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Agenda for

29th GST Council Meeting

Volume – 1

04 August 2018

माल और सेवा कर परिषद
GOODS AND SERVICES TAX COUNCIL

File No: 484/29th GSTCM/GSTC/2018
GST Council Secretariat

Room No.275, North Block, New Delhi
Dated: 27 July 2018

Notice for 29th Meeting of the GST Council on 04 August 2018

The undersigned is directed to refer to the subject cited above and to say that the 29th Meeting of the GST Council will be held on Saturday, 4 August 2018 from 11:00 am onwards at Hall No 2-3, Vigyan Bhawan, New Delhi. The Meeting is convened to discuss mainly the issues, concerns and suggestions of the Micro, Small & Medium Enterprises (MSME) in the GST regime and any other agenda with the permission of the Chairperson of the Council.

2. The Detailed Agenda Note, if any, will be sent separately in due course of time.

3. All State Governments and CBIC are requested to send their suggestions or concrete action points for this single agenda item to Member (GST), CBIC / GST Council before 29th July, 2018, as discussed in the 28th GST Council Meeting.

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

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

Copy to:

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

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

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

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

5. Chairman, GST Network

Agenda Items for the 29th Meeting of the GST Council on 04 August 2018

1. Confirmation of the Minutes of 28th GST Council Meeting held on 21st July, 2018
2. Discussion to address issues and concerns of Micro, Small & Medium Enterprises (MSME) in GST regime
3. Incentivising Digital Payments in GST Regime
4. Any other agenda item with the permission of the Chairperson
5. Date of the next meeting of the GST Council

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Discussion on Agenda Items

Agenda Item 1: Confirmation of the Minutes of 27th GST Council Meeting on held 21st July 2018

Draft Minutes of the 28th GST Council Meeting held on 21 July, 2018

The twenty-eighth Meeting of the GST Council (hereinafter referred to as 'the Council') was held on 21 July 2018 at Vigyan Bhawan, New Delhi under the Chairpersonship of the Hon'ble Union Finance Minister, Shri Piyush Goyal (hereinafter referred to as the Chairperson). A list of the Hon'ble Members of the Council who attended the meeting is at **Annexure 1**. A list of officers of the Centre, the States, the GST Council and the Goods and Services Tax Network (GSTN) who attended the meeting is at **Annexure 2**.

2. The following agenda items were listed for discussion in the 28th Meeting of the Council:

1. Confirmation of the Minutes of 27th GST Council Meeting held on 4 May, 2018

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

3. Decisions of the GST Implementation Committee (GIC) for information of the Council

4. Decisions/recommendations of IT Grievance Redressal Committee for information of the Council

5. Review of Revenue Position

6. Issues recommended by the Law Committee for consideration of the GST Council

   i. Proposals for amendments in the CGST Act, 2017, IGST Act, 2017, UTGST Act, 2017 and GST (Compensation to States) Act, 2017

   ii. Creation of GST Appellate Tribunal (GSTAT)

   iii. Simplification of GST Returns

7. Issues recommended by the Fitment Committee for consideration of the GST Council

8. Reports/recommendations of different Committees/Group of Ministers (GoMs) for information/approval of the Council:

   i. Recommendations of the Committee on Lottery

   ii. Recommendations of the Committee on IGST

   iii. Recommendations of the Report of the Task Force to suggest measures for creating and Eco-System for Seamless Road Transport Connectivity

   iv. Recommendations of the Group of Ministers on Digital Payments

   v. Interim report of the Group of Ministers on imposition of Sugar Cess

vi. Recommendations of the Group of Ministers on Reverse Charge Mechanism

9. Minutes of 9th Meeting of Group of Ministers (GoM) on IT Challenges in GST Implementation for information of the Council and discussion on GSTN issues

10. *Ad hoc* exemption order issued under Section 25(2) of the Customs Act, 1962 for information of the GST Council

11. Any other agenda item with the permission of the Chairperson

12. Date of the next meeting of the GST Council

Preliminary discussion

3. Shri Shiv Pratap Shukla, Minister of State for Finance, welcomed Shri Piyush Goyal, Union Finance Minister (hereinafter referred to as the Chairperson) on behalf of all the Council Members and the officers. He stated that the Hon'ble Chairperson was chairing the Meeting for the first time in place of Shri Arun Jaitley, Union Minister. He then invited the Hon'ble Chairperson to start the proceedings. The Hon'ble Chairperson stated that this was his first experience to attend the meeting of the Council. He applauded the positive work of the Council and stated that the Council had made a historic display of consensus based on co-operative and collaborative federalism. With the success of the GST, there was a thinking that similar model could be replicated in other departments like agriculture, infrastructure, etc. He added that this was the first meeting of the Council after completion of one year of GST roll out and everyone present could take pride in the largest reform ever attempted in the world. He stated that the credit for GST roll out went to the political leadership and officers of all 29 States and 7 Union Territories, who despite their different political ideologies, worked for the future of the country and for the next generation. He added that it was truly amazing for the world to see that India could present this united stand. It was a matter of pride for India to be able to showcase the working of the GST Council and the successful implementation of GST to the world inspite of some hurdles in the beginning. He stated that the rest of the world was impressed that India could unitedly bring about change for the betterment of its people. He stated that GST rollout was also a matter of pride for India as well as for the Council during the 2018 World Economic Forum meeting at Davos. He further observed that the Council had very sensibly and sensitively responded to people's concerns expressed from time to time and this had led to public participation and support of 125 crore people of India for this reform. He expressed that upon completion of one year of GST, the Council should resolve to thank 125 crore people of India who adopted GST despite some small initial problems. He also stated that the Council should thank all the States who made GST a success for the benefit of the people, going beyond political considerations.

3.1. The Hon'ble Chairperson further added that it was a matter of great pride that now that there was one nation, one law and one procedure in the indirect taxation system of India. He stated that GST would impart respect for honesty and transparency in the country. e-Way bill system was a big step in improving compliance and all the Hon'ble Members of the Council deserved the highest accolade for introducing this reform in a phased manner and organized fashion. He further appreciated that growth had been maintained in the GST structure. He stated that the tax collection was at a reasonable level and expressed confidence that GST revenue would grow with greater ease of operation and record maintenance, lower tax rates and simplification of processes. He also expressed confidence that the Council would continue its high tradition of taking decisions by consensus.

3.2. Dr. Hasmukh Adhia, Union Finance Secretary and Secretary to the Council (hereinafter referred to as the Secretary) informed that Smt. Vanaja N. Sarna, Chairman of the Central Board of Indirect Taxes and Customs (CBIC) had superannuated on 30 June, 2018. He placed on record the Council's appreciation for her contribution towards GST. He welcomed the new Chairman, CBIC, Shri S. Ramesh, who would be attending the Council meetings henceforth.

3.3. The Secretary further stated that the Chief Economic Adviser (CEA), Shri Arvind Subramanian was leaving India on 26 July, 2018 to teach at the Harvard University, USA. He stated that the CEA was a great pillar of support to the work of the Council and his best contribution was his report on Revenue Neutral Rate under GST, which became a landmark document for working on the tax structure under GST. On behalf of the Council, he expressed gratitude for the work of CEA in the Council.

3.4. The CEA thanked the Hon'ble Chairperson as well as Shri Arun Jaitley and others for giving him the chance to work for the Council. He stated that his association with the Council was one of the highlights of his job. He observed that it was an extraordinary and ambitious reform which could be brought about through extraordinary political compromise, information technology and the coming together of the officers of the Centre and the States. He expressed a hope that the spirit of co-operative federalism may extend to other areas of work of the Government at the Centre and the States. He also observed that for rationalization of tax rate, there should be a structured effort and hoped that over a period of two years, with growing revenue, there would be a three-rate structure, as suggested in his Report. He, in particular, expressed his appreciation for the extraordinary work done by Shri Arun Jaitley and Dr. Hasmukh Adhia in the GST Council.

3.5. The Hon'ble Minister from Punjab congratulated the Hon'ble Chairperson for chairing the meeting. He also placed on record the stellar work done by Shri Arun Jaitley as Chairperson of the Council and prayed for his early recovery. He stated that he was very conscious of the fact that after thousands of years, India was at the cusp of eradicating poverty. He observed that the Council had no option to fail in its work and hoped that its work would lead India to become a super power soon. He stated that during the Council meetings, Punjab had many times ignored its own interest for the higher interest of the country. He stated that he as well as the Hon'ble Minister from West Bengal had written to the Hon'ble Chairperson earlier and also highlighted that the detailed agenda notes for this Meeting run into more than 400 pages and covered issues such as amendment to GST laws, rules, rates, returns, GIC, etc. These were very important issues and it was humanly impossible to go through 400 pages in a short time of three days. They needed more time to study the proposals to first convince themselves and then to convince the State Cabinet and then their people in the State. He recalled that in the 25th Meeting of the Council held on 18 January 2018, the Council gave in principle approval to the proposed amendments in GST Laws and asked the Law Committee to get it vetted by the Law Ministry. He stated that many proposals of the Law Review Committee were not being reflected without any mention of reason thereof. He requested to defer the law amendment proposals by two weeks for wider consultation with the stakeholders.

3.6. The Secretary stated that the agenda notes other than that relating to Fitment of rates of tax were discussed in detail from 10.00 a.m. to 8.00 p.m. during the Officers meeting held on 20 July, 2018. He stated that the agenda notes relating to Agenda items 1 to 4 [Confirmation of the Minutes of 27th Meeting of Council; Ratification by the Council of Notifications, Circulars and Orders; Decisions of the GST Implementation Committee (GIC); and Decisions/recommendations of IT Grievance Redressal Committee] were sent well in advance to all the States and they had been put in the Agenda only for quick recapitulation. He stated that the Agenda of the Law Committee only ran into 20-30 pages. The Agenda of the Fitment Committee was long only because detailed justification was given for the proposals for ease of reference of the Council Members; otherwise it could have been covered only in

two to three pages. He further stated that it was not desirable to send the Agenda related to Fitment of Rates too much in advance since these are sensitive proposals. He added that for the sake of transparency, Minutes of the Group of Ministers and those of the previous Council Meeting as well as the presentations were made part of the Agenda as annexure, and therefore, the Agenda notes looked bulky. He also informed that during the Officers meeting held on 20 July, 2018, the participants complimented Shri Shashank Priya, Joint Secretary, GST Council, and his team for writing very good and detailed minutes.

3.7. The Hon'ble Minister from Punjab stated that it would be preferable to circulate Agenda notes 10 days in advance of the Council Meeting. At least, all Agenda notes that is ready early, should be sent well in advance. He also observed that a gap of two and a half months between two Council Meetings was too long and suggested that the Council must meet once a month. In such a case, since Agenda items would be less, it would be fine if it is received three to five days in advance. He added that this would also show that the Council was sensitive to the needs of the people. The Hon'ble Deputy Chief Minister of Bihar also suggested that Agenda notes which were ready should be sent 10-15 days in advance.

3.8. The Hon'ble Deputy Chief Minister of Delhi stated that during the 26th Meeting of the Council held on 10 March, 2018, there was an Agenda note (Agenda Item 5) to put IGST amount lying in balance at the end of a Financial Year into the Consolidated Fund of India (CFI), and to be devolved as per Article 270 of the Constitution. This proposal was not accepted by Delhi and many other Members and accordingly this Agenda item was deferred. However, now Rs.1.60 lakh crore of IGST revenue was put in the CFI. He stated that the tax collected from Delhi should go to Delhi but since it had gone to the CFI, Delhi did not get any devolution out of this amount. He questioned whether the Central Government could take unilateral decision to put this amount in the CFI when the Union Territory with legislature also have the status of a State for the purpose of GST revenue. He stated that the Minutes of this Council Meeting should specifically record his opposition to this unilateral decision of the Government of India to put Rs.1.60 lakh crore of IGST revenue in the Consolidated Fund of India when an Agenda item on this issue was withdrawn during the 26th Meeting of the Council. He added that today's agenda on IGST settlement was a welcome move and after disbursing Rs 50,000 crore to States, Delhi had received Rs 1050 crore. Had Rs 1.68 lakh crore been disbursed as per this formula, Delhi would have got Rs 3300 crore. He observed that, till now, all decisions of the Council were being taken by consensus and deferred issues had been respected but with this unilateral decision on a deferred issue, the Government had disrespected the Council. He further stated that the interest of States including Delhi should be upheld in future.

3.9. The Hon'ble Chief Minister of Puducherry fully supported the views of the Hon'ble Deputy Chief Minister of Delhi. He stated that the Union Territories of Delhi and Puducherry were neither part of the Central Finance Commission nor Union Territories Finance Commission. The devolution of funds coming from the Central Government, which stood earlier at 70% had come down to 30% and now their State was getting only 25% grant from the Government of India. He informed that he had earlier taken up this issue with the Hon'ble Union Finance Minister and the Hon'ble Prime Minister, but nothing had been done. He added that in the GST law, Union Territory with legislature was also recognized as a State for the purpose of GST and when it qualified as a State and as a Member of the Council, it should get its share of the devolution of funds accruing from GST. He also expressed his opposition to the unilateral decision taken by the Government of India to apportion the money only to the States and not to Union Territories with legislature and stated that Puducherry should get its due share.

3.10. The Hon'ble Chairperson stated that this issue could be discussed further during discussion on the relevant Agenda item. He then invited the Secretary to start discussion on various Agenda items for the Council Meeting.

Discussion on Agenda items

Agenda Item 1: Confirmation of the Minutes of 27th GST Council Meeting held on 4 May, 2018

4. The Secretary informed that during the Officers meeting held on 20 July, 2018, no comments on the Minutes of 27th Council Meeting were offered. He invited comments, if any, of the Members of the Council. There were no comments on the Minutes.

5. **For Agenda item 1,** the Council decided to adopt the Minutes of the 27th Meeting of the Council without any changes.

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

6. The Secretary stated that the deemed ratification of the notifications, circulars and orders issued, based on the decisions taken during the 27th Meeting of the Council, issued after 4 May, 2018 and till 16 July, 2018 were presented during the Officers meeting on 20 July 2018. He suggested that the same may be approved by the Council. He also suggested that the notifications, circulars and orders issued by all the Member States, which are *pari materia* with the notifications, circulars and orders of the Central Government may also deemed to be ratified. The Council approved the suggestion.

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

Act/Rules	Type	Notification/Circular Nos.
CGST Act/CGST Rules	Central Tax	22 to 29 of 2018
	Central Tax (Rate)	11 and 12 of 2018
IGST Act	Integrated Tax (Rate)	12 and 13 of 2018
UTGST Act	Union Territory Tax	07 to 11 of 2018
	Union Territory Tax (Rate)	11 and 12 of 2018
Circulars	Under the CGST Act	44 to 49 of 2018
	Under the IGST Act	3 of 2018

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

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

8. The Secretary invited Shri Upender Gupta, Commissioner (GST Policy Wing), CBIC, to make a presentation on the decisions taken by the GIC so that the Members of the Council could be apprised of the same. The Commissioner (GST Policy Wing), CBIC, made the presentation, which is attached as **Annexure 3** to the Minutes.

9. **For Agenda item 3,** the Council took note of the decisions of the GIC.

Agenda Item 4: Decisions/Recommendations of IT Grievance Redressal Committee for information of the Council

10. The Secretary invited the Commissioner (GST Policy Wing), CBIC, to make a presentation on the decisions/recommendations of the IT Grievance Redressal Committee, which is attached as **Annexure 3** to the Minutes. The Commissioner (GST Policy Wing), CBIC, stated that a circular had been issued on 3 April, 2018 prescribing the procedure for taxpayers for lodging their grievances due to technical glitches in the GST portal. The GIC was mandated to act as the IT Grievances Redressal Committee (ITGRC) for resolving the problems of taxpayers who have not been able to file their documents like TRAN-1, TRAN-2, GSTR-3B and GSTR-1 or to complete registration/migration due to technical glitches at GST portal. He stated that taxpayers were required to submit their applications to the designated nodal officers of the State Governments and the Central Government, who in turn would examine the complaint and if *prima facie*, it was found to be a case of technical glitch by the said nodal officer, he would send the issue along with remarks and recommendation to GSTN's nodal officer by email. He stated that a Standard Operating Procedure (SOP) was issued on 12 April, 2018 by the GSTN to the Commissioners of the Central and the State Governments for forwarding representations received from taxpayers to the nodal officer of GSTN.

10.1. He further stated that a total of 598 cases related to TRAN-1 and TRAN-2 and 1881 cases relating to migration had been received by the GSTN till 15 June, 2018. Out of this, 170 cases relating to TRAN-1/TRAN-2 and 748 cases relating to migration/registration were examined by GSTN and analysis presented before the ITGRC. ITGRC allowed 122 taxpayers to file their TRAN-1/TRAN-2 and 406 taxpayers to complete their migration process. The ITGRC also directed the Law Committee to examine and map the consequential issues that may arise relating to such filing of TRAN-1/TRAN-2 and migration and suggest ways to handle such situations, wherever required, in a time bound manner. He also referred to different categories of TRAN-1/TRAN-2 and migration cases approved by the ITGRC. He added that as on 15 July, 2018, approximately 3500 cases of grievances relating to migration /registration/ TRAN-1/TRAN-2/GSTR-3B/GSTR-1/ITC-01/ITC-04, etc. had been received by the GSTN's Nodal Officer. In the first list, approximately 918 cases were examined and presented to IRGRC. Another lot of around 1200 cases had been examined by GSTN and would be put up before the ITGRC. The remaining cases were under investigation with respect to cause and checking of logs in GST system. He also referred to some challenges faced in the examination of cases i.e. the SOP was not being followed such as no *prima facie* examination was being done by the nodal officers, cases being sent without any remarks, non-technical issues, duplicate entries etc., while forwarding the taxpayer's grievances relating to technical glitches.

10.2. He informed that during the Officers meeting held on 20 July, 2018, discussion took place regarding many taxpayers who did not file Part B of GST REG-26 and who were given only a provisional ID but no GSTIN. These taxpayers were not able to file their returns and pay taxes and it was suggested that migration should be allowed one more time. During the Officers meeting, it was recommended to allow migration to all those taxpayers who had obtained provisional ID by filling up Part A of GSTR REG-26, but who could not fill up Part B *ibid* due to any reason, technical or otherwise, by the prescribed last date of 31 January, 2018. For this, the Commissioner can issue an order under Rule 24 of CGST Rules, 2017 extending the time limit for furnishing the information as required under the said Rule and that the Nodal officers of the Central and State Governments should send such cases to GSTN by 14 August, 2018. It was also proposed that in such cases, fee for late filing of return would be waived (by way of reversal in electronic ledger and crediting the amount in the relevant tax head from the fee head) but interest would be charged on delayed payments of tax. For this purpose, it was also recommended to expand the mandate of ITGRC to allow migration of even those taxpayers who could not migrate due to reasons other than technical glitches.

10.3. The Secretary stated that the ITGRC had looked into the cases of technical glitches but now the proposal was that whoever could not complete migration into GST could be allowed one more time to complete the migration till 14 August, 2018 on the basis of recommendation received by GSTN from the Principal Nodal officers / Nodal officers of Central and State Governments. He added that a large number of cases had been filed in High Courts on this issue and this decision would help to bring down such litigation. The Hon'ble Chairperson observed that it would be fair to extend this relief to the taxpayers. He also raised a question regarding the status for allowing filing of TRAN-1. The Secretary informed that filing of TRAN-1 had financial implication and it needed to be examined further. The Hon'ble Minister from Maharashtra suggested that the date for receiving requests of taxpayers to migrate to GST could be taken as 31 August, 2018 instead of 14 August 2018. The Council agreed to this proposal.

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

(i) To allow migration of those taxpayers to GST, who have submitted Part A of REG-26 but could not complete the migration process, and whose applications were received by the Principal Nodal officers / Nodal officers of the Central and State Governments till 31 August, 2018;

(ii) In order to give effect to the decision at (i) above, ITGRC's mandate will be to allow migration of even those taxpayers who could not migrate due to reasons other than technical glitches and an order under Rule 24 of CGST/SGST Rules, 2017 will be issued by the Commissioner extending the time limit for furnishing the information as required therein;

(iii) To waive the late fee (by way of reversal in electronic ledger and crediting the amount in the relevant tax head from the fee head) for filing of returns for the months of July, 2017 to August, 2018 by such taxpayers who complete their migration process as per this decision;

(iv) To allow filing of TRAN-1 and TRAN-2 in 122 cases, as listed in Annexure 3 of the Minutes of the first meeting of ITGRC held on 22 June, 2018 relating to technical issues with all consequential benefits to the taxpayers. The technical issues would be limited to the below mentioned 4 categories:

  (a) Cases where the taxpayer received the error "Processed with Error". The taxpayer could not claim transitional credit as the line items requiring declarations of earlier existing law registration were processed with error since the taxpayer had not added them in his registration details.
  (b) Cases where TRAN-1 was attempted or TRAN-1 revision was attempted by taxpayer on or before 27.12.2017. However, the taxpayer could not file due to encountered errors. The taxpayer in these cases received messages such as "system error", "upload in progress", "save in progress" etc.
  (c) Cases in which as per GST system logs, the taxpayer was not enabled to file TRAN1 till its due date of filing of 27.12.2017 due to registration/migration issues. In this category, the taxpayers' dashboards were not enabled because of issues in migration application and hence they could not file their TRAN-1.
  (d) Cases in which the taxpayer filed his TRAN-1 once but no credit has been posted due to technical reasons.

(v) The Law Committee shall map the consequential benefits relating to filing of TRAN-1 and TRAN-2 and recommend how to handle such situations in a time bound manner.

Agenda Item 5: Review of Revenue Position under GST

12. The Secretary invited Shri Ritvik Pandey, Joint Secretary, Department of Revenue (DoR) to brief the Council on the GST revenue position. Joint Secretary, DoR gave an overview of the GST revenue including CGST, SGST, IGST and Compensation Cess (domestic and imports) for April to June 2018. Total revenue collected during April 2018 was Rs.103,459 crore; in May 2018, it was Rs.94,016 crore; and in June 2018, it was Rs.95,610 crore. He also briefed on the IGST Settlement for the months of April to June 2018. IGST Settlement for April 2018 was Rs.28,394 crore; for May it was Rs.25,261crore; and for June it was Rs.30,338 crore. Out of this, CGST and SGST breakup for April 2018 was Rs.13,841 crore for CGST and Rs.14,553 crore for SGST; for May 2018, it was Rs.12,931 crore for CGST and Rs.12,330 crore for SGST; and for June 2018, it was Rs.15,676 crore for CGST and Rs.14,662 crore for SGST. He further informed that there was an *ad hoc* provisional settlement of Rs.25,000 crore each of CGST and SGST in the month of June 2018. He stated that with this *ad hoc* IGST settlement of Rs.50,000 crore, there was negative balance in the IGST account for the period April-June, 2018.

