Both>	<button to re-allocate>						<Link to Download>		<All> <Under Process> <Escalated to Competent Authority> <IT Defect Removal initiated> <Change in Law required> <Notification/Circular issued> <Resolved>	<All> <GST Council Secretariat> <GST Policy Wing, CBIC> <GSTN>

A variant of this data will be kept in public domain for all stakeholders to see the status of the grievances sent by State level Grievance Redressal Committees.

Agenda Item 15: Any other agenda item with the permission of the Chairperson

Agenda Item 15(i): Creation of the State and Area Benches of the Goods and Services Tax Appellate Tribunal (GSTAT)

In terms of Section 109 of the CGST Act, 2017, Goods and Service Tax Appellate Tribunals are being constituted by the Government on the recommendation of the GST Council. The Appellate Tribunal having National/Regional Benches at National level and the State /Area Benches at State level, hear appeals against orders passed by the Appellate Authority or by the Revisional Authority.

2. In order to recapitulate, the recommendations of the GST Council in respect of creation of the GSTAT and further developments in chronological order is as under:

- **28th meeting of the GST Council on 21.07.2018 recommended:**

  (i) Constitution of Goods and Services Tax Appellate Tribunal (GSTAT); and
  (ii) Creation of National Bench of GST Appellate Tribunal at New Delhi and three Regional Benches at Mumbai, Chennai and Kolkata.

- Union Cabinet approved creation of National Bench of the GST Appellate Tribunal at New Delhi.

- National Bench at New Delhi was notified vide Notification No. **S.O. 1359(E)—**[No. 1/2019, [F.No. A.50050/99/2018-Ad.1C(CESTAT)] dated 13-03-2019 issued by Department of Revenue.
- **35th meeting of the GST Council on 21.06.2019 recommended**:

  (i) Creation of State/Area bench as per request received from States.
  (ii) Separately consider constitution of benches in Uttar Pradesh due to court cases.
  (iii) Constitution of Jammu & Kashmir GST Appellate Tribunal in terms of proviso to Section 109(6) of the CGST Act, 2017.

- The Rules for the GSTAT called the Goods and Services Tax Appellate Tribunal (Appointment and Conditions of Service of President and Members) Rules, 2019 are notified by Central Government as per the recommendations of the GST Council in 28th meeting, vide notification No. G.S.R. 584(E)- [F.No. A.50050/99/2018-Ad.1C(CESTAT)] dated 21.08.2019.

- State and Area bench as per above, notified vide Notification No. **S.O. 3009(E)—** [F.No. A.50050/150/2018-Ad.1C(CESTAT)] dated 21-08-2019 issued by Department of Revenue, as under:

Sl. No.	Name of States/Union Territory	Location for State Bench	Location for Area Bench
1.	Andhra Pradesh	Vijayawada	Vishakhapatnam and Tirupati
2.	Assam	Guwahati	No bench
3.	Bihar	Patna	-do-
4.	Chhattisgarh	Atal Nagar Raipur	-do-
5.	Delhi	New Delhi	-do-
6.	Goa	Panaji	-do-
7.	Gujarat	Ahmedabad	Surat and Rajkot
8.	Haryana	Hisar	No bench
9.	Himachal Pradesh	Shimla	-do-
10.	Jharkhand	Ranchi	-do-

11.	Karnataka	Bengaluru	-do-
12.	Kerala	Thiruvananthapuram	-do-
13.	Maharashtra	Mumbai	Pune and Nagpur
14.	Odisha	Cuttack	No bench
15.	Puducherry	Pondicherry	-do-
16.	Punjab	Chandigarh	-do-
17.	Tamil Nadu	Chennai	-do-
18.	Telangana	Hyderabad	-do-
19.	Tripura	Agartala	-do-
20.	Uttarakhand	Dehradun	No bench
21.	West Bengal	Kolkata	Two Area Benches at Kolkata
22.	Arunachal Pradesh	Common State Bench of GSTAT at Guwahati, Assam	
23.	Manipur		
24.	Nagaland		
25.	Sikkim		
UTs (without legislature)			
26.	Andaman & Nicobar	State Bench of West Bengal (Kolkata)	
27.	Dadra & Nagar Haveli	State Bench of Maharashtra (Mumbai)	
28.	Daman & Diu	State Bench of Maharashtra (Mumbai)	
29.	Lakshadweep	State Bench of Kerala (Ernakulam)	
30.	Chandigarh	State Bench of Punjab (Chandigarh)	

37th meeting of the GST Council on 20.09.2019 recommended:

(i) Creation of State/Area bench as per following requests received from States

Sl. No.	Name of States/Union Territory	Location for State Bench	Location for Area Bench
1.	Meghalaya	Shillong	No bench
2.	Mizoram	Aizawl	-do-
3.	Rajasthan	Jaipur	Jodhpur
4.	Karnataka*	Bengaluru	Two Area benches at Bengaluru

*State bench of Karnataka at Bengaluru is already created.

3. **Judicial Pronouncements:**

3.1 **Hon'ble High Court of Madras vide its orders dated 20.09.2019 in W.P(C) No. 24117 & 24118 has ordered as below:**

i. Number of expert members, therefore, cannot exceed number of judicial members on the bench

ii. Section 110(1)(b)(iii) of the CGST Act which states that a Member of the Indian Legal Services, who has held a post not less than Additional Secretary for three years, can be appointed as a judicial Member in GSTAT, is struck down.

iii. Section 109(3) and 109(9) of the CGST Act, 2017, which prescribes that the tribunal shall consists of one Judicial Member, one Technical Member (Centre) and one Technical Member (State), is struck down.

iv. The argument that Sections 109 &110 of the CGST Act, 2017 and TNGST Act, 2017 are ultra vires, in so far as exclusion of lawyers from the scope and view of consideration as members of the tribunal, is rejected. However, we recommend that the Parliament must consider to amend section for including lawyers to be eligible to be appointed as Judicial Members to the Appellate Tribunal in view of the issues which are likely to arise for adjudication under the CGST Act and in order to maintain uniformity in various statutes."

The Department has approached the Law Ministry to challenge the aforesaid order.

3.2 **Hon'ble High Court of Allahabad order for constitution of State Bench of GSTAT at Uttar Pradesh:**

Addl. Chief Secretary, Uttar Pradesh vide DO letter dt 28.08.2019 to the Revenue Secretary has requested to take action for creating State and area benches in UP in view of order of the High Courts.

The Department is filing SLP against judgement dated 31.05.2019 in PIL(Civil) No. 6800 of 2019 passed by Hon'ble Allahabad High Court, Lucknow Bench.

4. Now, request from Madhya Pradesh has been received to create a State Bench at Indore. Two more requests have been received from Meghalaya and Punjab seeking amendments in the earlier recommendations of GST Council for creating bench at Shillong and Chandigarh respectively. Meghalaya has requested to club their State bench with the State bench of Assam at Guwahati, which is a common bench for Arunachal Pradesh, Manipur, Nagaland & Sikkim. Punjab has requested to change their State bench from Chandigarh to Ludhiana.

4.1 Accordingly, the above stated requests for creation of State benches, as detailed below, are placed before GST Council for consideration:

Sl. No.	Name of States/Union Territory	Location for State Bench
1.	Madhya Pradesh	Indore
2.	Meghalaya	Guwahati* (request from Govt. of Meghalaya requested to club State Bench of Assam at Guwahati instead of earlier proposed at Shillong)
3.	Punjab	Ludhiana* (the Govt. of Punjab requested to change the State Bench of Punjab to Ludhiana instead of Chandigarh)