12.1. The Joint Secretary, DoR also presented a chart of the average revenue trends of the States from August 2017 to June 2018 which showed that all India percentage shortfall of revenue was 13%. He also presented a Return filing analysis till due date and on cumulative basis till date. He pointed out that the return filing percentage had shown an increasing trend till December 2017 but it declined thereafter, which was a matter of concern.

12.2. The Hon'ble Chairperson observed that those States which had a return filing percentage of less than 60% of the registered taxpayers needed to examine as to how many taxpayers were not actually in the tax net. He stated that it might be the case that during the roll out of GST, many taxpayers below the threshold limit would have taken registration, who in the first place who were not required to be registered with the tax administration. Some action could be taken to take these taxpayers out of the tax net, which would automatically improve the return filing percentage. He also stated that those who still wanted to retain the GST registration, should be persuaded to file returns as per law.

12.3. The Hon'ble Minister from Uttarakhand observed that for taxpayers with annual turnover below Rs.1.5 crore, GSTR-1 was to be filed quarterly and GSTR-3B to be filed on monthly basis. He stated that pre-GST revenue for his State for August 2016 to June 2017 was Rs 5210 crore and after GST implementation, they collected Rs 3565 crore and after accounting for the Settlement done to States, the revenue figure stood at Rs 3701 crore. He further stated that pre-GST, the combined tax collection of Central Excise, Service Tax and VAT in his State was about Rs.8336 crore and post-GST, it was Rs.15,139 crore. However, they only got Rs.3701 crore after settlement which was 29% less than the pre-GST regime's revenue collection. He expressed concern regarding the revenue position of the State and stated that something needed to be done about it. The Hon'ble Chairperson observed that provision of Compensation cess was meant for States in such a situation. He further observed that this was also an issue of gap in revenue between manufacturing States and the consuming States and expressed a hope that revenue would become buoyant for all States by 2021-22. The Hon'ble Minister from Uttarakhand stated that by 2021-22, their State would roughly get Rs 13,492 crore and they feared that after five-year compensation period was over, their revenue shall drop steeply to about Rs.9970 crore. The Hon'ble Chairperson stated that one needed to look holistically at 5-year growth by Uttarakhand.

12.4. The Hon'ble Minister from Uttarakhand stated that initially when the State of Uttarakhand was formed, they only had about 1100 MSMEs whereas after the Industrial Package was given to the State in 2003, the number of medium and large industries increased to 41000 along with 226 Heavy Industries. However, now all these industries wanted to move out of the State as there was no area-based exemption.

Further, due to IGST, they were getting no revenue as it was all getting passed on to the destination States. The Hon'ble Chairperson stated that the issue of Uttarakhand would be examined separately.

12.5. The Hon'ble Minister from Tamil Nadu stated that the process of collating the details of unutilized credit of IGST would take time and may not be resolved fully even if more time was taken. He suggested to make an interim arrangement to distribute the accumulated credit. He proposed that 90% of accumulated IGST relating to Financial Year 2017-18 as at the end of March 2018 should be settled immediately on the same basis as the two provisional settlements of Rs. 35,000 crore and Rs. 50,000 crore made so far and treated as 2017-18 revenue. 90% of accumulated IGST for 2018-19 as on 31 July 2018 should also be settled on the same basis. During the Financial Year 2018-19, 90% of the IGST amount accumulated each month may be apportioned to the States with a lag of one month. He also requested that figures of IGST accumulation should be shared transparently with the States every month. He stated that retention of 10% of the huge initial balance plus 10% of the IGST accumulated each month was likely to be sufficient to meet any contingency of recovery of excess settlement to the States.

12.6. The Hon'ble Minister from Punjab stated that his State had the highest revenue gap, both in percentage term and absolute term. He had been flagging this issue in every Council meeting. He stated that there appeared to be structural and operational challenges. He observed that though his State had the highest return filing and tax to GDP ratio, the revenue position was very poor. He recalled that in previous Council Meeting, CEA had promised to conduct a study for Punjab as a special case to study and fix this peculiar problem of Punjab. He also stated that just like Uttarakhand, they would also have severe shortfall of revenue in 2021-22 if this was not addressed quickly. He requested that study for Punjab should be done quickly through the Council. He also pointed out that after abolishing the power to levy entry tax by the Constitutional amendment Act, the petroleum revenue was being siphoned off to other States. Their internal study indicated that there was a rise of 60% in the revenue of the neighbouring States, which is accrued from petroleum products. He suggested allowing levy of entry tax on non-GST products. He stated that 40% of Punjab revenue base had been subsumed under GST and urgent study needed to be conducted as to how to improve the revenue position in his State. The Hon'ble Chairperson stated that under the Convenorship of the Union Finance Secretary, Finance Secretaries of States whose revenue gap both in percentage term and absolute term was very high like Uttarakhand, Punjab, Bihar, Himachal Pradesh, Jammu & Kashmir and Puducherry could meet to work out a solution on this issue.

12.7. The Hon'ble Deputy Chief Minister of Bihar stated that CEA had studied the revenue situation in their State but the report was still awaited. CEA assured that the report would be sent soon. The Hon'ble Deputy Chief Minister of Bihar raised the issue of IGST settlement and stated that their State officers have no experience of services sector and they needed more clarity on this subject especially with respect to Banking Sector, Railways and Airlines. Shri Jagdish Chander Sharma, Principal Secretary, Himachal Pradesh stated that there was huge revenue gap in their State as well. The Hon'ble Chief Minister of Puducherry observed that in GST, as tax rates in his Union Territory had come at par with the adjoining States, they were losing revenue. The Secretary suggested that he could sit with the Secretaries of States of Punjab, Himachal Pradesh, Uttarakhand, Jammu & Kashmir and Puducherry to analyse reasons for low revenue. The Council approved this proposal. Shri Tuhin Kanta Pandey, Additional Chief Secretary (ACS), Odisha stated that the States which derived their revenue from metals and minerals suffered a specific problem. Secretary stated that report of the CEA on Bihar would be reviewed and that could form the basis for study for other States. The Hon'ble Chairperson stated that the work of study of revenue gap of the States of Punjab, Himachal Pradesh, Uttarakhand and Jammu & Kashmir as well as that of Puducherry should be completed in 45 days.

12.8. The Secretary stated that States were concerned as to what would happen once the compensation ceased after 4 years. In his assessment, after 3 years, as the compliance under GST improved, no State might need to be compensated.

12.9. The Hon'ble Minister from Meghalaya stated that percentage of returns filed in the States of North-East was very low. He stated that in their State, legal requirement of registration was annual turnover of Rs.10 lakh and about 5,000 taxpayers were between the annual turnover of Rs.10 lakh and Rs.20 lakh. This constituted almost 50% of the taxpayer base but the revenue coming from them was only 2%. These were small time people having no computer and no facility for return filing. He stated that in his view, the low return filing percentage could be because of them. He, therefore, proposed that for their State, the annual turnover threshold for registration may be increased from Rs.10 lakh to Rs.20 lakh as also proposed by Assam.

12.10. The Hon'ble Minister from Assam stated that the North-Eastern States had earlier wanted threshold for registration at annual turnover of Rs.10 lakh. Now, there was proposal by Assam to increase this threshold to Rs.20 lakh and Sikkim had also supported the proposal subsequently. If States of Meghalaya and Uttarakhand also wanted to increase their threshold, Council could agree to it. The Hon'ble Chairperson suggested that an enabling provision could be provided in the Law that Council could increase the threshold limit in the Special Category States. Secretary sought the opinion of Dr. Rajiv Mani, Joint Secretary, Law Ministry, regarding the proposed law amendment. The Joint Secretary, Union Law Ministry stated that the GST Law could have an enabling provision to permit increase in the annual turnover threshold for registration for any State up to Rs.20 lakh. The Hon'ble Chairperson stated that the GST Law should have such an enabling provision so that any North-Eastern State which wanted to later increase its annual turnover threshold from Rs.10 lakh to Rs.20 lakh for registration could do so easily without requiring a change in the Law but with the recommendation of Council.

12.11. The Secretary stated that as per the presentation by Joint Secretary, DoR, the revenue gap during the first seven months was 17% which had come down to 13% in the 11 months of GST roll out, due to better compliance. The Hon'ble Chairperson observed that compliance must have improved substantially during the last 4 months and the country was possibly revenue neutral for the last 4 months. He stated that the officers of the Fitment Committee should be complimented for achieving this while also reducing rates from time to time. He further observed that the success and benefits of e-Way Bill were yet to be fully reaped. He also stated that refinements in e-Way Bill system like distance matching through pin codes would further reduce mis-declaration and misuse of the e-Way Bill.

12.12. The Joint Secretary, DoR informed that during the Officers meeting on 20 July 2018, it was also recommended to put the GST revenue collection data in the public domain at macro level with some lag as also the revenue collected by the States in the Financial Year 2016-17 from the taxes subsumed in GST for analysts, media or for general public with a view to increase transparency. He requested that the Council may approve this proposal. The Council approved the same.

13. **For Agenda Item 5,** the Council: -

i) Took note of the revenue position under GST for April to June 2018;
ii) Decided that the study conducted by CEA for Bihar regarding its revenue gap shall be used as a basis for conducting similar study for the States of Punjab, Himachal Pradesh, Uttarakhand, Jammu & Kashmir and Puducherry, for which the Union Finance Secretary shall work with the Finance Secretaries of the above mentioned States and submit the Report within 45 days;

iii) Decided that the GST revenue data at macro level as well as revenue collected by the States in the Financial Year 2016-17 from the taxes subsumed in GST shall be put in the public domain on the website of Department of Revenue.

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

Agenda Item 6(i): Proposals for amendments in the CGST Act, 2017, IGST Act, 2017, UTGST Act, 2017 and GST (Compensation to States) Act, 2017

14. The Secretary invited Shri Upender Gupta, Commissioner (GST Policy Wing), CBIC, to make a presentation on the proposed changes in the GST Law. The presentation made by the Commissioner (GST Policy Wing), CBIC is attached as **Annexure 4** to the Minutes. During the presentation, he stated that a Law Review Committee (LRC) was constituted after the 22nd Meeting of the Council held on 6 October, 2017. The LRC submitted its first draft report on 04.01.2018 and the final report on 11.07.2018. The GST Policy Wing, CBIC analysed various representations received and prepared a broadsheet containing proposals for amending the Law. A consolidated proposal for law amendment as proposed by Law Committee (LC) and LRC were discussed in the Officers meeting before the 25th Meeting of Council held on 18 January 2018 and the Council accorded in-principle approval of the recommendations of the officers.

14.1. He informed that four joint meetings of the LC and LRC were held to finalize the proposals and to draft the formulations. The draft proposals that were agreed upon in the four joint meetings were further discussed by the LC on 6 July, 2018. The finalised 48 amendments relating to CGST Act, 2017(38), IGST Act 2017(7), UTGST Act, 2017(1) and GST (Compensation to States) Act, 2017(2) were put in a broadsheet and placed in public domain on the website https://www.mygov.in with the approval of the GST Implementation Committee (GIC) from 9 July, 2018 to 15 July, 2018 for inviting comments from trade and public. He stated that about 1300 suggestions were received on the said MyGov.in URL and some more were received through mail from ASSOCHAM, FICCI, CII, PHD Chamber of Commerce and Industry, SIAM, IMC, ICAI, E&Y, AMCHAM, Export Promotion Council, EOU & SEZ, etc. He stated that all these suggestions were examined and wherever it was felt that it could be included in the draft proposals as put in the public domain, these were added. These proposals were discussed thoroughly in the Officers Meeting on 20 July 2018 and as a result, further 19 changes were suggested which were also incorporated in the Presentation.

14.2. The Hon'ble Deputy Chief Minister of Delhi asked whether the report of the LRC was shared with the States and tabled before the Council. Shri Shashank Priya, Joint Secretary, GST Council informed that it was shared with the Convenor of the LC and the GST Policy Wing of CBIC. The Hon'ble Deputy Chief Minister, Delhi stated that as a principle, for any Committee set up by the Council, the report should be first submitted to the Council for taking any decision based on its report.

14.3. The Hon'ble Minister from Punjab stated that the Council during its 25th Meeting held on 18 January 2018 gave in principle approval to the LRC's recommendations for 69 changes in the Law and only legal vetting was to be done but out of these, only 8 proposals were accepted without any change and 15 were accepted with modifications. He asked as to what happened to the rest of the proposals and it is not understood why many proposals were completely dropped. He stated that they were not against changes in Law but it could not be changed frequently and multiple changes would lead to protracted litigation. He suggested that 10 more days' time should be given to discuss and consider these proposed changes in the CGST/SGST Law with the stake holders before finalisation. He further observed that since about 1300 suggestions were received with regard to the proposed changes, the Council should

also be made aware of these suggestions. He added that State Ministers were answerable to stakeholders and he needed time to study the proposed changes in the Law.

14.4. The Hon'ble Chairperson suggested to first run through the presentation on the agenda item and also asked to explain as to what happened to the 69 proposals submitted by the LRC and why some suggestions were modified and some were left out. He further stated that the 1270 suggestions/feedbacks received on MyGov.in portal should be shared with the States. The Commissioner, (GST Policy Wing) CBIC stated that the suggestions of the LRC were discussed in the joint meetings of the LC and the LRC and those proposals were not taken forward on which there was no agreement. He requested Shri P.K. Mohanty, Convenor, Law Committee to further elaborate on this subject.

14.5. The Convenor, Law Committee stated that the first report of LRC was given on 4 January, 2018 and the final report on 11 July, 2018. Between these two reports, 17 broadsheets/papers containing law amendment proposals were circulated by LRC for discussion in the joint meetings of the LC and the LRC. All law amendment proposals of the LRC were carefully considered and four joint meetings of the LC and the LRC were convened – one each in February, April, May and June, 2018 - to consider the proposals in detail, and after further discussions in the Ministry and by the Law Committee, 46 proposals were put in the public domain.

14.6. He stated that some of the proposals made by the LC and the LRC in their joint meetings were dropped on account of various considerations. For example, one proposal regarding replacing the word "beyond" with the word "within" in Section 122 which related to collection of any amount as tax by a taxable person but failure to pay the same to the Government beyond a period of three months was dropped as the Union Law Ministry had approved the existing language after discussing this very issue and had also noted that the same formulation was part of the Service Tax Law. Another proposal that was dropped related to a proposed amendment providing that eligibility of zero rating for supply to SEZ would only be for 'authorised operations'. He stated that this issue was already addressed in the GST Rules and the SEZ Act also provided for benefit of zero rating only for 'authorised operations'. If Law was changed at this stage, it could be construed that for the past period, supplies made to SEZ for non-authorised operations would also be eligible for zero rating.

14.7. He further stated that a third example related to the problem of reversal of input tax credit in respect of the services provided by way of extending loans and deposits. He explained that services by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount are exempt from GST. In terms of Section 17(2) of the CGST Act, 2017, input tax credit (ITC) is not available in respect of exempt supplies, that is to say, ITC of common inputs and input services used in exempted supplies is required to be reversed. In the service tax regime, as a business-friendly measure, it had been provided in the Cenvat Credit Rules that the value for the purpose of reversal of common input tax credit shall not include the value of services by way of extending deposits, loans or advances against consideration in the form of interest. A similar provision was, however, not made under GST. The matter was considered by the Council during its 25th Meeting held on 18 January, 2018 and it was decided to make a provision in the CGST Rules that the value of exempt supply under Section 17(2) shall not include the value of deposits, loans or advances on which interest or discount is earned. This would however not apply to a banking company and financial institution including NBFC. Accordingly, the CGST Rules were amended so as to provide an Explanation under Rule 43. The implication of the change was that ITC would not be denied on the value of deposits, loans or advances on which interest or discount is earned. Insertion of a paragraph in Schedule III to cover the above issue, as recommended in the LRC Report, will achieve the same purpose which has already been met by way of amendment in the CGST Rules, 2017 as per the directions of the Council. As the matter was resolved, it was felt that an amendment in Schedule III need not be carried out. The

Convenor, Law Committee stated that the LRC had made a suggestion to create a Schedule IV for Exempt Supplies but earlier the Council had decided not to incorporate such supplies in a Schedule and to address such supplies through the exemption route. It was, therefore, felt not advisable to go against the earlier decision of the Council.

14.8. The Hon'ble Minister from Punjab stated that the definition of 'supply' was a subject of doubt, challenge and litigation. He requested to clarify as to why the changes recommended regarding the word 'supply' did not find any mention in the draft proposals. Shri V. K. Garg, Advisor (Financial Resources), Punjab stated that the heart and soul of GST is 'supply'. He further stated that there were many other problematic issues in respect of GST Law. The Schedule II of CGST Law provides that any undivided share in goods is a supply of service, and a question would arise whether an undivided/unascertained share in goods which included alcohol for human consumption, would also become supply of service, though it was not in GST. He pointed out another instance of problem in law with regard to definition of IGST. The definition of IGST is that it is a tax charged under section 5 of the IGST Act, which implies that IGST charged by any section other than section 5 is not an IGST. He stated that nine months back, they had raised the issue regarding imported goods as to whether IGST on imported goods was being charged under the IGST Act or the Customs Tariff Act. The IGST Act provides that IGST on imported goods will be charged under Section 3 of the Customs Tariff Act 1975; if a tax was charged under the Customs Tariff Act, then no input tax credit would be available under the CGST/SGST Act. This appeared to be a dual taxation and no reply had been received so far. He further stated that the definition of supply in Section 7 of the CGST/SGST Act required many changes. The definition of supply as it stood today was a matter of doubt and it was not understood why the changes suggested by LRC were dropped. He recalled that earlier too, during July 2016, more than 50,000 representations were received and on 26 November, 2016, only 3 days consultation was permitted with the stake holders. The same mistake was being repeated and only one week's consultation was being allowed for proposed changes in Law, which was inadequate. He stated that there should be more consultation and they would revert with their suggestions with full urgency.

14.9. The Convenor, Law Committee stated that as regards Section 7, the current text made entries in Schedule II to the CGST/SGST Act taxable activities whereas Schedule II was only intended to classify certain activities as goods or services in case they were taxable. Hence, proposal for amendment to Section 7 to this extent was agreed upon. He stated that broadly, proposals which did not have significance for taxpayers were dropped and only those proposals which facilitated trade were retained. He further informed that the Final Report of the LRC had some 23 law amendment proposals in the Report which did not figure in any of the 17 papers / broadsheets that were circulated by LRC for discussion in the joint meetings. He added that there were some 16 law amendment proposals in the Report which could not be taken up for discussion in the joint meeting of the LC and LRC for want of time. Bulk of these proposals were received on 6 June, 2018 and the proposals could not be discussed in the last joint meeting of LC and LRC held on 7- 9 June, 2018. Referring to the two points raised by the Advisor (Financial Resources), Punjab, he informed that the above points were not there in the LRC Report, nor these were brought before the joint meetings of the two Committees. The Secretary further clarified that only 47, and not 69, changes to GST law were proposed during the 25th GST Council Meeting held on 18 January 2018.

14.10. The Hon'ble Chairperson observed that GST was a new law and it was not possible to make it perfect in such a short time. He suggested to look at the proposals on the table and if more changes in law were required, these could be examined further and taken up later. He stated that this would send a message that the Council cared for small and medium enterprises.

14.11. The Hon'ble Deputy Chief Minister of Delhi stated that one could agree with the changes which were already agreed upon in the Council such as the return format and increasing the annual turnover eligibility criteria for Composition taxpayers from of Rs.1 crore to Rs.1.5 crore. He suggested that only these changes might be done in the current Parliament session. The Hon'ble Chairperson stated that the Council should do what could be done and review the other changes subsequently.

14.12. After these discussions, Commissioner (GST Policy Wing), CBIC proceeded with the Presentation. The discussion in the Council in respect of the specific proposals is summarised as below:

(i) **S. No. 6 of Presentation relating to Section 7 of CGST/SGST Act:** The Commissioner (GST Policy Wing), CBIC explained that Section 7 (1) was proposed to be amended by creating a new sub-section (1A) clarifying that certain activities or transactions, which constituted a supply in accordance with the provisions of sub-section (1) of Section 7, shall be treated "either as supply of goods or supply of services as referred to in Schedule II". Advisor (Financial Resources), Punjab stated that the existing provision under Section 7 which made activities under Schedule II as a supply of goods or services was an inadvertent error in law drafting. If it was corrected at this stage prospectively, there would be numerous litigation. In this view, he proposed that this amendment should be carried out with retrospective effect. The Hon'ble Deputy Chief Minister of Bihar cautioned that retrospective amendment could lead to a situation of tax refunds. The Secretary stated that this issue was discussed in the Officers meeting of 20 July 2018 and some officers had also expressed similar apprehension but the Council could take a view on this. After further discussion, the Council agreed to amend this provision with retrospective effect.

(ii) **S.No.10 of Presentation relating to Section 9(4) of CGST/SGST Act**: The Hon'ble Minister from Kerala stated that under Section 9(4) of the SGST Act, the States should have the power to put specific products under reverse charge. For their State, rubber was a very sensitive product which they would like to put under reverse charge. Commissioner (GST Policy Wing), CBIC stated that GST was a uniform law and it should be made uniformly applicable all over India on the recommendation of the Council. The Hon'ble Chairperson stated that Kerala could always present a proposal for a specific product before the Council, which could be approved by the Council and this would then apply uniformly across India. He stated that all other States would also have the freedom to bring similar proposals. He further observed that the Council could meet more frequently to address the concerns of the States. The Council approved the formulation as proposed in the Presentation.

(iii) **S. No. 11 of Presentation relating to Section 10(1) and 10(2) of CGST/SGST Act:** The Hon'ble Deputy Chief Minister of Bihar suggested that since the annual turnover limit for Composition taxpayers was being increased from Rs.1 crore to Rs.1.5 crore, the upper limit for value of services that could be supplied by Composition taxpayers should also be increased from the proposed Rs.5 lakh to Rs.15 lakh. The Council could then take a decision whether this turnover limit for services should be Rs.5 lakh or more. The Hon'ble Minister from Haryana pointed out that there appeared some contradiction in the proposed formulation as 10% of Rs.1.5 crore would be Rs.15 lakh whereas the cap was kept at Rs.5 lakh. Shri V.P. Singh, CCT, Punjab explained that the intent of the proposed formulation was to allow every Composition taxpayer to supply services up to a turnover of Rs.5 lakh but no one would get this benefit beyond a turnover value of Rs.15 lakh. Those whose turnover was less than Rs. 1.5 crore would get a lesser entitlement for supply of services, but all would be assured of entitlement of supplying services up to a turnover of Rs.5 lakh annually. The Commissioner (GST Policy Wing), CBIC stated that once the annual turnover threshold for Composition taxpayers was being increased to Rs.1.5 crore, 10% of this would become Rs.15 lakh and therefore the upper limit would now be

automatically Rs.15 lakh as proposed by the Hon'ble Deputy Chief Minister of Bihar. The Hon'ble Chief Minister of Puducherry stated that they had received the agenda only three days in advance of the Meeting and the States that were not part of the Law Committee needed more time to examine this proposal. The Hon'ble Minister from Assam stated that the proposed amendment to Section 10 to increase the annual turnover threshold to Rs.1.5 crore was already decided in the 23rd Council meeting held in Guwahati on 10 November, 2017 and the proposed formulation was only its implementation. The Council approved the formulation as proposed in the Presentation.

(iv) **S.No.17 of Presentation relating to Section 17(5)(a) and new (aa) and (b) of CGST/SGST Act:** The Commissioner (GST Policy Wing), CBIC stated that during the Officers meeting held on 20 July 2018, it was pointed out that there was some contradiction in the presently drafted text where transportation of goods was being referred in the sub section which was for motor vehicles for transportation of persons. He suggested that the formulation could be reworded in consultation with the Union Ministry of Law. The Council approved the proposal.

(v) **S. No. 19 of Presentation relating to Explanation in Section 22:** The Commissioner (GST Policy Wing), CBIC explained that this proposal related to increasing the annual turnover threshold for registration from Rs.10 lakh to Rs.20 lakh for two Special Category States namely, Assam and Sikkim. The Hon'ble Ministers from Meghalaya, Uttarakhand, Himachal Pradesh and Arunachal Pradesh expressed that they would also like to increase their State's annual turnover threshold for registration from Rs.10 lakh to Rs.20 lakh. The Hon'ble Deputy Chief Minister of Bihar suggested that instead of naming each State in the law, an enabling provision could be made in the Law to increase the annual turnover threshold for registration up to Rs.20 lakh for all the Special Category States. The turnover threshold for registration could then be increased for those Special Category States which so desired in future. The Hon'ble Minister from Haryana stated that this provision was deliberated in great detail during the original drafting of the GST law and the benefit of lower annual turnover threshold for registration under GST was given to a class of Special Category States. It needed to be examined whether a further class within this class of Special Category States should be created or whether all Special Category States should be persuaded to increase their annual turnover threshold for registration from Rs.10 lakh to Rs.20 lakh. The Hon'ble Chairperson stated that this issue should be kept open and the Special Category States should be given flexibility to increase their annual turnover threshold to Rs.20 lakh for registration as and when they felt comfortable with it. Dr. Rajiv Mani, Joint Secretary, Ministry of Law stated that an enabling provision could be made in the GST Law so that the Council could approve the names of the Special Category States as and when they wanted to increase their threshold for registration from annual turnover of Rs.10 lakh to Rs.20 lakh. The Council approved this suggestion as well as the proposed amendment to include names of four more States, namely Arunachal Pradesh, Himachal Pradesh, Meghalaya and Uttarakhand in Explanation to Section 22 of the CGST Act, 2017.

(vi) **S. No. 46 of Presentation relating to new Section 10 (3A) of GST (Compensation to States), Act, 2017:** The Hon'ble Chairperson suggested that the proposed formulation should have more flexibility. Instead of providing that the amount remaining unutilised in the Fund shall be distributed between the Centre and the States, the law should provide that such amount may be distributed between the Centre and the States, as the Council may decide. He suggested to change the phrase 'distribute the amount remaining unutilized in the Fund' to 'distribute such amount remaining unutilized in the Fund'. The Council agreed to this proposal.

(vii) **S.No.1 of Table relating to Returns:** The Hon'ble Chief Minister of Puducherry suggested that this proposal should be examined further. The Hon'ble Minister from Assam stated that this

was only an enabling provision and it could be agreed upon. The Council agreed to the formulation shown in the presentation.

14.13. The Hon'ble Deputy Chief Minister of Delhi stated that the report of the Law Review Committee should be tabled in the Council along with the reasons as to why its 46 proposals were not considered. He also suggested that the website link containing the proposed 1270 suggestions received from the stakeholders on the proposed changes to the GST Law should also be shared with the States. He further suggested that the report of the Law Review Committee should not be closed. The Commissioner (GST Policy Wing), CBIC pointed out that these suggestions were available on the MyGov.in portal of the Government of India. The Council approved the proposals of the Hon'ble Deputy Chief Minister of Delhi.

15. For **Agenda Item 6(i)**, the Council approved the following:

15.1. Amendments in the CGST Act, 2017; IGST Act, 2017; UTGST Act, 2017; and GST (Compensation to States) Act, 2017 as proposed in the presentation attached as Annexure 4 to the Minutes with the following changes:

(i) To amend Section 7 of CGST/SGST Act, 2017 (as mentioned at S. No. 6 and S. No. 7 of the Presentation) with retrospective effect;

(ii) To reword the formulation relating to Section 17(5)(a) and new (aa) and (b) of CGST/SGST Act, 2017 (as mentioned at S. No. 17 of the Presentation) in consultation with the Union Ministry of Law;

(iii) To reword the formulation in Section 22 of the CGST Act, 2017 (as mentioned at S. No. 19 of the Presentation) in order to have an enabling provision to increase the annual turnover threshold for registration up to Rs.20 lakh for all the Special Category States;

(iv) To change the phrase 'distribute the amount remaining unutilized in the Fund' to 'distribute such amount remaining unutilized in the Fund' in new Section 10 (3A) of GST (Compensation to States), Act 2017 ((as mentioned at S. No. 46 of the Presentation);

15.2. To make suitable modifications in the draft formulations as per the advice of the Union Law Ministry.

15.3. To table the Report of the Law Review Committee in the Council along with the reasons why its proposals were not considered along with the website link containing the suggestions to the proposed changes in the GST law;

15.4. To keep open for the consideration of the Council the suggestions of the Law Review Committee not accepted till now.

15.5. To submit before the Council, Report of every Committee set up by it.

Agenda Item 6(ii): Creation of Goods and Service Tax Appellate Tribunal (GSTAT)

16. The Secretary invited the Joint Secretary, Department of Revenue, to introduce the agenda item. The Joint Secretary, Department of Revenue, stated that the draft rules of Goods and Service Tax Appellate Tribunal (Appointment and Conditions of Service of President and Members) Rules, 2018 was approved by the GST Implementation Committee (GIC). He informed that during the Officers

meeting held on 20 July 2018, Shri Arun Kumar Mishra, Additional Secretary, Commercial Tax Department, Bihar had pointed out that Rule 3 of these Rules would require some modification in view of the fact that the Rule referred to three different Selection Committees, but sub-Rule 4 provided for Convenor for only two Committees and this could be suitably modified. The Council approved this proposal. He further stated that it was proposed to constitute a GST Appellate Tribunal (GSTAT) National Bench at New Delhi and three Regional Benches at Mumbai, Chennai and Kolkata and after seeking the recommendations and approval of the GST Council, approval would be taken for creation of necessary posts of Chairman and Members.

16.1. He requested the Council to approve the following:

i) Constitution of Goods and Service 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.

16.2. The Council approved the above proposals.

17. **For the Agenda Item 6(ii),** the Council approved the following:

i) Constitution of Goods and Service Tax Appellate Tribunal;
ii) Creation of National Bench of GST Appellate Tribunal at New Delhi and three Regional Benches at Mumbai, Chennai and Kolkata; and
iii) Modification of sub-Rule 4 of Rule 3 of GST Appellate Tribunal (Appointment and Conditions of Service of President and Members) Rules, 2018 in order to provide for Convenors for all three Selection Committees.

Agenda Item 6(iii): Simplification of GST Returns

18. The Hon'ble Chairperson observed that there had been some concern amongst the small taxpayers about the number of returns and the amount of paper work that they needed to do in GST regime. He observed that the new process should be such as to make the return filing a delightful experience for small taxpayers. He added that the Council should send a message that it cared for small and medium enterprises. The Secretary invited Shri Manish Kumar Sinha, Joint Secretary (TRU-II), CBIC, to make a presentation on this Agenda item.

18.1. The Joint Secretary (TRU-II), CBIC, made a presentation on the subject (attached as **Annexure 5** to the Minutes). He stated that the Council during its 27th meeting held on 4 May 2018 had approved the basic principles of GST return filing and directed the Law Committee to finalise the return. Based on the decisions of the Council and guidance of the Group of Ministers (GoM) on IT Challenges in GST Implementation, the GST Law Committee had further detailed the GST return, which was placed before the Council for approval. He informed that during the process of finalization of return format, wide consultations were held with trade and GST compliance community and their inputs had been duly incorporated in the return design. GSTN and the implementing IT Company i.e. Infosys were also part of the return design process and are fully on board for the proposed design.

18.2. The Joint Secretary (TRU-II), CBIC, explained the key features of the return. He stated that there would be only one monthly return for all taxpayers excluding small taxpayers with annual turnover below Rs.1.5 crore and Input Service Distributor (ISD), etc. There would be an optional provision of quarterly return filing for small taxpayers with annual turnover below Rs.1.5 crore, but they would need to pay tax on monthly basis. The due date for filing return by a large taxpayer shall be 20th of the next month whereas the due date for smaller taxpayers shall be 25th of the next month. The taxpayers having

no output tax liability and no input tax credit would also have a facility to file return through SMS. Facility for continuous upload of invoices by the supplier and viewing by the recipient along with tax payment status of an invoice shall also be available. On locking those invoices, the recipient can avail the input tax credit. In cases where no return is filed after uploading of the invoices, it shall be treated as self-admitted liability of the supplier, after the due date of filing of that return.

18.3. Invoices uploaded by the supplier before 10th of the next month shall be posted for viewing by the recipient by 11th of next month. He stated that earlier the paper invoice was adequate to avail the credit but now the uploaded invoices would become a necessary and mandatory condition for availing credit and to that extent, one was moving towards system-based credit. Hence credit control would improve. The IT tool would be provided for continuous uploading of invoices. IT tool/facility for matching of the invoices downloaded from the viewing facility of the buyer shall also be provided. There shall be a system for locking of invoices which basically means acceptance of transactions by the recipient before filing of his return. Locked invoices cannot be amended. Provision for pending invoices facility was proposed to be incorporated in the return in view of the large tax payers, particularly large manufacturing setups, because they have a cycle in which they examine the inventory etc. and they decide on the credit availability, ineligible credit and reversal etc. He further explained that pending invoices are invoices which have been uploaded by the supplier for which supplies have not been received or the recipient is of the view that invoice needs amendment or where he is not able to decide to avail the input tax credit. He highlighted that a major change proposed was that no input tax credit can be availed by the recipient where goods or services have not been received before filing of a return by the supplier. This would reduce the number of pending invoices for which input tax credit is to be taken. There would be no automatic reversal of input tax credit at the recipient's end where tax had not been paid by the supplier. Revenue administration shall first try to recover the tax from the seller and only in some exceptional circumstances like missing dealer, shell companies, closure of business by the supplier, input tax credit shall be recovered from the recipient by following the due process of serving of notice and personal hearing. He stated that though this would be part of IT architecture, in the law there would continue to be a provision making the seller and the buyer jointly and severally responsible for recovery of tax, which was not paid by the supplier but credit of which had been taken by the recipient. This would ensure that the security of credit was not diluted completely.

18.4. He also explained that in the present return design, GSTR-3B could not be amended but in the new return design, there would be a facility for amendment of invoice and other details filed in the return. Maximum two amendments of return would be allowed for each tax period till the month of September of the next Financial Year. Along with the amendment of return, payment of tax shall also be allowed to save the interest liability of the taxpayer and the negative tax liability would be taken to next tax period. In order to bring in some discipline in return filing, it was proposed to charge a late fee (after some time of implementation of new return) if the amendment return involved change in liability of tax by more than 10%. He stated that the table for export of goods in return would also contain details of shipping bills, but this information could be filed even after filing the return by using a separate facility for correcting details of Shipping Bills without considering it as amendment, and therefore the taxpayer would not be considered to have exhausted his opportunities for amendment of return. Subsequently, once the data was complete, the same would be transmitted to ICEGATE for processing. He stated that a provision of 'supply side control', that is some limit / red flags would be introduced for newly registered taxpayers and the taxpayers who had defaulted in payment of tax beyond a time period and/or those who pushed credit in the system beyond a threshold. For defaulting taxpayers, it is proposed that after two defaults, that is, if he has not paid tax for the months of April and May (upto June return), then July month onwards, his invoices could not be seen by the buyer and credit flow would be blocked. For such cases, uploading of invoices shall be allowed only after the default in payment of tax was made

good. He stated that return format shall have two tables - one from which tax liability arose and the other for availing input tax credit. Some additional details would be captured for ascertaining the turnover and details of capital goods credit.

18.5. He further explained that the return would be profile based and a questionnaire shall be used to profile the taxpayers and only that part of return shall be shown to him which matched his profile. First such profile was for those who were to file 'Nil' return. The Hon'ble Chairperson observed that for 'Nil' return filing, it should be clearly stated that 'Nil' return means 'no purchase and no sale'. The Joint Secretary (TRU-II), continuing his presentation, stated that invoice upload table was similar to present GSTR-1 Table - it captured the basic information such as tax rates, taxable value and tax payable and it did not capture HSN. The HSN details for the large taxpayers would be captured in a separate table with appropriate validation to ensure good data quality. He also showed the formats of the main Table and the annexure to the main return.

18.6. The Joint Secretary (TRU-II) further informed that there shall be a quarterly return for taxpayers having annual turnover up to Rs.1.5 crore. This would benefit about 83% of taxpayers. He stated that one of the key concerns for quarterly return was the delay in settlement of tax to States but it was proposed to be addressed by providing a facility for filing of quarterly return to small taxpayers with monthly payment of tax and availing input tax credit on self-declaration basis. He stated that even for small taxpayers, settlement of funds to the extent of 90% would be monthly as IGST utilisation for CGST or SGST constituted 90% of the settlement. He pointed out that 85% of the business took place within the sphere of large taxpayers, 12.3% of the business took place between the large taxpayer and the small taxpayer and transaction between two small tax payers was approximately only 2.2%. The credit utilization by the small taxpayers/businesses was also lower than that for medium and large businesses.

18.7. The Joint Secretary (TRU-II), CBIC stated that there would be further simpler quarterly return available for small traders who make only Business to Consumer (B2C) supplies or only Business to Business (B2B) plus Business to Consumer (B2C) supplies. The return format for B2C suppliers was proposed to be called SAHAJ and for B2B plus B2C suppliers, it was proposed to be called SUGAM. He also stated that small taxpayers would have the option to continuously upload the invoices to enable their purchasers to avail input tax credit. He informed that the key feature of SAHAJ and SUGAM would be that some of the details required in other returns had been dropped and such information shall be collected only in the annual return, such as HSN details, details of non-GST supply and capital goods credit. He stated that in this return, there shall be no details for pending and missing invoices as small taxpayers shall typically have only 10-12 invoices and they would not tend to roll over their input tax credit for the next month. He stated that this simple format would reduce the compliance cost for small taxpayers. He stated that originally it was proposed that at the beginning of financial year, a taxpayer would need to opt for this form of return and he could not change this option during the entire financial year. However, during the Officers meeting held on 20 July, 2018, it was decided that one exit option should be given to a taxpayer to switch over from filing monthly return to quarterly return and *vice versa* at the beginning of any quarter. The Joint Secretary (TRU-II) also showed the structure of the SAHAJ and SUGAM formats.

18.8. In view of the above discussions, he proposed that the Council may approve the following:

(i) The monthly and quarterly returns as proposed, including SAHAJ and SUGAM;
(ii) The key features of two formats may be placed on the public domain for information;

(iii) Features and formats to be finalized with amendments based on inputs received from various quarters such as officers, trade, IT Company, etc. The Council may authorize GIC to approve the final format; and

(iv) The final provision in law to be finalized in consultation with Ministry of Law and after receiving inputs from various quarters and to be approved by GIC.

18.9. Initiating the discussion on this agenda item, the Secretary stated that this item was discussed extensively in the Officers meeting of 20 July, 2018 and large number of officers were in favour of quarterly return and some even suggested a more liberal idea of even quarterly payment of taxes for those filing quarterly return. The Hon'ble Deputy Chief Minister of Bihar stated that the proposed quarterly return with monthly payment of tax would be a historic decision. He stated that the same format of quarterly return and monthly payment of tax was followed in Bihar during the VAT regime and it would be good to introduce the same under GST. He stated that originally, the stumbling block for this idea was that it would obstruct monthly settlement of funds to the States and it was good that a solution was found for the same. He observed that this new return format would benefit the small taxpayers. He suggested that return format should be placed in public domain so that ideas could be obtained for further simplification. He also stated that adequate time should be given for transition and software development of the new return format. The Hon'ble Chairperson stated that the new return format could be put in public domain for one month.

18.10. On enquiry by the Hon'ble Chairperson regarding time taken for development of software, Shri Prakash Kumar, CEO, GSTN informed that they would need about six months' time to develop the software after specifications are frozen. The Secretary stated that GSTN was already working on the software development and the aim would be to introduce the new return format from 1st January 2019 on best effort basis. The CEO, GSTN stated that the return design should be finalized quickly because it becomes very difficult to first make software and then make further changes. He raised the issue regarding integration of refund process in the new return design which requires deliberation. The Hon'ble Chairperson stated that all these aspects should be addressed and the new return format should be finalized expeditiously. The Hon'ble Deputy Chief Minister of Bihar stated that taxpayers should also be given time of 2-3 months to practise the return filing in the new format before legally implementing it. He added that till such time that the new return software was available, the present system of GSTR-3B and GSTR-1 should continue.

18.11. The Hon'ble Deputy Chief Minister of Bihar observed that quarterly return was proposed only for those taxpayers having an annual turnover of Rs.1.5 crore. Most taxpayers within this threshold might opt for Composition scheme. He suggested that considering this, benefit of filing quarterly return should be extended to taxpayers with annual turnover up to Rs.5 crore. He observed that in Bihar and eastern Uttar Pradesh, several traders had turnover of two to three crore but they were still small dealers. They should also get the benefit of filing quarterly return. The Hon'ble Chairperson supported this suggestion and said that this would improve the compliance environment and would encourage filing of more returns. The Hon'ble Deputy Chief Ministers of Gujarat and Delhi and the Hon'ble Ministers from Uttarakhand, Assam, Punjab, Chhattisgarh, and Arunachal Pradesh supported the suggestion of the Hon'ble Deputy Chief Minister of Bihar. The CCT, West Bengal, the CCCT, Andhra Pradesh, and the Principal Secretary (Finance), Jammu & Kashmir also supported this proposal. The Hon'ble Minister from Tamil Nadu supported the proposal in principle subject to its approval by the Law Committee.

18.12. The Advisor (Financial Resources), Punjab stated that the provision for monthly payment of tax would lead to difficulty for taxpayers to estimate the amount of tax to be paid in advance. He further suggested that the provision in the law making the buyer and the seller jointly and severally responsible for input tax credit availed on which tax was not paid by the suppliers was not a very good formulation

as tax administration would tend to straightaway go after the recipient for recovery of tax not paid by the supplier. He stated that it should be carefully worded and a better formulation would be to provide that the liability would be first on the seller and if he fails to pay, then the liability would be of the recipient. He further stated that some eminent economists had suggested that all taxes could be paid on reverse charge basis. The Hon'ble Chairperson observed that such new scheme could not be considered at this stage. He further observed that even Directors of the Companies were jointly and severally responsible. The Hon'ble Chief Minister of Puducherry supported, in-principle, the proposal to extend the benefit of filing quarterly returns to taxpayers having annual turnover up to Rs.5 crore but suggested that it should be further examined. The Hon'ble Deputy Chief Minister of Delhi stated that earlier too, on many occasions, he had suggested to have a system of filing quarterly return and monthly payment of tax for all taxpayers.

18.13. The Secretary stated that 13% of the Revenue came from taxpayers with annual turnover below Rs.5 crore and if the benefit of quarterly return was extended for taxpayers with annual turnover up to Rs.5 crore, it would lead to benefit for additional 10% of taxpayers (coverage of taxpayers would increase from 83% to 93%) but the tax involved would be around 13% of the total collection whereas for tax payers up to Rs.1.5 crore annual turnover, it involved about 6% of total revenue. The Hon'ble Chairperson stated that 7% revenue was not such a high figure and the turnover threshold for filing quarterly return could be increased. The Secretary stated that one apprehension was that the taxpayers eligible to file quarterly return would pay very nominal amount of tax in the first two months and this would defer collection of 7% of tax revenue by two months and this could cause loss to the smaller States. The Hon'ble Chairperson stated that a provision could be made for charging interest if the tax payment was low. Secretary stated that Maharashtra had earlier proposed that for 83% taxpayers whose annual turnover was less than Rs.1.5 crore, they could also be allowed to make tax payment quarterly along with filing of quarterly returns. The Hon'ble Chairperson also mooted the idea that since the tax collection for taxpayers of annual turnover up to Rs.1.5 crore was very small whether they could be allowed to pay tax quarterly. CCT, Gujarat stated that the system of monthly payment should be kept, as in its absence, revenue of smaller States of North East would suffer. The Hon'ble Deputy Chief Minister of Bihar stated that monthly payment of tax should be adopted. The Hon'ble Chairperson stated that there should be monthly payment of tax and a provision for filing return on quarterly basis.

18.14. The Hon'ble Minister from Odisha stated that the proposal needed more time for study. The Hon'ble Minister from Kerala stated that he did not support the proposal to increase the threshold for quarterly filing of return to taxpayers having annual turnover of up to Rs.5 crore. He stated that this proposal needed deeper study and consultation and it should be deferred. The Hon'ble Chairperson sought to understand the problem that Kerala foresaw in accepting the proposal. Shri Rajan Khobragade, CCT, Kerala stated that this would delay IGST settlement by three months. The Hon'ble Chairperson stated that there would be provisional settlement till that time. He stated that increase of threshold to Rs.5 crore would lead to increased compliance for smaller taxpayers and thresholds could not be increased in a staggered manner as the technology could not be changed periodically. The Hon'ble Chief Minister of Puducherry supported the view of Kerala. He stated that the idea of quarterly return and monthly payment of tax was dangerous as the taxpayers would pay only notional amount in the first two months and bulk of the tax would be paid in the third month. The Hon'ble Chairperson stated that one option was that the taxpayer should make an estimate of his tax liability for the quarter and pay one third of the tax every month. Shri Tuhin Kanta Pandey, Additional Chief Secretary (ACS), Odisha stated that taxpayers would not be able to estimate their potential turnover in advance. He also stated that Rs.1.5 crore annual turnover threshold was based on the threshold limit for Composition scheme. After further discussion, the Council agreed that taxpayers up to annual turnover of Rs.5 crore would file

quarterly return and pay tax monthly and that the Law Committee would examine how to ensure that taxpayers did not pay less amount in the first two months of the quarter.

18.15. The Hon'ble Chairperson also made a reference to 'briefcase companies' who sell goods enabling the recipient to take input tax credit and vanish after 2 to 3 months. He observed that if such companies were not traceable, then the recipient who had used the input tax credit would be liable to pay the tax even though he might have paid the tax to the seller. He suggested that to address this problem, one option could be that when a buyer was purchasing goods from an unknown seller or a new seller, he should obtain his GSTIN and make payment of tax to the Government and pay rest of the amount to the seller. The Joint Secretary (TRU-II), CBIC stated that there could be problem for the seller to offset his input tax credit. The Hon'ble Chairperson stated that if the seller did not agree to this term, then the purchaser was free not to enter into transaction with him. The Joint Secretary (TRU-II), CBIC pointed out that the seller could ask for refund of accumulated input tax credit and this also may need to be built into the refund mechanism or to permit him to use credit for other supplies. The Hon'ble Chairperson stated that a provision for purchaser to pay tax on behalf of seller would solve the problem of fly by night operators. Dr. P.D. Vaghela, CCT, Gujarat stated that this option was also examined by the Law Committee earlier and that this could possibly be implemented by allowing credit to the purchaser. The Hon'ble Chairperson stated that the Law Committee should examine how to implement such a provision.

19. **For Agenda Item 6(iii)**, the Council approved the following:

i) The return design and format of monthly and quarterly returns including the SAHAJ and the SUGAM as contained in Presentation at Annexure 5 of the Minutes;
ii) The benefit of filing quarterly return shall be available to taxpayers with annual turnover of up to Rs.5 crore but they shall pay tax monthly;
iii) The Law Committee to suggest a method to ensure that taxpayers availing the benefit of filing quarterly tax return pay the correct estimated amount of tax every month and to charge interest where tax paid in any month was less than the value of supply declared in that month;
iv) To put the key features and the formats of the new returns in the public domain for one month to seek comments;
v) Final features of the return formats to be finalized with any minor amendments due to inputs received from various stakeholders with the approval of the GIC;
vi) The final provision in the Law in relation to Returns to be finalized in consultation with the Ministry of Law and on the basis of other inputs received to be finally approved by GIC;
vii) The new return format will be implemented from 1st January 2019 on best effort basis; and
viii) The Law Committee to examine to introduce a provision in the GST Law to allow a buyer to pay tax for the supplies received from a new or unknown supplier.

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

20. The Secretary invited Shri G.D Lohani, Joint Secretary (TRU-I), CBIC to introduce the agenda item. The Joint Secretary (TRU-I), CBIC stated that representations received from various stakeholders including Ministries and Secretaries and other officers of the Centre and the States seeking changes in GST rates and clarification regarding applicability of GST rates on supply of goods/services, were considered by the Fitment Committee in its meeting on 9 and 10 July 2018 and its recommendations is at Annexure I of Agenda Note 7. Fitment Committee also considered the GST rate on Handicraft items as identified by the Handicraft Committee and it made certain recommendations for changes in GST rates and for issuing clarification in relation to goods which is at Annexure II of Agenda Note 7. Issues relating to changes in GST rates or for issuance of clarification in relation to Services is at Annexure-III

of Agenda Note 7. Issues where the Fitment Committee felt that further examination was required is at Annexure-IV; issues where no changes were proposed in relation to goods is at Annexure V: and issues where no changes were proposed in relation to services is at Annexure VI of Agenda Note 7. The Council took up discussion in relation to proposals for change in rates covered under various annexures as well as on some other goods. The discussions are summarized as below:

Annexure-I and some other goods

Marble/Stone Deities (Sl. No 2):

(i) The Hon'ble Deputy Chief Minister of Delhi expressed an apprehension that exemption of tax on marble/stone deities could open doors for loss of revenue as such taxpayers were also trading in tiles. The Hon'ble Chairperson stated that small artisans were unable to keep books of account and their accounts were also opaque. He observed that in this segment, there would be very few manufacturers with large turnovers. It was important to reduce the compliance cost for the larger number of smaller artisans as the cost of collection from smaller artisans was higher than the revenue earned. He added that the proposal did not cover deities made of glass and metal as these were machine made. The Hon'ble Minister from Odisha suggested that deities made of wood should also be included in this exemption category as images of Lord Jagannath was made of wood. The Hon'ble Deputy Chief Minister of Delhi observed that including deities made of wood would have an environmental angle of cutting of trees. The Hon'ble Chairperson observed that these were small artisans and the proposal of the Hon'ble Minister from Odisha for inclusion of deities made of wood in the exempted category could be accepted. The Council approved the recommendation of the Fitment Committee to exempt tax (from the existing rate of 12%) on marble/stone deities as well as deities made of wood.

Sanitary Napkins (Sl. No. 3):

(ii) The Hon'ble Chief Minister of Puducherry supported the proposal to exempt sanitary napkins and stated that in the earlier Council meetings too, he had always argued to exempt sanitary napkins from tax. The Hon'ble Minister from Maharashtra congratulated the Council for coming up with this proposal. The Council approved the proposal to exempt Sanitary Napkins (existing rate 12%).

Hand Operated Rubber Roller (Sl. No. 26):

(iii) The Hon'ble Minister from Kerala stated that hand operated rubber roller was an agricultural implement and most of agricultural implements were exempted from tax. The Joint Secretary (TRU-I) stated that only agricultural implements such as spades, shovels and hoes falling under Chapter 82 were exempt from tax whereas those falling under the category of machine were taxed at the rate of 18%. He added that in the Fitment Committee, there was no proposal to reduce the rate of tax on Hand Operated Rubber Roller and the issue was only to clarify the correct classification of the item. The Hon'ble Minister from Kerala suggested that this item should be taxed at the rate of 5%. The Joint Secretary (TRU-I) stated that no goods under Chapter 8420 were taxed at the rate of 5% and Chapter 8420 covered a lot of other items. Reduction of tax rate on only item under this Chapter heading could lead to other distortion in rates. CCT, Gujarat stated that other sectors falling under this Chapter heading would also request for reduction of tax rate and suggested that the rate should be kept at 18%. The Hon'ble Minister from Assam stated that since Chapter 8420 contained several other items which attracted tax at the rate of 18%, it would be better that the Fitment Committee examined the issue further. Joint Secretary (TRU-I)

stated that presently the item was classifiable under Chapter heading 8420 and any change in the rate would need a separate carve out within this Chapter heading. The Hon'ble Chairperson observed that since it was used by poor farmers, the Council should respect the request of the Hon'ble Minister from Kerala and reduce the rate from 18% to 12%. The Fitment Committee should study the possibility to further reduce this rate to 5%. The Council agreed to this suggestion.

***Kota* Stone, Sand Stone and similar quality of local stones (Sl No.20):**

(iv) Shri J. Syamala Rao, Chief Commissioner, Commercial Taxes (CCCT), Andhra Pradesh stated that the Fitment Committee proposal was to increase the rate of tax on some items which was presently at 5% to 12%. He stated that there were similar stones in Andhra Pradesh and they were presently taxed at the rate of 5%. The Joint Secretary (TRU-I) stated that the structure of the Harmonized System (HS) Code was devised in a sequential manner where it covered the raw materials first and then the processed products. He stated that the stones fall into two Chapters – stones which were quarried and not worked other than simple cutting (quarry level cutting) were classified under Chapter 25 and taxed at the rate of 5%. The other Chapter 68 covered further worked up stones. He further stated that raw and merely sawn/cut *Kota* and similar stones fall under Chapter 25. He further stated that after quarrying, when such stones were further processed, worked (other than mere sawing/cutting), then it was classified under Chapter 68 and rate of tax on goods falling under Chapter 68 was earlier brought down from 28% to 12%. He informed that reference regarding *Kota* Stone came from Rajasthan. It was a layered stone which could be sold as such. He stated that as the rate differentials between different types of stones led to classification disputes, the Fitment Committee proposed to levy a uniform rate of tax of 12% on all types of stones. He informed that representations were also received on similar lines, as otherwise the rate differential would lead to misclassification and the risk of goods being cleared at the lower rate. CCCT, Andhra Pradesh stated that in their State, there was a demand to reduce tax on Napa slabs, which was similar to *Kota* stone and, therefore, rate of tax should not be increased.

(v) The Hon'ble Minister from Rajasthan stated that sand stones and lime stones were used by relatively lower class of people and this should be taxed at a lower rate whereas mirror polished tiles which are the replacement for high grade granite tiles, etc. could be taxed at the rate of 18%. He also showed physical samples of rough and polished *Kota* stones. The Hon'ble Chairperson observed that small stones which are not polished should be taxed at the rate of 5%. He stated that the Fitment Committee, in consultation with the officers of Rajasthan and Andhra Pradesh, should work out a definition and scope of polished stone which could be kept at a higher rate while stones which were not polished but cut and smoothened should be kept at 5%. The Hon'ble Minister from Chhattisgarh observed that relatively cheaper stones called '*farshi pathar'* was being taxed at the rate of 18% and as a result, market for such stones had come down leading to loss of employment for almost 50,000 persons. He stated that this item be taxed at the rate of 5%. The Hon'ble Chairperson observed that the rate of tax affected all the States. He observed that rough stones are used by poor people and only after polishing, they become finished stones. He observed that finished stones should be charged to tax at the rate of at 18%, whereas unfinished stones (other than marble and granites) should be charged to tax at the rate of 5%.

(vi) Dr. T.V. Somanathan, CCT, Tamil Nadu stated that stone tiles were a highly evasion prone commodity and the tax rate should be such as to prevent revenue leakage by misclassification. The Hon'ble Chairperson observed that cottage industry would need to be protected even at the risk of some revenue loss and he suggested that rate of tax should be 5% for such rough and

unfinished stone. The CCT, Tamil Nadu observed that some high-quality stones were also used by rich persons. The Hon'ble Chairperson observed that such consumption would not be perhaps more than 1% of the total consumption. He stated that since there was no concept of maximum retail price in GST, there could be some loss of revenue at retail level. After discussion, Council agreed that Kota stone and similar stones (except marble and granite) other than those which are polished shall be taxed at the rate of 5% while finished/polished *Kota* stone and similar stones shall be taxed at the rate of 18% and that a definition/scope of polished stone shall be drafted by the Fitment Committee in consultation with the officers of Rajasthan and Andhra Pradesh.

Refund of input tax credit on fabrics on account of inverted duty structure

(vii) The Hon'ble Minister from Maharashtra stated that their State had large scale textile industry which did not suffer any taxation earlier. Presently, refund of input tax credit on account of inverted duty structure was blocked on fabric which attracted tax at the rate of 5% whereas the raw materials, namely, yarn, attracted tax at the rate of 12%. He stated that many areas in his State like Bhiwandi, Malegaon and Yavatmal, etc. were badly affected. He pointed out that big textile suppliers were getting the benefit of input tax credit due to integrated supply chain, but small units were suffering. The Hon'ble Chairperson stated that this issue was also raised when he visited West Bengal.

(viii) Ms. Smaraki Mahapatra, CCT, West Bengal stated that textile issue was an all-India based issue and it should be considered a little more. She further stated that the initial suggestion was to keep cotton and other natural textile at 5% and to tax man-made textile at the rate of 12% and 18%. However, decision was to keep the rate of tax on textile at 5%, and to block the refund of the input tax credit accumulated as a result of inverted duty structure. If full input tax credit was allowed, it would lead to a situation of large scale refund. The Hon'ble Deputy Chief Minister of Gujarat stated that in Surat, textile industry was badly affected and almost 50% of the power loom industry had shut down. There was no tax on textile earlier and refund must be given for inverted duty structure on fabrics. The Hon'ble Minister from Rajasthan stated that the current rate structure of yarn to fabric had created a difference in tax treatment between integrated textile units and stand-alone textile units. He suggested that there could be three solutions to this problem namely: (i) yarn be taxed at the rate of 5%; (ii) manmade fabrics be taxed at the rate of 12% instead of 18%; (iii) blocked input tax credit may be released.

(ix) The ACS, Odisha stated that workers from his State employed in Gujarat were badly affected because of shutting down of textile industry. The Hon'ble Minister from Assam stated that textile industry was very badly affected and even if there was revenue loss on account of refund of input tax credit on account of inverted duty structure, it should be borne for the sake of protecting employment. The Hon'ble Minister from Chhattisgarh endorsed this view and stated that employment was a higher priority than tax revenue. The Hon'ble Minister from Haryana also supported the proposal and stated that this would improve compliance. The Hon'ble Deputy Chief Minister of Bihar stated that there was no tax on textiles since 1956. After phasing out of CST, States were given power to levy tax on textile, sugar and tobacco, but no State could levy tax on these items. When tax was levied on textiles in Madhya Pradesh, there was a strike and the same situation was also created in Bihar. Under GST regime also, the textile sector had opposed levy of GST. He stated that the suggestion of the Hon'ble Minister from Maharashtra deserved consideration. He also informed that workers from Bihar were returning from Surat due to shutting down of factories. He suggested to find a solution to the release of refund of blocked input tax credit. The Hon'ble Minister from Rajasthan stated that textile units were also facing problem in filing FORM ITC-04 in case of yarn. The Hon'ble Chairperson stated that the proposal

of Maharashtra supported by many other States should be considered. He expressed that loss of revenue would be made up by improved compliance and they would now be encouraged to issue invoices for their transactions. He suggested that refund of input tax credit on account of inverted duty structure should be allowed in the textile sector. However, this amendment should not come into effect retrospectively and there should be a mechanism to lapse the input tax credit lying in balance on the date of the notification implementing the new provision. He suggested that this amendment could be implemented from a prospective date and the purchases made after the issue of notification should only be allowed refund of input tax credit and input tax credit lying in balance should lapse. The Council agreed to this suggestion.

Fertilizer grade Micro nutrients and Fertilizer grade Phosphoric Acid:

(x) CCT, Tamil Nadu suggested that rate of tax on fertilizer grade micro nutrients and fertilizer grade phosphoric acid be reduced from 12% to 5%. Secretary stated that micro nutrients and fertilizer grade phosphoric acid, etc. were very broad categories of products and tax reduction should not be considered. The Hon'ble Chairperson stated that the suggestion of Tamil Nadu should be considered for reduction of tax on fertilizer grade phosphoric acid from 12% to 5%. The Council agreed to this suggestion.

Pickle

(xi) The Hon'ble Minister from Tamil Nadu suggested that pickle should be exempted from tax as was also suggested by the Hon'ble Chief Minister of Puducherry in earlier Council meetings. The Hon'ble Deputy Chief Minister of Bihar and the Hon'ble Minister from Goa suggested that exemption of tax on pickles should be considered by the Fitment Committee. The Hon'ble Chairperson observed that all food processing items should be promoted as total revenue from these items other than from bread and bakery products was not very significant. He stated that tax reduction would encourage the cottage industry in this segment. The Hon'ble Minister from Goa stated that he had been consistently requesting for reduction in rate of tax on cake as it was also a cottage industry in his State. The Joint Secretary (TRU-I) informed that pickle attracted 12% rate and all processed food, similarly placed, attracted a tax rate of 12%. Reducing rate of tax on pickle would invite requests for reduction of rates for all these items, which would have a significant revenue implication. The CCT, Gujarat stated that many food products were taxed at the rate of 18% and this needed further examination. After discussion, Council agreed that rate of tax on pickle, cakes and other processed food products shall be reviewed by the Fitment Committee.

Ethanol

(xii) The Hon'ble Minster from Assam suggested that rate of tax on ethanol should be reduced from 12% to 5%. Joint Secretary (TRU-I) stated that in the Fitment Committee, request for reduction in rate of tax on ethanol was from 18% to 12%. The Secretary stated that since the rate of tax on bio-diesel was 12%, ethanol for blending with petrol could also be taxed at the rate of 12%. The Hon'ble Chairperson observed that ethanol used for blending in petroleum products would help reduce import dependence. He suggested that rate of tax on ethanol supplied to Oil Marketing Companies could be reduced to 5%. The Hon'ble Minster from Tamil Nadu supported the proposal and stated that this would be a substitution for petrol and diesel. Shri Vivek Kumar, Addl. Commissioner, Commercial Tax, U.P. stated that if the rate of tax on ethanol for blending with petroleum products was brought down to 5%, the distilleries would face shortage of raw material. The Hon'ble Deputy Chief Minister of Bihar stated that this fear was unfounded as Oil

Marketing Companies could not procure the full production of ethanol in the country. The Council agreed to reduce the rate of tax on ethanol for sale to Oil Marketing Companies for blending with motor spirit from 18% to 5%.

Zip and slide Fasteners:

(xiii) The Hon'ble Chairperson stated that he had received a request to bring down the rate of tax on zip and slide fasteners from the current rate of 18%. The Hon'ble Deputy Chief Minister of Bihar suggested that the rate of tax could be brought down to 12%. The Hon'ble Minster from Rajasthan supported this proposal. The Council agreed to reduce the rate of tax on zip and slide fasteners from 18% to 12%.

Nicotine Gum:

(xiv) The Hon'ble Deputy Chief Minister of Gujarat stated that to quit smoking habit, Nicotine Polacrilex Gum is used and the present rate of tax on this item was 18% which should be reduced. The Hon'ble Chairperson stated that this may be examined by the Fitment Committee. The Council agreed to this suggestion.

Eggs:

(xv) The Hon'ble Chairperson stated that the Hon'ble Minster from Punjab had brought to his notice that the rate of tax on egg was different for different categories. For example, egg was exempt from tax, but egg white was taxed at the rate of 18%. The Secretary suggested that this issue could be discussed in the Fitment Committee. The Hon'ble Minster from Goa stated that egg was also used in cakes and cake was taxed at the rate of 18% while sweets were taxed at 5% which was not logical. The Hon'ble Chairperson suggested that rate of tax on different categories of eggs could be considered by the Fitment Committee as part of examination of rate of tax on processed food products. The Council agreed to this suggestion.

Products consumed on cruise liners:

(xvi) The Hon'ble Chairperson stated that he was informed by the Hon'ble Minster from Kerala that after levy of GST on products consumed on cruise liners, the tourists had stopped coming to Kerala. Therefore, a proposal should be considered to exempt tax on products consumed on cruise liners. The Hon'ble Minster from Kerala stated that earlier they did not levy VAT on products consumed on cruise liners. The Hon'ble Chairperson stated that cruise liners have large tourism potential, but one should be cautious that casinos should not get the benefit of tax exemption. He suggested that the Fitment Committee should examine the proposal to exempt from tax products consumed on cruise liners. The Council agreed to this suggestion.

Footwear:

(xvii) The Hon'ble Chairperson stated that high rate of tax on footwear was causing loss of jobs in the footwear sector. The Joint Secretary (TRU-I) stated that the main problem in this sector was the rate differential as footwear with retail price of less than Rs.500 per pair was being taxed at the rate of 5% tax while other categories of footwear were being taxed at the rate of 18%. He stated that request from trade was for rationalization of this rate structure. The Fitment Committee had examined this issue and suggested to make the tax rate of all footwears uniform at 12%, but some States objected to this proposal on account of revenue loss and the Fitment Committee had requested for a study by CCTs of Uttar Pradesh and Haryana. The Hon'ble Deputy Chief Minister

of Bihar stated that tax rate of 18% on footwear was leading to a bad perception of GST and the rate should be brought down to 12%. He also suggested that 5% rate of tax should apply to footwear sold for price up to Rs.1000 per pair. He stated that this would help improve the perception of tax rate under GST in this sector. He further mentioned that people from the Scheduled Caste community worked on leather shoes on job work basis and this should be taxed at the rate of 5%.

(xviii) The Hon'ble Minster from Goa suggested that the rate of tax on all shoes should be brought down to 5%. The Hon'ble Chairperson cautioned that this would lead to even big brands like Adidas and Nike getting the benefit of a low tax rate. The Hon'ble Minster from Haryana stated that footwear industry was strong in his State and footwear costing less than Rs.500 per pair was earlier getting imported in large quantities from China but it was now getting exported from his State to China. He stated that shoes costing more than Rs.500 per pair were normally used by higher income groups and tax on this item should not be reduced. He suggested that Council should wait for 18 months before considering change in tax rate as this was a high consumption item. He further stated that there was also a need to balance the revenue considerations and that the Fitment Committee should examine this proposal.

(xix) The Hon'ble Minster from Odisha stated that they had no leather industry in their State and it was important to see the revenue implication. He suggested that 5% rate of tax should be kept for footwear costing up to Rs.1000 per pair and other categories of footwear should be taxed at the rate of 12%. The Hon'ble Chairperson suggested that footwear costing up to Rs.1000 per pair could be taxed at the rate of 5% and those costing above Rs.1000 per pair could be taxed at the rate of 12% and leather shoes could also be taxed at the rate of 5%. The CCT, Tamil Nadu stated that this would have large revenue implication and it should be remembered that tax burden was borne by the consumers and not poor workers. The Hon'ble Chairperson stated that the footwear sector was being affected by cheaper imports. The Hon'ble Minster from Haryana suggested that one option could be to increase the rate of Customs duty on imported footwear.

(xx) The Hon'ble Deputy Chief Minister of Bihar reiterated that tax rate of 18% on footwear was very high and perception-wise, it had given a very bad image to GST. He repeated his suggestion to apply the reduced rate of tax of 5% on footwear costing up to Rs.1000 per pair and12% on footwear costing above Rs.1000 per pair. He added that one should also think about hand made leather shoes. ACS, Odisha stated that it was not desirable to fix tax rates on the basis of different classifications of footwear as it would complicate the tax structure. He also endorsed the view of CCT Tamil Nadu that the rate of tax only impacted the consumers and not the workers in the footwear sector. He added that the revenue implication of this proposal should be examined thoroughly before taking a decision. He further observed that once tax rate on footwear was brought down to 12%, it would be very difficult to increase it in future, even if required for augmenting revenue.

(xxi) Shri Jagdish Chander Sharma, Principal Secretary (E&T), Himachal Pradesh stated that tax rates based on value of sale was leading to large scale misdeclaration. He suggested that there should be one rate of tax for all categories of footwear. He stated that rate of tax of 5% on footwear costing up to Rs.1000 per pair would lead to greater diversion of footwear to this category. The Hon'ble Deputy Chief Minister of Gujarat suggested that tax rate should be kept at 5% for footwear sold up to Rs.1000 per pair, but for other categories, the present rate should be maintained. The Hon'ble Deputy Chief Minister of Bihar reiterated that 18% tax rate was too high and the loss of revenue would not be substantial if the rate was reduced to 12%. Shri Khalid K. Anwar, Senior Joint Commissioner, West Bengal stated that in the earlier VAT regime, the

VAT rate on shoes costing up to Rs.500 per pair was 5% but for other categories, VAT rate was 14.5%. Now, in GST, tax rate of 18% meant that the State's share was only 9% and if this was reduced to 12%, State's share would further come down to 6%. The Hon'ble Chairperson suggested that tax rate of 5% should be applied for footwear sold for a price upto Rs.1000 per pair instead of the present Rs.500 per pair while tax rate of 18% should be continued for other categories of footwear. The Council agreed to this proposal.

Lower Priced Biscuits

(xxii) The Hon'ble Minster from Uttarakhand stated that small biscuit industry which sold biscuits at Rs.100 per kilo or below was suffering and they were unable to compete with the multinational brands at the current tax rate of 18%. He suggested to bring down the tax rate on biscuits sold at Rs 100 per Kilogram or below to 5%. He stated that this will help poor people to afford biscuit with tea. The Hon'ble Chairperson suggested that this should be looked into by the Fitment Committee. The Council agreed to this suggestion.

Caps and *Topies*

(xxiii) The Hon'ble Chairperson stated that he had received representations highlighting different rates of tax being levied for knitted caps and *topis* and they had requested that this item should be taxed at one rate. The Joint Secretary (TRU-I) explained that knitted cap/*topi* falling under Chapter Heading 6501 and 6505, irrespective of price, were taxed at the rate of 12% whereas apparel costing less than Rs.1000 was charged to tax at the rate of 5%. The Hon'ble Chairperson suggested that tax rate for knitted cap/*topi* falling under Chapter Heading 6501 and 6505 and having retail sale value not exceeding Rs.1000 should be reduced from current 12% to 5%. The Council agreed to this suggestion.

Rakhi

(xxiv) The Hon'ble Chairperson stated that there were requests to exempt *rakhi* from tax. On enquiry, Joint Secretary (TRU-I) stated that only *kaleva* was exempt from tax and *rakhi* had no specific classification. The Hon'ble Chairperson suggested that *rakhi* other than those made of precious and semi-precious metal/article, should be specifically exempted from tax. The Council agreed to this proposal.

Annexure-II (Handicraft Items)

(xxv) Shri Navin Kumar Chaudhary, Principal Secretary (Finance), Jammu & Kashmir drew the attention of the Council to Sl. No. 17 of Annexure-II wherein it was mentioned that Pasoli was not a clear item and the same needed to be checked with the Government of Jammu & Kashmir. In this regard, he clarified that *Pasoli* was a type of famous painting called Basoli and as such, it should be included in the list of handicrafts. The Council agreed to this suggestion. He further drew attention of the Council to Sl. No. 25 (handmade/hand embroidered shawls) and requested that the rate of tax on hand embroidered shawls be reduced from 12% to 5% as it was a labour-intensive product mostly made by women folk. The Hon'ble Chairperson stated that this should be discussed with other MSME related issues. The Principal Secretary (Finance), Jammu and Kashmir further drew attention of the Council to Sl. No.39 of Annexure-II and requested that the rate of tax for Ladhaki chappals should be 5%. The Hon'ble Chairperson observed that Ladhaki chappals may not costing more than Rs.1000 per pair and in that case, it would automatically fall under 5% tax bracket.

21. **For Agenda item 7** relating to rate of tax on goods, the Council approved the proposals of change in tax rates/clarifications on goods **contained in Annexure-I and Annexure-II,** along with the changes in the rate of tax on goods as discussed above.

22. The Joint Secretary (TRU-II), CBIC introduced the changes proposed in the rate of tax on services in Annexure III to Agenda item 7. He sought the permission of the Council to withdraw the proposal at Sl. No.26 of Annexure III [to exempt from tax skill programmes having certification from Directorate General of Training (DGT) erstwhile Directorate General of Employment and Training (DGET) or Sector Skill Council under GST] as this proposal was subject to confirmation by the Directorate General of Training (DGT) that CREDAI was their training partner. He informed that in the morning today, DGT had clarified that CREDAI was not a training partner of DGT in the Ministry of Skill Development and Entrepreneurship. The Council agreed to withdraw the proposal at Sl. No. 26 of Annexure III of Agenda item 7. Discussion regarding some other proposals relating tax rate in Annexure III to Agenda item 7 and on some other issues is recorded as below:

Annexure III and other issues

(i) **Sl. No. 2 (Request for exempting supply of services to and by Educational Boards to students for conduct of examination):** The Advisor (Financial Resources), Punjab suggested that the recommendation of the Fitment Committee that services provided by Educational Boards may be exempted but not the services provided by the Boards should be implemented through a clarification instead of issuing a notification, as otherwise field formations may issue demand notices for the past period. The Joint Secretary (TRU-II), CBIC suggested that an explanation could be added to the existing notification 14/2018-Central Tax (Rate) to clarify this issue. The Council agreed to this proposal.

(ii) **Sl. No. 17 (Transaction value and not "declared tariff" may be considered for determining the tax rate applicable for the accommodation service)**: The Hon'ble Minister from Goa expressed happiness at the proposal to apply tax rate on accommodation services on transaction value and not on declared value. He further urged that a decision on Sl.No.5 of Annexure-IV regarding rate of tax on hotels needed should be taken early. He stated that 28% tax rate was too high and tourism industry in his State was becoming uncompetitive compared to other international destinations. He suggested that rate of tax on accommodation services should be reduced from 28% to 18%. He stated that most tourists were skipping India and moving to other destinations where they could get hotels at half the tax rates prevailing in India. The Hon'ble Minster from Assam stated that hotels would get considerable relief by changing the basis of application of tax rate to transaction value instead of declared tariff. The Joint Secretary (TRU-I) expressed a similar view. He further pointed out that the Table at page 263 of Vol. I of the Agenda Note (part of Annexure IV of Agenda Note 7) showed a study of comparative overall hotel rates of one chain of hotels which indicated that cost of hotel accommodation in India was less than that in countries like Malaysia, Singapore, Thailand, Sri Lanka, etc. The Hon'ble Minister from Goa stated that at least the cap of room rent of Rs.7500 and above per night for applying 28% tax rate should be increased to Rs.10,000 per night. The Hon'ble Chairperson stated that a big relief was already being given in this Council Meeting for accommodation services by applying the tariff rate on transaction value instead of declared value. Further relaxation regarding increasing the cap on minimum room rent from which the rate of 28% would apply could be examined further by the Fitment Committee.

(iii) **Sl. No. 12 (Proposal to declare services supplied by Central Government, State Government, Union Territory or Local Authority by way of any activity in relation to any**

function entrusted to a Municipality under Article 243W of the Constitution as neither supply of goods nor services): The CCCT, Andhra Pradesh stated that the proposal to declare services provided by municipalities as "no supply of goods or services" should be accepted as some Municipalities were smaller than Panchayats. The Senior Joint Commissioner, Commercial Tax, West Bengal stated that under the present GST laws, services provided by Panchayats qualify as "no supply" and in other place as "exempt services" which had led to ambiguity. If the service provided by Panchayats was to be treated as neither as supply of good nor services, then it would not come under the purview of computation of aggregate turnover. But, if it was to be treated as exempt supplies, then the annual turnover of Panchayat would need to be assessed after also taking into account the turnover of exempt supplies and if this exceeded Rs.20 lakh, then Panchayats would need to take registration under GST. As a result, even small Panchayats would become liable for registration. This anomaly was proposed to be rectified through a notification so that even if Panchayats rented some property, it was not required to take registration if the annual turnover of taxable supply was less than Rs.20 lakh. CCT, West Bengal stated that it was proposed that similar treatment should be given both to Municipalities and Panchayats. CCT, Gujarat stated that this issue could also be addressed by putting renting services by Panchayats and Municipalities under reverse charge. However, if a Municipality rented a property to a non-registered person, no tax would be payable in this situation. The Council agreed that services given by Municipalities under Art. 243W of the Constitution would be treated as no supply of goods or services. It also agreed to the other recommendation of the Fitment Committee to revert Entry 5 of Notification No.12/2017-CT(R) to what it was prior to its amendment *vide* Notification No.32/2017-CT(R) dated 13.10.2017.

Custom Milling of Paddy

(iv) The Hon'ble Minster from Chhattisgarh stated that Food Corporation of India (FCI) procured paddy and then gave it for custom milling which was taxed. As the milling was undertaken on behalf of FCI, he suggested that no tax should be charged on custom milling of paddy. The Hon'ble Chairperson stated that this could be examined by the Fitment Committee. The Council agreed to this suggestion.

Tax on coaching of various sports

(v) The Hon'ble Minister from Assam stated that presently there was a tax on sports activity such as coaching for boxing and badminton and he suggested that sports and cultural activities should be exempted from tax. The Secretary stated that the basic issue related to charging of tax on coaching for sports activities and this could be examined by the Fitment Committee. The Council agreed to this suggestion.

23. **For Agenda item 7 related** to proposed changes in rate of tax on services, the Council approved the proposals of **Annexure-III to Agenda Item No.7** except the item at Sl.No.26 which stood as withdrawn. The Council also agreed that in relation to Sl. No.2, an explanation shall be added to the existing notification 14/2018-Central Tax (Rate) to clarify that services provided by Educational Boards are exempt.

24. In relation to proposals at **Annexure IV** relating to goods (List of goods which require further examination by the Fitment Committee), on the issue of footwear appearing in this agenda item, the Council took a decision as recorded under discussion on Annexure I and agreed to the other proposal of the Fitment Committee.

25. In relation to **Annexure IV** relating to services (List of services which require further examination by the Fitment Committee), the Council agreed to the proposals of the Fitment Committee.

26. In relation to **Annexure V of Agenda Note 7** (List of goods not recommended for change in GST rate), some of the goods covered under this Annexure where the change in rate of tax was not recommended by the Fitment Committee were discussed during the discussion on Annexure-I to Agenda Item No.7 wherein the Council took various decisions relating to reduction in rate of tax or referring the issue to the Fitment Committee. These include phosphoric acid (Sl. No. 69); Nicotine Polacrilex Gum (Sl.No.71); and food products (Sl.No.90). In addition, following issues were discussed:

(i) **Sl. No. 83 (equal treatment to various semi-precious stones in Gems and Jewellery Sector):** The Hon'ble Minister from Rajasthan stated that the rate of tax on semi-precious stone should be reduced from the current 3% to 0.25%, though the Fitment Committee had not recommended this reduction. The Secretary stated that the main reason for levying tax at the rate of 0.25% on diamonds was to avoid blockage of funds of Jewellery as most of rough diamonds were imported. The rate of tax on semi-precious stone was only 3% and the fund blockage would not be very high. The Hon'ble Minster from Rajasthan stated that semi-precious stones like canalite and tanzanite were more precious than even diamond. The Hon'ble Chairperson stated that this issue could be considered at a later date.

(ii) **Sl. No. 101 (IGST exemption on import of machinery between 1st July to 12 October, 2017, i.e. till the date EPCG exemption was restored on 12.10.2017):** The CCT, Gujarat requested that this issue should be considered sympathetically in the interest of export. The Secretary stated that giving a retrospective amendment would be difficult.

27. In relation to Annexure-VI of Agenda Note 7 (List of services not recommended for change in GST rate), the Principal Secretary (Finance), Jammu & Kashmir on behalf of His Excellency the Governor of Jammu & Kashmir, brought to the attention of the Council, item at Sl. No.21 (to exempt all kinds of supply of services by Shri Mata Vaishno Devi Shrine Board, Katra from GST) and Sl. No.22 (to exempt all kinds of supply of services by Shri Amarnathji Shrine Board from GST) and requested that the services by both the Shrine Boards should be exempted from tax. The Hon'ble Chairperson stated that the Ministry of Culture had come up with a scheme to reimburse taxes on inputs used in preparing food in langars, etc. when distributed free and they should take advantage of this scheme. He added that upfront exemption of tax on inputs going into preparing food etc. in a religious shrine would not be possible as it would be very difficult to assess as to what items were purchased for use in the temple.

28. After discussion, the Council approved the proposals under Annexure VI (List of Services not recommended for change in GST rate).

Discussion on Table Agenda for rate reduction in Goods

29. The Hon'ble Chairperson stated that a Table Agenda was circulated today (attached as **Annexure 6** to the Minutes) on the basis of representations received to further prune the present 49 items in the tax bracket of 28%. He stated that some of the items in 28% tax bracket were sin goods or luxury goods on which in addition to 28% tax, cess was also being levied. Excluding this category, there were about 20 items which were in the 28% tax bracket. These 20 items fell into two categories. The first category was of those goods for which revenue accrued as intermediate supplies and thus these were wash transactions. The second category was those goods which went for middle class consumption such vacuum cleaner, small television, refrigerators, etc. on which such a high rate of tax gave the

incentive to evade tax. He stated that most of these products could no longer be considered as luxury goods. He further observed that if the rate of tax on middle class consumption goods were reduced from 28% to 18%, it would boost demand. Taking this into, the Table Agenda was circulated proposing reduction of tax on 17 items listed therein. He sought the views of Hon'ble Minsters from the States on the proposal to reduce the rate of tax on these 17 items from 28% to 18%.

29.1. The Hon'ble Minister from Goa supported the proposal to reduce tax rate on the proposed items from 28% to 18% for the benefit of the middle class. He observed that revenue loss would be made up by tax buoyancy. He also stated that e-way bill would improve compliance. He added that it was important that a message should go that the Council cared for the middle class. He stated that this was a proposal in the right direction where only sin and luxury goods should be taxed at the rate of 28%.

29.2. The Hon'ble Minister from Goa questioned the rationale of reducing the rate of tax from 28% to 18% for items covered under Sl.No.14 of Table Agenda (Video games consoles and machines, article and accessories for billiards, other games operated by coins, banknotes, i.e., casino games and other [other than board games of 9504 90 90]). The Hon'ble Minister from Goa suggested that casino games should be removed from the entry of Sl.No.14. Ms. Renu Sharma, Principal Secretary, (Finance), Delhi suggested that items covered under Sl. No. 14 of the Table Agenda should not be approved. The Hon'ble Chairperson agreed to this suggestion. He stated that it would send a bad signal to reduce tax rate on games etc. which could be potentially used in casinos and suggested to exclude goods covered under Sl. No. 14 of the Table Agenda from the proposal to reduce tax from 28% to 18%. The Council agreed to the proposal.

29.3. The Hon'ble Minister from Assam suggested that the proposal to reduce tax rate on items listed at Sl.No.11 [special purpose motor vehicles, other than those principally designed for the transport of persons or goods (for example, breakdown lorries, crane lorries, fire fighting vehicles, concrete-mixer lorries, road sweeper lorries, spraying lorries, mobile workshops, mobile radiological unit), Sl.No.12 (works trucks, self-propelled, not fitted with lifting or handling equipment, of the type used in factories, warehouses, dock areas or airports for short distance transport of goods; tractors of the type used on railway station platforms; parts of the foregoing vehicles) and Sl. No. 13 [trailers and semi-trailers; other vehicles, not mechanically propelled; parts thereof (other than self-loading or self-unloading trailers for agricultural purposes and hand propelled vehicles (e.g. hand carts, rickshaws and the like); animal drawn vehicles] should be reconsidered due to potential revenue loss. The Hon'ble Chairperson stated that revenue loss involved on these three items was not very substantial and therefore, rate reduction could be considered. He stated that revenue loss involved in the proposed reduction from 28% to 18% on the goods covered under the Table Agenda would be around Rs.6315 crores.

29.4. The Hon'ble Chairperson further stated that he was proposing to withdraw the items listed at Sl.No.17 of the Table Agenda [smoking pipes (including pipe bowls) and cigar or cigarette holders and parts thereof] under Chapter 9614 as these were sin items and any reduction in tax on them would send a wrong signal. He also stated that he was proposing to withdraw the proposal covered under Sl. No. 16 of the Table Agenda (all dutiable articles intended for personal use) as the coverage of these goods would be too wide. The Hon'ble Chairperson suggested that items covered under Sl. Nos. 14, 16 and 17 of the Table Agenda should be excluded and washing machine (Chapter Heading 8450) should be added for the proposed reduction of tax from 28% to 18%. The Council agreed to these suggestions.

29.5. The Principal Secretary (Finance), Delhi suggested that proposal to reduce the rate of tax on goods covered under Sl. No. 15 of the Table Agenda (scent sprays and similar toilet sprays, and mounts and heads therefor; powder-puffs ad pad for the application of cosmetics or toilet preparations) should be reconsidered as these were used by rich persons. The Hon'ble Deputy Chief Minister of Bihar

suggested not to exclude the items covered under Sl. No.15 from rate reduction. The Hon'ble Chairperson stated that more and more middle-class women used perfumes and percentage of those using very high value perfumes would be very small. He suggested that this proposal should be accepted. The Council agreed to the suggestion.

29.6. The Hon'ble Minister from Assam raised a question as to why cement was not being considered for rate reduction. The Hon'ble Chairperson stated that at this juncture, motor car parts and cement was being left out of the purview of tax reduction because of high revenue involved. CCT, West Bengal stated that the Hon'ble Finance Minister of her State had written a letter to the Hon'ble Union Finance Minister in November 2017 urging reduction in rate of tax on the items covered under 28% rate bracket and he had conveyed his support to the proposed reduction in rates. The Hon'ble Chairperson stated that he had also talked to the Hon'ble Chief Minister of West Bengal before this Council Meeting and she also supported the proposal to give relief to the middle-class people.

29.7. The Hon'ble Chairperson stated that washing machine falling under Chapter heading 8450 was left out of the Table Agenda. He proposed that tax should be reduced on this item also from 28% to 18% as it was used widely by the middle class. He added that the revenue involved on account of tax reduction on this item was about Rs.1560 crore. CCT, West Bengal expressed that in India, washing was still done by hand by 75% of the population and also the use of washing machine was bad for environment. The Hon'ble Chairperson stated that a lot of working class women used washing machines and added that rate reduction on washing machine would come as a great relief to middle class women. The CCT, Punjab supported the proposal. He, however, stated that the estimated revenue loss due to reduction of tax in 15 items (from 28% to 18%) appeared on lower side. The Secretary stated that revenue implication had been worked out taking into account about 1/3rd reduction in tax and it was estimated on the same basis as done before in the 23rd Council meeting held at Guwahati on 9 and 10 November, 2017 where the estimated revenue loss turned out to be the correct calculation based on actual revenue numbers.

29.8. The Joint Secretary (TRU-I) drew attention to the recommendations of the Fitment Committee at Sl. No.10 of Annexure I, under which it was sought to provide exactly the same treatment to brass kerosene pressure stove as has been provided to kerosene stoves of iron or steel. He proposed that accordingly brass kerosene stove may be taxed at the rate of 12% but parts thereof would attract tax at the rate of 18% (same as for iron and steel stove).

29.9. The Hon'ble Minister from Tamil Nadu stated that he had circulated a written speech where he had requested for reduction of tax on 42 goods and 9 services. He requested that it should be recorded in the Minutes and the suggestions should be considered by the Fitment Committee at the earliest. The Council took note of the same.

30. For **Agenda Item 7**, the Council decided the following:

30.1. For Annexure I, approved the proposed changes in rates of tax with the following amendments:

(i) To exempt from tax deities made of wood along with deities made of marble and stone;

(ii) To reduce the rate of tax on Hand Operated Rubber Roller from 18% to 12% and the Fitment Committee to study the possibility to further reduce it to 5%;

(iii) Kota stone and similar stones (except marble and granite) other than those which are polished shall be taxed at the rate of 5% while polished Kota stone and similar stones shall be taxed at the rate of 18%;

(iv) The Fitment Committee to work out a definition/scope of polished stone in consultation with officers of Rajasthan and Andhra Pradesh.

30.2. Approved change in tax rate/input tax credit refund in respect of the following goods:

(i) To allow refund of input tax credit on account of inverted duty structure in the textile sector which shall be implemented from a prospective date; purchases made after the date of notification implementing this provision shall only be allowed refund of input tax credit and the earlier input tax credit lying in balance on the date of such notification shall stand lapsed;

(ii) To reduce tax on fertilizer grade phosphoric acid from 12% to 5%;

(iii) To reduce the rate of tax on ethanol for sale to Oil Marketing Companies for blending with motor spirit from 18% to 5%;

(iv) To reduce the rate of tax on zip and slide fasteners from 18% to 12%;

(v) To charge tax at the rate of 5% for footwear sold for a price up to Rs.1000 per pair instead of the present Rs.500 per pair, while tax rate of 18% to be continued for other categories of footwear;

(vi) To reduce the rate of tax rate for knitted cap/*topi* falling under Chapter Heading 6501 and 6505 and having retail sale value not exceeding Rs.1000 from 12% to 5%;

(vii) To exempt from tax *rakhi* other than those made of precious and semi-precious metal/article;

(viii) Fitment Committee to review/consider reduction in rate of tax on pickle; cakes; different categories of eggs; other processed food products (Sl. No.90 of Annexure V); Nicotine Polacrilex Gum (Sl. No.71 of Annexure V); products consumed on cruise liners; biscuits sold at Rs 100 per Kilogram or below;

30.3. For Annexure II, approved the proposed changes in rates of tax with the following amendment:

(i) To clarify that *Pasoli* was a type of famous painting called *Basoli* in Jammu & Kashmir which was a handicraft item to be taxed at the same rate as other paintings (12%).

30.4. For Annexure III, approved the proposed changes in rates of tax on Services with the following amendments:

(i) to withdraw the proposal at Sl. No.26 of Annexure III to exempt from tax, skill programmes having certification from Directorate General of Training (DGT) erstwhile Directorate General of Employment and Training (DGET) or Sector Skill Council under GST;

(ii) For Sl. No.2, instead of issuing a new notification, to add an explanation in the existing notification 14/2018-Central Tax (Rate) that supply of services by Educational Boards to students for conduct of examination shall be exempt from tax;

(iii) For Sl. No.12, services given by Municipalities under Article 243W of the Constitution to be treated as no supply of goods or services;

(iv) Fitment Committee to examine relaxation regarding increasing the cap on minimum room rent from which the rate of 28% shall apply; exemption of tax on custom milling of paddy; charging of tax on coaching for sports activities.

30.5. For Annexure IV, Council approved the proposal of the Fitment Committee except for the following:

(i) For Sl. No. 1 (footwear) on issues relating to goods, rate of tax already decided by the Council as recorded above in relation to Annexure I decisions.

30.6. For Annexure V, Council approved the proposal of the Fitment Committee except the following issues:

(i) rate of tax on phosphoric acid (Sl. No. 69) decided to be reduced as already recorded as part of decision of the Council in Annexure I above;

(ii) To refer the following goods/issues for reconsideration by the Fitment Committee: Nicotine Polacrilex Gum (Sl.No.71); food products (Sl. No.90) and the issue of equal treatment to various semi-precious stones in Gems and Jewellery Sector (Sl. No. 83);

30.7. For Annexure VI, Council approved the proposals of the Fitment Committee.

30.8. Approved the reduction in the rate of tax from 28% to 18% for goods covered under the Table Agenda (**Annexure 6** of the Minutes) except for the goods covered under Sl. No. 14, 16 and17 and including Washing Machine covered under Chapter Heading 8450.

Agenda Item 8: Reports/Recommendations of different Committee/Group of Ministers (GoMs) for information/approval of the Council

Agenda Item 8(i): Recommendations of the Committee on Lottery

31. The Secretary invited the Joint Secretary (TRU II), CBIC to brief the Council regarding the recommendations of the Committee on Lottery. The Joint Secretary (TRU II), CBIC stated that the Terms of Reference of the Committee on Lottery was to examine and recommend ways to enable flow of GST to lottery to consuming States, and in this context, to examine issues like continuance of reverse charge on lotteries, exemption from tax for supplies beyond the first stage of lottery distributor, any necessary changes in 'place of supply rules' or Lottery Regulation Act, 1998 and any other connected issues.

31.1. He informed that the report of the Committee was submitted which is part of Annexure A of this Agenda item. The Committee has made the following recommendations for the consideration of the Council:

A clarification may be issued that:

a. If the organising State is registered in the State in which the organising State's lottery is being sold or has a fixed establishment there, then the supply of lottery by organising State to the lottery distributor or selling agent is an intra-State supply on which CGST and SGST of the consuming State is to be paid under reverse charge by the Lottery Distributor;
b. If the organising State is not registered in the State in which the organising State's lottery is being sold or does not have a fixed establishment there, then since the distributor/ selling agent will necessarily be registered in the consuming State (requirement in terms of section 25 of GST Act and the [proposed] rules framed by State Governments under Section 12 of the Lotteries (Regulation) Act, 1998), the transaction at first point of distribution chain between the organising State Government and the lottery distributor/ selling agent, shall be

an inter-State supply on which IGST is to be paid under reverse charge by the lottery distributor/ selling agent (Draft circular annexed to the report of the Committee).

31.2. The lottery organising States and the States in which lotteries are consumed, may frame following rules under Section 12 of the Lotteries (Regulation) Act, 1998:

a. An organizing State shall sell lottery tickets meant for a particular <State> to a distributor located and registered in that <State> only.
b. A distributor located and registered in a <State> selling tickets of another organizing State shall buy such tickets directly from the organizing State Government.
c. It shall be compulsory for <the organising State> to print "FOR SALE IN <name of State> ONLY" on each paper lottery ticket (Draft rules are annexed to the report of the committee as **Annexure 4)**.

31.3. The Council agreed to the recommendations.

32. **For Agenda Item 8(i),** the Council approved the recommendations of the Committee on Lottery.

Agenda Item 8(ii): **Recommendations of the Committee on IGST**

33. The Secretary informed that this Agenda item was discussed in detail in the Officers meeting held on 20 July, 2018. He stated that a lot of concerns were expressed by States as to why IGST amount was accumulating so much. It must be ensured that IGST accumulation did not occur and to examine this issue, earlier a Committee on IGST had been set up with Shri Ritvik Pandey, Joint Secretary, DoR, as its co-ordinator. He then invited the Joint Secretary, DoR to present the main recommendations of the Committee on IGST. The Joint Secretary, DoR stated that after an analysis of un-apportioned amount of IGST, the Committee on IGST had recommended to make *ad hoc* settlement of the un-apportioned amount of IGST. In the month of February, 2018, *ad hoc* settlement of Rs.35,000 crore was approved. In March, 2018, the Council constituted a committee on IGST to study and address the problem of IGST accumulation He stated that collection of IGST every month was about Rs.50,000 crore. Initially, in August, 2017, settlement was of Rs.11,000 crore and in June, 2018, settlement was about Rs.30,000 crore leaving a gap of about Rs.20,000 crore. He stated that as there was no transitional credit of IGST, the settlement of IGST had started right from the start of implementation of GST from the level of Rs.11,000 crore. However, because of accumulation of IGST credit, two provisional settlements were done, one of Rs.35,000 crore in February 2018 and the second of Rs.50,000 crore in June 2018.

33.1. He pointed out certain reasons for accumulation of balance in IGST credit ledger. He stated that the settlement of IGST depended upon use of IGST credit for payment of CGST and SGST. In April 2018, the net accumulation in IGST credit ledger was about Rs.15,000 crore whereas in June 2018, the net accumulation was only about Rs.4,000 crore which showed a drastic reduction in accumulation in last three months. He stated that the net accumulation of IGST till June, 2018 was about Rs.1.16 lakh crore. The Secretary clarified that IGST paid by a taxpayer goes to the IGST ledger of the purchaser which implies that IGST paid to the tune of Rs.1.16 lakh crore was lying in balance in the ledgers of various taxpayers. This amount could potentially be used in any month by any taxpayer to settle his CGST and SGST liability. He added that even during pre-GST period, at any given time, during the preceding three years, there was an accumulated balance of CENVAT and Service Tax credit to the tune of about Rs.1.50 lakh crore and a similar balance was now being reflected in the IGST ledger. For the first three months of this Financial Year, the IGST balance after the settlement and refunds was in the

negative. However, the previous year balance of Rs.1.68 lakh crore would be continued as a liability that could be claimed by the taxpayer any time. He further informed that about Rs.45,000 crore was paid as IGST on B2B transactions during July-December, 2017 but no credit for the same was taken by the end of financial year. As time allowed for claiming input tax credit in the ledger was till September 2018, one should have a safe margin of Rs.1.5 to 1.6 lakh crore in the IGST head and this amount was not yet due to the Central Government or the State Governments. It had to be kept in balance for use for payment of CGST and SGST.

33.2. The Secretary further stated that IGST model was brought in after a lot of consideration and if it was found to be not working well, one option was to switch to a new system to only charge CGST and SGST. In this model, for the goods going from, say, Maharashtra to Madhya Pradesh, the exporting taxpayer would pay CGST and SGST and when the same reaches Madhya Pradesh and when credit of tax is utilised by the purchaser in Madhya Pradesh, then there would be a mutual settlement between the two States. He observed that cross settlement between States would be very complex and originating State would always have a significant balance. This model would not affect the Central Government as it would get the CGST upfront.

33.3. The Secretary further informed that a paper has been written by Shri V. Bhaskar and Shri Vijay Kelkar of Pune International Centre in which it is proposed to make CGST payment immediately and to pay SGST as IGST for settlement with the States. He stated that this model was also fine with the Central Government. He added that the Central Government would not like to keep IGST balance beyond Rs.1.6 lakh crore and would give provisional settlement to the States for balance exceeding this amount. He suggested that the Committee on IGST could examine both the models, namely payment of CGST and SGST upfront and the model suggested by Shri V. Bhaskar and Shri Vijay Kelkar. The Council agreed to this proposal.

33.4. The Hon'ble Deputy Chief Minister of Delhi stated that in the VAT regime also, there was issue of credit lying in the taxpayer's credit account. The payment of refund was also an issue. He stated that parking of such a large amount of IGST would require a serious rethink of CGST and SGST model. The Hon'ble Chairperson informed that the officers of Delhi are also a part of the Committee on IGST and they should give their suggestions. The Council agreed to this suggestion.

33.5. The Hon'ble Chief Minister of Puducherry suggested that to wait for settlement till September 2018 and then apportion the shares to States including to Delhi and Puducherry. The Secretary stated that the data regarding credit reversal, credit utilised and credit not taken shall be available after September, 2018 in the annual return and then the settlement amount would also cover Puducherry and Delhi. The Secretary stated that prior to GST also, about Rs.1.5 lakh crore used to be parked in the Consolidated Fund of India by way of credit of Central taxes and now it had become IGST amount and only the form had changed. He stated that 42% of this revenue would be devolved to the States. He said that this devolution was done despite reservations of the Comptroller and Auditor General of India keeping in view the fact that if this amount of Rs.1.6 lakh crore was not devolved, then every State Government would face serious fund crisis.

33.6. The Hon'ble Minister from Assam stated that the proposal to adopt a different model for IGST would have a far-reaching impact. Origin State would have huge amounts of tax parked in the State Consolidated Fund. The destination State would have to wait for settlement till the input tax credit was utilised by the buyer in the importing State and the amount for which input tax credit was not utilised, would never come to the destination State. He stated that some method should be found for settling funds for Delhi and Puducherry instead of tinkering with the IGST design. The Hon'ble Chief Minister of Puducherry stated that the question was as to what would be this method. The Hon'ble Minister from

Assam stated that the system of devolution as per the Finance Commission formula should not be disturbed and everyone should wait till September 2018 to see what was the IGST balance lying at that time. The Hon'ble Deputy Chief Minister of Delhi stated that there were three issues involved: (i) The distribution pattern of IGST; (ii) The relationship between CGST, SGST and IGST; (iii) Whether the decision taken in March 2018 was right or wrong.

33.7. The Secretary stated that for future accumulation of IGST, there were certain solutions proposed by the Committee on IGST. However, if accumulation of IGST continued even after these solutions were implemented, then provisional settlement would be done.

33.8. The Hon'ble Deputy Chief Minister of Delhi stated that devolution for the last year was done including the IGST amount of Rs.1.6 lakh crore up to March 2018. This led to loss of revenue to Delhi as they did not get any revenue. He stated that any decision regarding IGST should be taken with the approval of the Council or the GIC and it could not be unilaterally decided by the Central Government. The Secretary stated that no unilateral decision was taken. In fact, there was no option as the IGST forms part of the Consolidated Fund of India and since it was part of the Consolidated Fund of India, the Central Government had no option but to devolve it to the States. However, Central Government did not have the option to distribute Rs.1.6 lakh crore as it was a liability for future and it was a liability of the Central Government. He added that in future too this balance would need to be maintained.

33.9. The Hon'ble Deputy Chief Minister of Delhi stated that they had subsumed entry tax, luxury tax, etc. but there is no liability of input tax credit. The Secretary stated that there was a total of Rs.70,000 crore balance in SGST ledger as well.

33.10. The Hon'ble Chief Minister of Puducherry stated that the argument of the Secretary was not correct. C&AG could not go against the GST Law. The funds that were collected under GST Law must be apportioned under GST and it could not go to the Consolidated Fund of India. It was important that they also must get their share of revenue. CCT, Tamil Nadu stated that it was important to remember that Rs.1.6 lakh crore was not only Centre's money; 50% of this amount belonged to the States and, therefore, IGST amount lying in the Consolidated Fund of India was different in nature than the amount lying earlier on account of Central Excise and Service Tax credit. The Hon'ble Chairperson stated that the amount of Rs.1.6 lakh crore could not be kept anywhere except in the Consolidated Fund of India. After September 2018, a part of it would be distributed as per the GST formula. The Hon'ble Chief Minister of Puducherry stressed the point that he wanted an assurance that distribution of amount would be as per the GST formula. The Hon'ble Chairperson stated that it was a rolling amount and it was not depriving anyone of its share. Earlier too the Central Excise and Service Tax went to the Consolidated Fund of India and potentially could be claimed as credit but also new amount got added. The Hon'ble Deputy Chief Minister of Delhi stated that Minutes should record the disagreement of the Union Territory of Delhi with the explanation offered by the Hon'ble Chairperson. The Hon'ble Minister from Tamil Nadu also requested to record his disagreement.

33.11. The Joint Secretary, DoR stated that there was a proposal to change the cross-utilisation provision of input tax credit under GST Law which would require the taxpayers to first use IGST credit for payment of CGST / SGST before using CGST / SGST credit. This would increase IGST cross utilisation and would reduce the balance in the IGST credit ledger. The Hon'ble Chairperson stated that the collection in first eleven months of GST implementation revealed that SGST collection was higher than CGST collection which showed that a larger portion of CGST credit was getting exhausted. The Secretary pointed out that if Centre gave more provisional settlement, then State finances would be benefitted but one has to be also mindful of the finances of the Central Government. He pointed out that in 2017-18, the total revenue of States was Rs.3.39 lakh crore, whereas that of the Central

Government was only Rs.2.05 lakh crore. Similarly, in Financial Year 2018-19, the States total revenue including compensation was Rs.1.39 lakh crore, whereas that of the Central Government was Rs.1.17 lakh crore. He stated that the revenue position of the Central Government must also be taken into account and it would need to hold Rs.1.6 lakh crore as a liability for future settlements.

33.12. The Hon'ble Chairperson observed that the amount for compensation would come down if proposal made by Tamil Nadu and Delhi was accepted. The CCT, Tamil Nadu stated that in the year 6 of implementation of GST, the method of IGST settlement would make a big difference. He further stated that instead of recording disagreement of some States, concerns of Delhi, North-East and Tamil Nadu would need to be addressed. He suggested that a Committee should be formed under Chairman, CBIC, Shri S. Ramesh, to look into these issues and Finance Secretaries of four States covering four different regions, namely, Delhi, Tamil Nadu, and one each from North East and West along with Principal CCA (Chief Controller of Accounts), CBIC and Joint Secretary, DoR could be part of this Committee. The Hon'ble Chief Minister of Puducherry stated that his State should also be part of this Committee. The Hon'ble Chairperson agreed to this suggestion. The Council agreed to the constitution of the Committee as proposed by the Hon'ble Chairperson.

33.13. The Joint Secretary, DoR stated that the second reason for accumulation of IGST was that ineligible input tax credit was not being reversed. He stated that manufacturers of exempt goods are not eligible for input tax credit, and banking and financial companies are eligible only for 50% of input tax credit. Many of such entities were taking only the eligible amount of input tax credit into their ledger. Had the taxpayers taken the full amount as input tax credit and then reversed 50% or whatever proportion for which they were ineligible, then IGST to that extent could have been apportioned to that State where the taxpayer was registered. He informed that in GSTR-3B information to be filed under Table 4 was meant to facilitate settlement but taxpayers were not declaring reversal of any input tax credit and ineligible input tax credit. So information regarding ineligible input tax credit was not getting captured and amount was remaining un-apportioned. He stated that the total credit of IGST available was Rs.4.20 lakh crore but credit taken in the ledgers of taxpayers was only about Rs.3.35 lakh crore. In fact, Rs.45,000 crore was not reflected in any input tax credit ledger as they were not featuring in the tax returns and hence they were not getting apportioned. He informed that in order to address this problem, it was proposed that in the format for Annual Return under GST law, a Table for reconciliation of ITC available and ITC availed as mentioned in paragraph 18 of the Agenda Note 8(ii) should be inserted.

33.14. The Joint Secretary, DoR stated that the third reason for IGST accumulation was pending refunds of input tax credit of IGST. He stated that an amount claimed as refund was debited in the ITC ledger of the taxpayer but the amount remains in the IGST account till the refund is given. He stated that this was not a big problem and the fund blockage was transitory in nature.

34. **For Agenda Item 8(ii)**, the GST Council decided the following:

(i) To approve the recommendations of the Committee on IGST to change the order of cross utilisation in the GST Law requiring the taxpayer to first use the IGST credit for payment of CGST / SGST before using CGST / SGST credit and to add a table of reconciliation of input tax credit available and input tax credit availed in the format for annual return;

(ii) To set up a Committee under Chairman, CBIC consisting of Finance Secretaries of Delhi, Puducherry, Tamil Nadu, and one each from the States of North East and West along with Principal CCA, CBIC and Joint Secretary, DoR, to address the concerns raised regarding treatment of IGST amount vis-à-vis the Consolidated Fund of India.

Agenda Item 8(iii): Recommendations of the Report of the Task Force to suggest measures for creating an Eco-System for Seamless Road Transport Connectivity

35. The Secretary invited the Joint Secretary, Department of Revenue (DoR) to make a presentation on this Agenda Item. The Joint Secretary, DoR stated that in order to comprehensively review the benefits of GST to reduce the burden on logistic sector, the Council in its 12th Meeting held on 16 March 2017 had decided to constitute a Task Force to Suggest Measures for Creating an Ecosystem for Seamless Road Transport Connectivity across the country. He stated that with the introduction of GST and a uniform nation-wide system of e-way bill with no physical check posts, transportation of goods had substantially become smoother but there was a scope for further improvement if a multi-sectoral approach was taken. He stated that the Task Force had submitted its report and it was circulated to all the States on 17 July 2018.

35.1. In the presentation, the Joint Secretary, DoR highlighted that road transport accounted for bulk of freight movement and one of the major reasons for delay in the movement of transport vehicles was checking at border check posts for activities like toll payment, checks conducted by Commercial Tax officers, Police and Transport department, State Excise authorities, Animal Husbandry, Mines and Minerals. Though the Commercial Tax check posts have gone, many other still remain. He stated that the e-way bill system in GST provides for *a priori* declaration by the supplier on the IT system with a system-based verification. It follows a risk-based approach where physical checks are conducted in very small number of cases and there is also an onus on officers to report physical checks in a time bound manner. There is also a provision for the person incharge of a vehicle to report if his vehicle has been stopped by an officer for more than 30 minutes. He stated that there was a possibility of integrating e-way bill system with other systems like VAHAN. It could also be used by other systems. The electronic verification could be through RFID (Radio-Frequency Identification) or GPS (Global Positioning System). He stated that instead of physical proof of delivery, an Electronic Proof of Delivery (e-PoD) could be integrated with e-way bill. He stated that the permit system could also be reviewed. He further stated that the report had suggested to use GPS and its integration with the e-Way Bill System as it was better than RFID technology and its cost was reducing over a period of time. Majority of transport vehicles were already using GPS and use of GPS may be made mandatory in the Motor Vehicles Act. A provision could also be made for mandatory sharing of GPS data with NIC. Another recommendation was to dovetail GST and Transport Internationaux Routiers so that ID number of TIR CARNET holder can be treated as a valid e-Way Bill.

35.2. The Joint Secretary DoR further stated that the report also recommended to minimize routine checks and the same should be done only on risk assessment. There should be authorization by a significantly high level of officer for conducting such checks and there should be a system of mandatory reporting of checks. The report also suggested rationalization of check posts and a system to avoid routine road checking of vehicles. The report has also suggested integration of various databases like VAHAN, SARATHI and NCRB (National Crime Records Bureau). Separate risk assessment matrix could be developed for each purpose as has done by the Customs Department.

35.3. The report also highlighted the need for real time updation of VAHAN database by Regional Transport Offices (RTOs) to capture fitness certificate, pollution under control, insurance, permit etc. The report has also recommended to harmonize Carriage by Roads Act, 2007 and GST Law. It also suggested electronic payment of toll, all types of payment including on-road penalties to be made on-line, reforms in Passenger transport segment, alignment of various forms relevant for transport of goods and e-Way Bill.

35.4. The Hon'ble Chairperson observed that it was a good report and that the transport sector was still facing several difficulties because of which it had been going on strike. He observed that while check posts had stopped, there were complaints of harassment by flying squads. He enquired whether instances of harassment could be put in public domain. Joint Secretary, DoR informed that there was already a provision under e-Way Bill that if a trucker was stopped for more than half an hour, the trucker could report the incident on the on-line portal. CCT, Gujarat stated that it was a good proposal to do away with permit system. The Secretary stated that the Ministry of Road Transport and Highways along with Road Transport Ministers of various States were having some type of Empowered Committee and looking into the issue. The Hon'ble Deputy Chief Minister of Bihar stated that the NIC report on e-Way Bill System had informed that it would take almost two years to install GPS. He informed that in the State of Uttar Pradesh, sensors had already been installed at 200 places for reading RFID tags and RFID tag was being made mandatory on transport vehicles as its cost was now as low as Rs.200 per piece. He observed that one could not wait for two years for introduction of GPS. It would be good to start using RFID tag depending upon the success of its use in Uttar Pradesh and Maharashtra. He further stated that the cost of RFID would not be as high as GPS and all States should use RFID technology.

35.5. The Chief Commissioner of Commercial Tax, Andhra Pradesh stated that RFID reader was a better technology and cost effective. He added that the entire country should go for RFID as verification, inspection and physical stopping of vehicles led to problems. The Secretary stated that installation of RFID readers and tags could also be funded by the Government of India. The Hon'ble Deputy Chief Minister of Bihar stated that the States could also fund this project as the cost was not very high. The Secretary stated that the GSTN could procure the RFID readers and tags and distribute them to all the States. He suggested that GSTN should work out as to how many RFID readers would be required in the whole country and what would be their positioning. He added that GSTN should work out the cost for installation of RFID readers and RFID tags. The Hon'ble Chairperson stated that the Ministry of Road Transport and Highways had indicated that about 10,000 readers would be needed and it was proposed to be done centrally. CCT, Kerala, stated that one could go for ANPR (Automatic Number Plate Reader), GPS or RFID but it should be done nationally. The Secretary sated that the technology platform should be common. Shri Rajiv Jalota, CCT, Maharashtra stated that all their inter-State check posts were computerized and RFID enabled and almost 80% of vehicles criss-crossing the State were also RFID enabled. He stated that all data needed by NIC from his State administration for a pilot project for integration of data of e-way bill with data of RFID was being shared with them. The Hon'ble Chairperson observed that Uttar Pradesh, Kerala and Maharashtra had installed RFID readers and installation cost in Uttar Pradesh was only around Rs.2.10 crore. The RFID system could be integrated nationally. The Hon'ble Chairperson stated that issues raised by the transporters mainly related to toll plazas, road checks leading to harassment and very high e-Way bill penalties. He referred to a recent case where, for a small mistake in e-way bill filing in Madhya Pradesh, a penalty of Rs.1.32 crore was imposed. Shri Pawan Kumar Sharma, CCT, Madhya Pradesh stated that this issue was discussed in the Officers meeting on 20 July 2018 and it was decided that Standard Operating Procedure would be made listing out the various circumstances in which penalties under various sections of GST Law would be levied. Hon'ble Chairperson also enquired as to why filing of e-way bill was made transporters' liability. The Secretary clarified that the liability is primarily of the supplier and only an option was given to the transporters also to file e-way bill. The Hon'ble Minister from Rajasthan suggested that there should also be uniformity in the provisions for issuing intra-State e-way bill as presently different States had notified different procedures. Hon'ble Chairperson stated that at present, the existing system be allowed to continue and it could be reviewed subsequently.

35.6. The Council took note of the recommendations of the Report of the Task Force for Seamless Road Transport Connectivity and agreed that further work should be done by GSTN and DoR in consultation with the Ministry of Road Transport and Highways.

36. **For Agenda Item 8(iii)**, The Council took note of the recommendations of the Report of the Task Force for Seamless Road Transport Connectivity and agreed that further work should be done by GSTN and DoR in consultation with the Ministry of Road Transport and Highways.

Agenda Item 8(iv): Recommendations of the Group of Ministers on Digital Payments

37. Introducing this Agenda Item, the Secretary informed that an additional small Agenda item was prepared on this issue and circulated as Table Agenda in the Council (attached as **Annexure 7** of the Minutes). He invited the Joint Secretary (TRU-I), CBIC to explain the same. The Hon'ble Chairperson observed that in the earlier meeting of the Council, the main concern expressed was that the scheme of 2% reduction in GST would not benefit the poor and the benefit could be taken away by the rich people – a concern also expressed by the Hon'ble Ministers of Kerala and West Bengal. He observed that the concern was right and that the new proposal was aimed to benefit the poor and the lower middle-class persons. He added that one big benefit would be that people would be encouraged to ask for bills while making purchases in order to get advantage of the monetary incentive.

37.1. The Joint Secretary, TRU-I, CBIC informed that the Group of Ministers on Digital Payments constituted by the Council had recommended that its implementation may be deferred for some time as GST had not stabilised; new return process was still work-in-progress; GST revenue was still to reach a comfortable level; and that the revenue implications of the proposal were significant. He stated that it was a common view that digital transactions need to be incentivized but concerns were expressed regarding its coverage under GST, revenue implications, targeted beneficiaries of such incentives and implementation modalities. He stated that these aspects were re-examined keeping in view the fact that digital payments have far reaching positive implications for the economy. He stated that apart from providing visible upfront benefits of making digital payments and thereby incentivizing digital payments, it would also result in better compliance, gradual formalisation of economy, reduction in cash transactions and consequently buoyancy in revenue.

37.2. He stated that the revised proposal before the Council was: -

(i) the GST concessions on digital payments be given on the B2C transactions through the modes that are used across the country. Accordingly, it is proposed that to begin with, concession be given only on the B2C transactions made through RuPay (Debit Card) and UPI-Unified Payment Interface, Bharat Interface for Money, Unstructured Supplementary Service Data.
(ii) the GST concession shall be given by way of refund to the consumer in his account through an automated route.
(iii) the concession shall be 10% of the CGST, 10% of SGST paid subject to the total ceiling of Rs.100 (Rs.50 CGST and Rs.50 SGST) per transaction. This concession would be available to supplies made by regular registered persons.
(iv) The CGST amount given as cash back shall be pooled in by the Centre and SGST amount shall be pooled in by the respective States.
(v) upon approval of the proposal, the exact modalities for providing the concession shall be put in place in consultation with the Line Ministry (Ministry of Electronics & Information Technology).

37.3. He stated that this proposal would ensure wide coverage in terms of consumers, simplified implementation and direct incentive to the consumers. IT infrastructure to implement account-linked

refund was already available as similar cash back was already in operation for auto fuels but it may require some minor tweaking.

37.4. He stated that as regards revenue implication, a large number of digital transactions may be done for utility payments and other payments which do not attract GST. The benefit would only accrue on B2C transactions involving GST supplies. Further, the benefit would be restricted to Rs.100 per transaction. He stated that if 25% of transactions were eligible for concession, then the revenue implication would be about Rs.1239 crore and if 20% of the transactions got the benefit, then revenue implication would be about Rs.991 crore.

37.5. He emphasised that the benefit was now proposed to be given on 20% of GST, instead of 2% of taxable supply attracting GST rate of 3% and above (as was proposed initially) and credit cards and debit cards (other than RuPay) would not be eligible for this benefit. He also stated that the benefit would be given as instant cash payment in the bank account of the consumer through NPCI (National Payments Corporation of India). The Hon'ble Chairperson stated that tax would be collected in the formal mode and the money would be paid through NPCI. He observed that RuPay card was used mostly by about 30 crore Jan-Dhan account holders who were comparatively poor people. He stated that the idea was to support such people and that their expenditure on purchases should also become part of the formal economy but without changing the GST rate.

37.6. The Hon'ble Deputy Chief Minister of Bihar stated that had this proposal come to the Group of Ministers on Digital Payment, they would have approved it, as this was a better option. He observed that this proposal did not require tweaking of tax rate. He also appreciated the idea of excluding credit card/debit card and making payment through RuPay. He stated that the GOM on Digital Payment could look into the issue afresh and make recommendation taking into account the new proposal.

37.7. The Hon'ble Ministers from Odisha and Rajasthan stated that they would prefer to study this proposal further. The Hon'ble Chairperson suggested that no announcement be made for this decision immediately. If any the Hon'ble Minister found it objectionable, he could personally get in touch with him.

37.8. The Secretary stated that the cash back under this scheme would be given through NPCI and would take place almost immediately when the card was swiped. The incentive would be to the tune of 20% of the GST paid. He stated that initially, some amount, say about Rs.1,000 crore, could be pooled in by the Centre and the States out of settlement money in the same proportion as the revenue base of each State to be protected. This amount could be given in advance to NPCI. The other option could be to give this amount from the Compensation Fund and then review the situation after one year. The Hon'ble Minister from Assam suggested that for the first year, this amount could be given from the Compensation Fund. The Secretary stated that however, there would be a legal problem as the amount under the Compensation Fund could only be used for giving compensation to the States. He said that instead of that, the amount could be given from the IGST Settlement Fund.

37.9. The ACS, Odisha stated that one of the important highlights of the scheme should have been to promote formalisation of Composition taxpayers but purchases from Composition taxpayers was being excluded from this incentive scheme. He noted that large number of poor persons buy from Composition taxpayers and there could be criticism that incentive was not available to such suppliers from whom the poor people mostly purchased their goods. He suggested that this aspect should be looked into again. The Hon'ble Chairperson observed that the problem was that the Composition taxpayers did not issue an invoice and charge tax. He stated that the scheme would also be advantageous for small taxpayers whose compliance was presently opaque. This would give purchaser an incentive

to ask for a bill. The CCT, West Bengal stated that the Hon'ble Finance Minister of West Bengal had raised various points on this issue and as GoM on Digital Payment is already working on the subject, the revised proposal could be sent the GoM who could examine it and then give its recommendation to the Council. The Hon'ble Chairperson agreed to this suggestion and suggested that the revised proposal tabled today could be sent to the GoM on Digital Payments for further examination and refinement and the same could be discussed during the next Council Meeting of 4 August, 2018. The Council agreed to this suggestion.

38. **For Agenda Item 8(iv)**, the Council approved that the revised proposal presented in today's Council meeting (**Annexure 7** to the Minutes) shall be sent to GoM on Digital Payments for further examination and refinement and to be taken up in the next Council Meeting of 4 August, 2018.

Agenda Item 8(v): Interim Report of the Group of Ministers on Imposition of Sugar Cess

39. Introducing this Agenda Item the Secretary informed that the Group of Ministers (GoM) on Imposition of Sugar Cess had submitted an interim report wherein it has recommended the following: -

i. **Power to levy Cess by the Union or States**: The GoM is of the view that since the matter is *sub judice* in the Hon'ble Supreme Court, it would be advisable to wait till the final judgement of the Hon'ble Supreme Court is given on Constitutional validity of imposition of compensation cess under GST.
ii. **Levy of 1% Agriculture Cess on certain commodities**: It was decided that the idea of levy of an agriculture cess can be further deliberated in detail in the next meeting of the GoM on 21st July, 2018.
iii. **Reduction of GST on ethanol**: GST on ethanol can be reduced from 18% to 12% only when it is supplied to oil marketing companies.

39.1. He stated that the opinion of Attorney General was still awaited and, therefore, at this stage, the issue of imposition of Sugar Cess may be kept in abeyance and the Government of India could further deliberate on the same. He noted that as regards the proposal to reduce rate of tax on ethanol, when supplied to Oil Marketing Companies, has already been approved by the Council and that it would be charged to tax at the rate of 5%.

40. **For Agenda Item 8(v)**, the Council approved to await the opinion of the Attorney General of India (AG) regarding the Constitutional validity of imposition of Cess under GST.

Agenda Item 8(vi): Recommendations of the Group of Ministers on Reverse Charge Mechanism

41. The Secretary stated that the Group of Ministers (GoM) had agreed that the formulation proposed by the Law Committee to give power to the Council to notify a class of registered persons who shall, in respect of taxable goods or services or both received from an unregistered supplier, pay the tax on reverse charge basis. He stated that the GoM had also recommended for prescribing certain conditions by the GST Council while recommending introduction of RCM on a class of registered persons who received goods or services or both from an unregistered supplier. It had also recommended that the Law Committee may consider the issue of exclusion of Brick Kilns, Menthol and Sand Mining activities from the benefit of Composition scheme. He suggested that the Council may approve the recommendations of GoM. The Council approved the same. The Secretary raised an issue regarding the treatment of the existing Section 9 (4) after period of its current suspension up to 30th September, 2018 expired. The Hon'ble Chairman suggested that Section 9 (4) of CGST/SGST Act could remain

suspended for another one year beyond 30 September, 2018, i.e. till 30 September, 2019. The Council agreed to this suggestion.

42. **For Agenda item 8(vi)**, the Council approved the following: -

(i) The existing Section 9(4) of the CGST Act/SGST Acts may be omitted and a new provision may be inserted in line with the formulation proposed by the Law Committee and the Law Review Committee which reads as follows:

> *"9 (4) The Government may, on the recommendations of the Council, by notification, specify a class of registered persons who shall, in respect of taxable goods or services or both received from an unregistered supplier, pay the tax on reverse charge basis as the recipient of such goods or services or both, and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both."*

(ii) The proposed formulation at paragraph 3 (i) above should be modified to also provide for prescribing certain conditions by the GST Council while recommending introduction of RCM on a class of registered persons receiving goods or services or both from an unregistered supplier. Further, there should be a provision to levy tax on RCM basis only on select goods or services or both as may be notified on the recommendations of the Council.

(iii) The Law Committee may consider the issue of exclusion of Brick Kilns, Menthol and Sand Mining activities from the benefit of Composition scheme.

(iv) To extend suspension of Section 9(4) of CGST/SGST Acts for another one year beyond 30 September, 2018 i.e. till 30 September 2019.

Agenda Item 9: Minutes of 9th Meeting of Group of Ministers (GoM) on IT challenges in GST implementation for information of the Council and discussion on GSTN issues

43. The Secretary invited the Hon'ble Deputy Chief Minister of Bihar to give an update about the 9th Meeting of GoM on IT challenges in GST implementation. The Hon'ble Deputy Chief Minister of Bihar stated that they reviewed issues like Overall Statistics, Return Filing, MIS Reports, Identification and Implementation of Mobile Applications, Pending Functionalities and Analytics, Software Malfunction and e-Way Bill. He further informed that 16 reports had been identified which Infosys would be preparing under the module of business intelligence and analytics. He further stated that GSTN was sharing reports with the States regarding the difference in the figures of supplies indicated in GSTR-1 and the corresponding GSTR-3B. He stated that presently, provisions of Tax Deduction at Source in the GST Law had been postponed and by September, 2018, GSTN would be ready to launch it. He proposed that provision in GST Law on Tax Deduction at Source (TDS) could be implemented from 1 October 2018. The Secretary stated that since provisions of TDS had been extended till 30 September, 2018, it need not be extended further and requested the Council to agree to the suggestion of the Hon'ble Deputy Chief Minister of Bihar. The Council agreed to this suggestion.

43.1. The CEO, GSTN informed that the GoM had suggested to conduct another round of training for TDS starting with the major departments in a staggered manner. The CCT, West Bengal suggested not to start TDS in a staggered manner as they have Integrated Financial Management System; so, they either change it or not. She added that a lot of other States may have this issue. The Hon'ble Deputy Chief Minister of Bihar stated that staggered manner meant that one could start implementation of TDS with Works departments such as Road, Irrigation, etc. and then other departments could be brought in

the TDS framework. The Secretary suggested that Joint Secretary, DoR along with CEO, GSTN, ACS, Odisha and CCT, West Bengal should study the subject of integration of Accounting systems of the State Accounting Authorities and PFMS (Public Financial Management System) with GSTN. He further stated that they should also check the state of preparedness of the States to implement TDS and whether to do in stages or at one go. The Secretary further stated that they would also examine that if TDS was to be introduced in stages, whether it would require change in the GST Law. The Council approved these suggestions. The Council also took note of the minutes and approved to introduce Tax Deduction at Source (TDS) from 1 October 2018 subject to verification of readiness of States to implement TDS.

44. **For Agenda Item 9**, the Council:

(i) took note of the Minutes of the 9th Meeting of Group of Ministers (GoM) on IT challenges in GST implementation held on 14 July 2018;

(ii) approved to introduce Tax Deduction at Source (TDS) from 1 October 2018 subject to verification of readiness of States to implement TDS; and

(iii) to constitute a Committee under the convenorship of Joint Secretary, DoR and comprising of CEO, GSTN, ACS, Odisha and CCT, West Bengal to examine integration of Accounting system of the State Accounting Authorities, PFMS with GSTN; to check the preparedness of the States to implement TDS; to examine the feasibility of introducing TDS in stages or at one go; and to examine any changes in GST law required for introducing TDS in stages.

Agenda Item 10: *Ad hoc* exemptions Order(s) issued under Section 25(2) of Customs Act, for information of the GST Council

45. The Secretary stated that this was a formal Agenda placed for the information of the Council with reference to the power given to the Hon'ble Union Finance Minister to grant *ad hoc* exemption under the Customs Act. He informed that an *ad hoc* exemption Order on 6 July 2018 (Order No. AEO No.01 of 2018) was issued under Section 25(2) of the Customs Act 1962 on the request of Government of Haryana for exemption from Customs duty on import of Pneumococcal Conjugate Vaccine (PCV) procured through UNICEF. He informed that the IGST involved for this exemption was approximately Rs. 1 crore. The Council took note of this *ad hoc* exemption order.

46. **For Agenda Item 10**, the Council took note of the *ad hoc* Exemption Order No. AEO No.01 of 2018 dated 6 July 2018 on import of Pneumococcal Conjugate Vaccine (PCV) procured through UNICEF.

Agenda item 11: Any other agenda item with the permission of the Chairperson

47. No Member raised any issue under this agenda item.

Agenda item 12: Date of the next meeting of the GST Council

48. The Hon'ble Chairperson stated that he had a meeting with the Hon'ble Minsters of the States in the morning and they all expressed that MSMEs (Micro, Small and Medium Enterprises) were facing a lot of problem. He stated that while GST was a great story for big units, it was not so for small units. He, therefore, suggested that one Council meeting should be devoted to small scale sector and this meeting could be called in two weeks' time, i.e. on 4 August 2018. He further suggested that after the next meeting of the Council, the Council could meet again in Goa in the last week of September.

48.1. The Hon'ble Deputy Chief Minster, Bihar suggested that a few organizations working for MSMEs could also be called to understand and examine their issues of concern. The Hon'ble Chairperson stated that States should also invite views regarding problems being faced by MSMEs and could make a brief presentation. The Hon'ble Minster from Assam stated that they would obtain representations from small industry and also from the Ministry of Industry. The Secretary stated that it was a good idea to get suggestions from grassroots but spadework needed to be done in advance to find out solutions. He stated that suggestions should be sent in advance so that enough time was available to examine them. The Hon'ble Chairperson stated that all suggestions should be obtained by end of next week. Specific State-related issues should be sent along with possible solution to problems being faced.

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

Annexure 1

List of Ministers who attended the 28th GST Council Meeting on 21 July 2018			
Sl No	**State/Centre**	**Name of Hon'ble Minister**	**Charge**
1	Govt of India	Shri Piyush Goyal	Union Finance Minister
2	Govt of India	Shri S.P. Shukla	Minister of State (Finance)
3	Andhra Pradesh	Shri Yanamala Ramakrishnudu	Minister of Finance, Planning, CT and Legislative Affairs
4	Arunachal Pradesh	Shri Jarkar Gamlin	Minister for Taxation and Excise
5	Assam	Dr Himanta Biswa Sarma	Finance Minister
6	Bihar	Shri Sushil Kumar Modi	Deputy Chief Minister
7	Chhattisgarh	Shri Amar Agrawal	Minister of Commercial taxes
8	Delhi	Shri Manish Sisodia	Deputy Chief Minister
9	Goa	Shri Mauvin Godinho	Minister for Panchayat
10	Gujarat	Shri Nitinbhai Patel	Deputy Chief Minister
11	Haryana	Capt. Abhimanyu	Excise & Taxation Minister
12	Kerala	Prof. C Raveendra Nath	Minister for Education
13	Madhya Pradesh	Shri Jayant Malaiya	Minister of Finance & CT
14	Maharashtra	Shri Sudhir Mungatiwar	Finance Minister
15	Meghalaya	Shri Conrad K. Sangma	Chief Minister
16	Mizoram	Shri Lalsawta	Finance Minister
17	Odisha	Shri Shashi Bhusan Behera	Finance Minister
18	Puducherry	Shri V. Narayanaswamy	Chief Minister
19	Punjab	Shri Manpreet Singh Badal	Finance Minister
20	Rajasthan	Shri Rajpal Singh Shekhawat	Minister of Industries
21	Tamil Nadu	Shri D. Jayakumar	Minister for Fisheries and Personnel & Administrative Reforms
22	Tripura	Shri Jishnu Dev Varma	Deputy Chief Minister
23	Uttarakhand	Shri Prakash Pant	Finance Minister

Annexure 2

List of Officers who attended the 28th GST Council Meeting on 21 July 2018			
Sl No	**State/Centre**	**Name of the Officer**	**Charge**
1	Govt. of India	Dr. Hasmukh Adhia	Finance Secretary
2	Govt. of India	Dr. Arvind Subramanian	Chief Economic Adviser
3	Govt. of India	Shri S Ramesh	Chairman, CBIC
4	Govt. of India	Shri Mahender Singh	Member (GST), CBIC
5	Govt. of India	Dr. John Joseph	Member (Budget), CBIC
6	Govt. of India	Shri G. C. Murmu	Special Secretary, DoR
7	Govt. of India	Shri P.K. Mohanty	Adviser (GST), CBIC
8	Govt. of India	Shri P.K. Jain	Pr. DG, DG-Audit, CBIC
9	Govt. of India	Shri Sandeep M. Bhatnagar	DG, DG Anti-Profiteering, CBIC
10	Govt. of India	Shri G.D. Lohani	Joint Secretary, TRU I, DoR
11	Govt. of India	Shri Manish Kumar Sinha	Joint Secretary, TRU II, DoR
12	Govt. of India	Shri Ritvik Pandey	Joint Secretary, DoR
13	Govt. of India	Dr. Rajiv Mani	Joint Secretary, Ministry of Law & Justice
14	Govt. of India	Shri Upender Gupta	Commissioner (GST), CBIC
15	Govt. of India	Shri Yogendra Garg	ADG, GST, CBIC
16	Govt. of India	Shri S.K. Rehman	ADG, GST, CBIC
17	Govt. of India	Shri Amit Mohan Govil	Commissioner, TPRU
18	Govt. of India	Shri D.S. Malik	DG (M&C)
19	Govt. of India	Shri Rajesh Malhotra	ADG (M&C)
20	Govt. of India	Shri Reyaz Ahmad	Director, TRU I
21	Govt. of India	Shri N K Vidyarthi	Director, TRU II
22	Govt. of India	Shri Parmod Kumar	OSD, TRU-II, DoR
23	Govt. of India	Shri Gaurav Singh	Deputy Secretary, TRU-I, DoR
24	Govt. of India	Shri Pramod Kumar	Deputy Secretary, TRU-II, DoR

25	Govt. of India	Shri N Gandhi Kumar	Deputy Secretary, DoR
26	Govt. of India	Shri Ravneet Singh Khurana	Joint Comm., GST Policy Wing
27	Govt. of India	Shri Vishal Pratap Singh	Joint Comm., GST Policy Wing
28	Govt. of India	Ms Himani Bhayana	Joint Comm., GST Policy Wing
29	Govt. of India	Dr Sumit Garg	Dy Comm, TPRU
30	Govt. of India	Ms Bhagwati Charan	Dy. Comm, TPRU
31	Govt. of India	Shri K S M Geelani	Technical Officer, TRU-I, DoR
32	Govt. of India	Gunjan Kumar Varma	Technical Officer, TRU-1, DoR
33	Govt. of India	Shri Mahipal Singh	Technical Officer, TRU-I, DoR
34	Govt. of India	Shri Harsh Singh	Technical Officer, TRU-II, DoR
35	Govt. of India	Ms Nisha Gupta	Dy. Comm., GST Policy Wing
36	Govt. of India	Shri Siddharth Jain	Dy. Comm., GST Policy Wing
37	Govt. of India	Ms Gayatri PG	Dy. Comm., GST Policy Wing
38	Govt. of India	Shri Vikash Kumar	Dy. Comm., GST Policy Wing
39	Govt. of India	Ms Deepika Singh	Asst. Comm., GST Policy Wing
40	Govt. of India	Shri Anubhav Kumar	AD (M&C)
41	Govt. of India	Shri Paras Sankhla	OSD to Union Minister
42	Govt. of India	Shri Anuj Gupta	OSD to Union Finance Minister
43	Govt. of India	Shri Ravi Singh	Addl PS to Union Finance Minister
44	Govt. of India	Shri Mahesh Tiwari	PS to MoS
45	Govt. of India	Shri Debashis Chakraborty	OSD to Finance Secretary
46	GST Council	Shri Shashank Priya	Joint Secretary
47	GST Council	Shri Dheeraj Rastogi	Joint Secretary
48	GST Council	Shri Rajesh Kumar Agarwal	Addl. Commissioner
49	GST Council	Shri G.S. Sinha	Joint Commissioner
50	GST Council	Shri Jagmohan	Joint Commissioner
51	GST Council	Shri Rakesh Agarwal	Dy. Commissioner
52	GST Council	Shri Rahul Raja	Under Secretary

53	GST Council	Shri Mukesh Gaur	Superintendent
54	GST Council	Shri Rajeev Mirchia	Superintendent
55	GST Council	Shri Sandeep Bhutani	Superintendent
56	GST Council	Shri Vipul Sharma	Superintendent
57	GST Council	Shri Sarib Sahran	Superintendent
58	GST Council	Shri Amit Soni	Superintendent
59	GST Council	Shri Anis Alam	Superintendent
60	GST Council	Shri Dipendra Kumar Singh	Superintendent
61	GST Council	Shri Sunil Kumar	Superintendent
62	GST Council	Ms Sangeeta Dalal	Inspector
63	GSTN	Shri Prakash Kumar	CEO
64	GSTN	Ms Kajal Singh	EVP (Services)
65	GSTN	Shri Nitin Mishra	EVP (Services)
66	GSTN	Shri Vashistha Chaudhary	SVP (Services)
67	GSTN	Shri Jagmal Singh	VP (Services)
68	GSTN	Shri Sarthak Saxena	OSD to CEO
69	Govt. of India	Shri Kishori Lal	Commissioner, Chandigarh Zone, CBIC
70	Govt of India	Shri Yogesh Kumar Agrawal	Commissioner, Meerut Zone, CBIC
71	Govt of India	Shri Neerav Kumar Mallick	Commissioner, Bhopal Zone, CBIC
72	Govt. of India	Shri Pramod Kumar	Commissioner, Delhi Zone, CBIC
73	Govt of India	Shri G. V. Krishna Rao	Pr. Commissioner, Bengaluru Zone, CBIC
74	Govt. of India	Shri R.C. Sankhla	Commissioner, Lucknow Zone, CBIC
75	Govt. of India	Shri S. Kannan	Commissioner, Chennai Zone, CBIC
76	Govt. of India	Shri Vijay Mohan Jain	Commissioner, Rohtak Zone, CBIC

77	Govt. of India	Shri Virender Choudhary	Commissioner, Vadodara Zone, CBIC
78	Govt. of India	Shri B.K. Mallick	Commissioner, Kolkata Zone, CBIC
79	Govt. of India	Shri C.K. Jain	Commissioner, Jaipur Zone, CBIC
80	Govt. of India	Shri Milind Gawai	Commissioner, Pune Zone, CBIC
81	Govt. of India	Shri B. Hareram	Pr. Commissioner, Vishakhapatnam Zone, CBIC
82	Govt. of India	Shri Sanjay Mahendru	Commissioner, Mumbai Zone, CBIC
83	Govt. of India	Shri Nitin Anand	Commissioner, Ranchi Zone, CBIC
84	Andaman & Nicobar Islands	Shri Mukesh Rajora	Asst. Comm (SA)
85	Andaman & Nicobar Islands	Shri Mohan Saroj Ranjan	Asst. Comm (GST)
86	Andhra Pradesh	Shri J.Syamala Rao	Chief Commissioner, State Tax
87	Andhra Pradesh	Shri T.Ramesh Babu	Additional Commissioner, CT
88	Arunachal Pradesh	Shri Anirudh S Singh	Commissioner (Tax & Excise)
89	Assam	Shri Anurag Goel	Commissioner, CT
90	Assam	Shri Shakeel Saadullah	Jt. Commissioner
91	Bihar	Ms Sujata Chaturvedi	Principal Secretary, Finance and CTD
92	Bihar	Shri Arun Kumar Mishra	Additional Secretary, CTD
93	Bihar	Shri Mukesh Kumar	Commercial Tax Officer
94	Chandigarh	Shri Jitendra Yadav	E & T Commissioner
95	Chandigarh	Shri Sanjeev Madaan	ETO
96	Chhattisgarh	Shri Amitabh Jain	Principal Secretary finance & CT
97	Chhattisgarh	Smt Sangeetha P	Commissioner, CT
98	Chhattisgarh	Ms Nimisha Jha	Jt. Comm., CT
99	Daman & Diu	Shri Suresh L Kamble	Asst. Commissioner, UT GST
100	Delhi	Ms Renu Sharma	Pr. Secretary, Finance

101	Delhi	Shri H. Rajesh Prasad	Commissioner, State Tax
102	Delhi	Shri Anand Kumar Tiwari	Addl. Commissioner, GST
103	Goa	Shri Dipak Bandekar	Commissioner, CT
104	Gujarat	Dr. P.D. Vaghela	Commissioner of State Tax
105	Haryana	Shri Sanjeev Kaushal	Addl Chief Secretary, E & T Dept
106	Haryana	Ms Ashima Brar	E&T Commissioner
107	Himachal Pradesh	Shri Jagdish Chander Sharma	Principal Secretary (E&T)
108	Himachal Pradesh	Shri Rajeev Sharma	Commissioner of State Tax and Excise
109	Himachal Pradesh	Shri Rakesh Sharma	Joint Commissioner
110	Jammu & Kashmir	Shri Navin K. Choudhary	Pr. Secretary, Finance Dept.
111	Jammu & Kashmir	Shri M Raju	Commissioner, CT
112	Jammu & Kashmir	Shri P K Bhatt	ACCT Tax Planning
113	Jharkhand	Shri Ajay Kumar Sinha	Addl. Commissioner of State Taxes
114	Jharkhand	Shri Brajesh Kumar	State Tax officer
115	Karnataka	Shri Srikar M.S.	Commissioner, CT
116	Kerala	Dr. Rajan Khobragade	Pr. Secretary & Commissioner, State GST Dept.
117	Madhya Pradesh	Shri Pawan Kumar Sharma	Commissioner, CT
118	Madhya Pradesh	Shri Sudip Gupta	Jt. Commissioner, CT
119	Madhya Pradesh	Shri Manoj Kumar Choube	Dy. Comm, CT
120	Maharashtra	Shri Rajiv Jalota	Commissioner, State Tax
122	Maharashtra	Shri Dhananjay Akhade	Jt. Commissioner, State Tax
123	Maharashtra	Shri Sudhir Rathod	OSD to Finance Minister
124	Manipur	Ms Mercina R. Panmei	Commissioner of Taxes
125	Manipur	Shri R K Khurkishor Singh	Jt. Comm. of Taxes

126	Manipur	Shri Y Indrakumar Singh	Asst. Commissioner of Taxes
127	Meghalaya	Shri L Khongsit	Jt. Commissioner, State Tax
128	Meghalaya	Shri K. War	Asstt. Commissioner, State Tax
129	Mizoram	Shri Vanlal Chhuanga	Commissioner and Secretary to Govt
130	Mizoram	Shri H K Lalhawngliana	Jt. Commissioner, State Tax
131	Mizoram	Shri H Lianzela	Dy Secretary
132	Nagaland	Shri Kesonyu Yhome	CCT
133	Odisha	Shri Tuhin Kanta Pandey	ACS, Finance
134	Odisha	Shri Saswat Mishra	Commissioner, CT
135	Odisha	Shri Sahadev Sahoo	Addl. Commissioner, CT
136	Puducherry	Shri G. Srinivas	Commissioner (ST)
137	Punjab	Shri M. P Singh	Addl. Chief Secretary-cum-Financial Commissioner (Taxation)
138	Punjab	Shri V. K. Garg	Advisor (Financial Resources) to CM
139	Punjab	Shri Vivek Pratap Singh	Excise & Taxation Commissioner
140	Punjab	Shri Pawan Garg	Dy. Excise & Taxation Commissioner
141	Rajasthan	Shri Praveen Gupta	Secretary Finance (Revenue)
142	Rajasthan	Shri Alok Gupta	Commissioner, State Tax
143	Rajasthan	Ms Meenal Bhosle	OSD, Finance
144	Rajasthan	Shri Ketan Sharma	Addl. Commissioner, GST, State Tax Dept
145	Sikkim	Shri Manoj Rai	Addl. Commissioner, CT
146	Tamil Nadu	Shri Ka. Balachandran	Prl Secretary, CT & Registration
147	Tamil Nadu	Dr. T.V Somanathan	ACS/CCT
148	Tamil Nadu	Shri K Gnanasekaran	Addl. Commissioner (Taxation)
149	Telangana	Shri Anil Kumar	Commissioner of State Tax
150	Telangana	Shri N Sai Kishore	Jt. Commissioner, State Tax

151	Tripura	Shri Ashin Barman	Superintendent of State Tax
152	Uttar Pradesh	Ms Kamini Chauhan Ratan	Commissioner, CT
153	Uttar Pradesh	Shri Vivek Kumar	Addl. Commissioner, CT
154	Uttar Pradesh	Shri Brijesh Mishra	Joint Secretary, CT
155	Uttar Pradesh	Shri Sanjay Kumar Pathak	Jt. Commissioner, CT
156	Uttarakhand	Shri Piyush Kumar	Addl. Commissioner State Tax
157	Uttarakhand	Shri Rakesh Verma	Joint Commissioner, State Tax
158	West Bengal	Ms. Smaraki Mahapatra	Commissioner, CT
159	West Bengal	Shri Khalid A Anwar	Senior Joint Commissioner, CT

Annexure 3

Decisions of the GST Implementation Committee and IT Grievance Redressal Committee



Agenda

- Deemed Ratification of Notification / Circulars issued post 27th Meeting of GST Council
- Decisions taken by GIC post 27th Meeting of GST Council
- Status update on IT Grievance Redressal (IT-GRC)

2

Ratification of Notifications, Circulars & Orders

- Ratification of following notifications, circulars & orders issued post 27th meeting of GST Council:

Act/Rules	Type	Notification / Circular / Order Nos.
CGST Act / CGST Rules	Central Tax	22 to 29 of 2018
	Central Tax (Rate)	11 and 12 of 2018
IGST Act	Integrated Tax (Rate)	12 and 13 of 2018
UTGST Act	Union territory Tax	07 to 11 of 2018
	Union territory Tax (Rate)	11 and 12 of 2018
Circulars	Under the CGST Act	44 to 49 of 2018
	Under the IGST Act	03 of 2018

3

Decisions of GIC post 27th meeting of GST Council (1/13)

- **Decision by Circulation (20.04.2018)**

- Levy of GST on supply of Priority Sector Lending Certificates (PSLCs) under reverse charge (RCM)

  ✓ Notification No 11/2018 – Central Tax (Rate), 12/2018-Integrated Tax (Rate) and 11/2018-Union Territory tax (Rate) all dated 28th May 2018 issued

4

Decisions in 17th Meeting of GIC (15.05.2018) (2/13)

I. Amendment of CGST Rules, 2017

- Rule 37 - to provide for non-reversal of credit in respect of supplies whose value has been added in accordance with section 15 (2) (b)
- Rule 133 (3) - to enable distribution of any amount ordered to be deposited in the consumer welfare fund pursuant to an order passed by NAPA between Centre and States
- Rule 97 (1) - to enable distribution of cess ordered to be deposited in the consumer welfare fund pursuant to an order passed by NAPA between Centre and States
- Rule 138(14) –exempting movement of empty LPG cylinders from E-way Bill
- Amendment of Instruction No. 10 of FORM GSTR-4 - serial 4A of Table 4 not to be furnished or the first two quarters of 2018
- FORM GST PCT-01 amended to include a declaration from the applicant to the effect that all conditions laid out in rule 83 (1) are fulfilled
  - ✓ Notification No 26/2018 – Central Tax dated 13th June 2018 issued

5

Decisions in 17th Meeting of GIC (15.05.2018) (3/13)

II. Notifying the authority for conducting the exam for GST Practitioners

National Academy of Indirect Taxes and Narcotics (NACIN) notified as the authority to conduct the examination for GST Practitioner in terms of Rule 83(3)

- ✓ Notification No 24/2018 – Central Tax dated 28th May 2018 and Office Memorandum vide F.No. 257/GIC Meetings/GSTC/2018 dated 04th June 2018 issued

6

Decisions in 17th Meeting of GIC (15.05.2018) (4/13)

III. Issuance of clarificatory Circulars on the following issues:

- Refund claims filed by ISDs, Composition taxpayer, non-resident taxable persons and export of services and supplies made to SEZ unit/SEZ developer
- Refund of unutilised ITC of compensation cess availed on inputs where the final product is not subject to levy of compensation cess
- Scope of restriction imposed by rule 96(10) of the CGST Rules

✓ Circular No.45/19/2018-GST dated 30th May 2018 issued

7

Decisions in 17th Meeting of GIC (15.05.2018) (5/13)

IV. Issuance of clarificatory Circulars on the following issues:

- Reversal of ITC on moulds and dies sent on FOC basis by OEM to a component manufacturer
- Levy of GST on servicing of cars involving both supply of goods (spare parts) and services (labour), where the value of goods and services are shown separately
- Maintenance of books of account by principal and auctioneer in case of auction of tea, coffee, rubber etc.
- Requirement of e-way bill in certain cases

✓ Circular No.47/21/2018-GST dated 08th June 2018 issued

8

Decisions of GIC post 27th meeting of GST Council (6/13)

- **Decision by Circulation (18.05.2018)**
  - Due date for filing of FORM GSTR-3B for the month of April, 2018 by two days i.e. till 22.05.2018
    - ✓ Notification No 23/2018 – Central Tax dated 18th May 2018 issued

9

Decisions in 18th Meeting of GIC (28.05.2018) (7/13)

I. Amendment of CGST Rules, 2017

- Rule 83(3) - extending due date for examination of GST Practitioner by six months, i.e. till December, 2018.
- **FORM GST RFD-01** and **FORM GST RFD-01A** - Statements 1A and 5B to capture the supplier's GSTIN
- **FORM GST PCT-01** to include Sales Tax practitioner under existing law and tax return preparer under existing law as categories of enrolment for GST Practitioner
- Retrospective amendment of Rule 95 to remove the limit of Rs. 5000/- per tax invoice for refund paid to certain persons including UIN agencies
  - ✓ Notification No 26/2018 – Central Tax dated 13th June 2018 issued

10

Decisions in 18th Meeting of GIC (28.05.2018) (8/13)

II. Notifying perishable or hazardous goods that may be disposed of after seizure, under section 67(8) of the CGST Act, 2017

- ✓ Notification No. 27/2018 – Central Tax dated 13th June 2018 issued

III. Issuance of clarificatory Circular on the following issues:

- refund of accumulated ITC to an independent fabric processor (Job Worker)
  - ✓ Circular No.48/22/2018-GST dated 14th June 2018 issued

IV. SOP for enrolment of GSTP to expedite & streamline the process of enrolment

- ✓ SOP circulated on 17th July 2018

11

Decisions of GIC post 27th meeting of GST Council (9/13)

- **Decision by Circulation (31.05.2018)**
  - To extend the due date for filing of return by Input Service Distributors for the months from July, 2017 to April, 2018 by two months, i.e. from 31.05.2018 to 31.07.2018
    - ✓ Notification No 25/2018 – Central Tax dated 31st May 2018 issued

12

Decisions in 19th Meeting of GIC (05.06.2018) (10/13)

- **I. Amendment of CGST Rules, 2017**
  - Rule 58 and insertion of **FORM GST ENR-02** to provide for single transporter ID for transporters with registration in more than one State/UT
  - Rule 138C - to provide for extension of time limit for completion of inspection of goods in transit
  - Rule 142 to provide reference to sections 129 (detention and seizure) or 130 (confiscation) of the CGST Act
    - ✓ Notification No 28/2018 – Central Tax dated 19th June 2018 issued
  - Retrospective effect to the amendment of rule 89 (5) of the CGST Rules carried out earlier vide notification No. 21/2018 dated 18.04.2018
    - ✓ Notification No 26/2018 – Central Tax dated 13th June 2018 issued

13

Decisions in 19th Meeting of GIC (05.06.2018) (11/13)

II. Issuance of Circulars on the following issues:

- Clarifying services of short-term accommodation, conferencing etc. provided to SEZ developer or unit as an inter-State supply
- Clarifying benefit of zero rated supply can be allowed to authorized procurements by SEZ developer or unit such as event management services, hotel and accommodation services, consumables etc.
  - ✓ Circular No.48/22/2018-GST dated 14th June 2018 issued
- Modification of Circular No. 41/15/2018-GST, dated 13.04.2018 to clarify the procedure for interception of conveyances for inspection of goods in movement, and detention, release and confiscation of such goods and conveyances
  - ✓ Circular No.49/23/2018-GST dated 21st June 2018 issued

14

Decisions in 20th Meeting of GIC (22.06.2018) (12/13)

I. Extension of suspension of RCM under section 9 (4) of the CGST Act, 2017, section 5(4) of the IGST Act, 2017 and section 7 (4) of the UTGST Act, 2017 and provisions relating to TDS and TCS under sections 51 and 52 of the CGST Act, 2017 / SGST Act, 2017 respectively till 30.09.2018

- ✓ Notification Nos. 12/2018-Central Tax (Rate), 13/2018-Integrated Tax (Rate) and 12/2018-Union Territory tax (Rate) all dated 29th June 2018 issued

II. To settle an additional IGST amount of Rs. 50,000 crore on an ad hoc basis

- ✓ Department of Revenue issued an ad hoc settlement order for Rs 50, 000 crore vide F. No. S.31013/16/2017-ST-I-DoR/2 dated 27th June 2018

III. Amendment of CGST Rules, 2017

- consequential changes in Chapter XV due to renaming of the Directorate General of Safeguards as Directorate General of Anti-profiteering
  - ✓ Notification No 29/2018 – Central Tax dated 06th July 2018 issued

15

Decisions of GIC post 27th meeting of GST Council (13/13)

- **Decision by Circulation (08.07.2018)**
  - To put the draft proposals on Law amendments in public domain
    - ✓ Proposals put in public domain https://www.mygov.in/

16

IT Grievance Redressal (IT-GRC)

- Circular No. 39/13/2018-GST dated 03rd April, 2018 prescribing the procedure for taxpayers for lodging their grievance due to technical glitches in the GST Portal was issued
- GIC to act as IT Grievance Redressal Committee (IT-GRC) for resolving problems of the taxpayers who have not been able to file their documents such as TRAN-1, GSTR-3B/GSTR 1 or Registration/ migration etc. due to the technical glitches at GST Portal
- Taxpayers are required to submit their grievance application of technical glitches to the designated field nodal officer of State /Centre
- Field nodal officer will examine the taxpayer's application and supporting evidence and if it is prima facie found to be a case of technical glitch then send the issue, after collating with their remarks/ recommendation, to the GSTN Nodal officer by email
- Standard Operating Procedure (SOP) was issued by GSTN on 12th April 2018 which is to be followed by the Nodal officers of States / Centre while referring the cases of technical glitches to GSTN

17

Processing of Grievances received at GSTN

- A total of 598 cases of TRAN 1/2 and 1881 cases relating to migration have been received by GSTN till 15th June 2018 from tax officers
- Examination in 170 cases related to TRAN-1/2 and 748 Cases related to Migration / Registration have been examined by GSTN and the analysis presented to the IT-GRC in its first meeting held on the 22nd June 2018
- IT-GRC allowed 122 taxpayers to file their TRAN 1 / TRAN 2 and 406 taxpayer to complete their migration process
- IT-GRC has directed the Law Committee to map the consequential issues related to such filing of TRAN 1/2 and migration and suggest ways to handle such situations, wherever required

18

122 TRAN 1 / TRAN 2 cases approved by IT-GRC: Categories

- Cases where taxpayer received the error "Processed with Error"
- Taxpayer could not claim transitional credit as the line items requiring declarations of earlier existing law registration were processed with error since the taxpayer had not added his registration details
- Cases where TRAN-1 was attempted or TRAN-1 revision was attempted by taxpayer on or before 27.12.2017. However, the taxpayer could not file due to errors such as "system error", "upload in progress", "save in progress" etc.
- Taxpayer was not enabled to file TRAN-1 till its due date of filing of 27.12.2017 due to registration/migration issues
- Taxpayers' dashboard was not enabled because of issues in migration application and hence could not file TRAN 1
- Taxpayer filed his TRAN-1 once but no credit has been posted due to technical reasons

19

406 Migration Cases approved by IT-GRC: Categories

- Cases which are stuck in validation errors such as mismatch of name, PAN mismatch, pending for verification etc.
- Profile has been activated but the enrolment form has not been filled completely
- Multiple IDs were activated during migration
- Cancellation of Provisional ID without receipt of any notice by the taxpayer and faced issues while proceeding after restoration
- Taxpayer could not migrate due to technical issues such as taxpayer could not access the Portal, was automatically logged out of the Portal, could not upload documents, 0% profile, blank profile etc.
- Issues faced while attaching DSC
- Where the taxpayer was unable to migrate, show cause notice was issued and taxpayer failed to respond in time and the registration was cancelled

20

Implementation of decisions of IT-GRC & examination of further Lots

- GSTN is ready for enabling Enrolment/Migration and filing of TRAN-1
- Decision of Law Committee on the start and end date for filing TRAN 1 and subsequently TRAN 2 is awaited
- As on 15th July 2018 a total of around 3500 grievances of Migration /registration / TRAN 1 / TRAN 2 / GSTR 3B / GSTR 1 / ITC 01 / ITC 04 etc. have been received by GSTN's Nodal officer
- In the first lot, 918 cases (748 migration and 170 TRAN 1 / TRAN 2) cases were presented to the IT-GRC
- Another lot of around 1200 cases have been examined by GSTN and will be put before the IT-GRC
- Remaining cases are under investigation with respect to the cause and checking of logs in GSTN system

21

Challenges faced by GSTN in examination of cases

- Tax officers not following the Standard Operating Procedure (SOP)
- No prima facie examination is being done by tax officers
- Cases are being sent by them without any remarks or recommendation
- Cases which are not by any stretch of examination technical are also sent e.g. Ignorance of law or rules by the taxpayer, ill health, not guided properly by consultant etc.
- Duplicate cases are being sent
- Cases of non existent GSTIN are being sent (due to typographical error by Nodal officer)
- Physical copies instead of e-mail are being sent
- Appointment of Principal Nodal officer

22

Issue: Many taxpayers did not file **Part B** of **FORM GST REG-26**, therefore, were given only a provisional ID but not GSTIN. Currently, these taxpayers cannot file their returns and pay taxes. It has been requested that migration may be allowed in such cases.

Proposal:

(i) To allow migration of the taxpayers who had filed **Part A** and obtained provisional id but did not file **Part B** of **FORM GST REG-26** by amending rule 24 of the CGST Rules 2017

(ii) The Centre / Principal State Nodal officers to recommend such cases to GSTN by 14th August 2018

(iii) Late fee for late filing of return will be waived (by way of refund in electronic cash ledger) in such cases but interest will be charged on delayed payments.

It is also proposed to expand the mandate of the IT-GRC to allow migration even in cases where the migration did not take place for reasons other than technical glitches



Annexure 4

Proposed Changes in GST Laws



Law Amendment Proposals
28th Meeting of GST Council

Introduction (1/3)

- Law Review Committee (LRC) was constituted after the 22nd meeting of GST Council held on 06.10.2017
- LRC submitted its first draft report on 04.01.2018 and final report on 11.07.2018
- GST Policy Wing analyzed various representations received and prepared a broadsheet containing the proposals for amending the law
- Consolidated proposals for law amendment as finalized by Law Committee (LC) and LRC were discussed in the officers' meeting before the 25th meeting of GST Council held on 18.01.2018 and in-principle approval accorded by the GST Council

2

Introduction (2/3)

- Four joint meetings of the LC & LRC were held to finalize the proposals & draft formulations
- Draft proposals that were agreed upon after the said four meetings were further discussed by the LC on 06.07.2018
- Finalized proposals for amending the law were collated in the broadsheet containing a total of 46 proposals for amending
  - ✓ CGST Act, 2017 (38)
  - ✓ IGST Act, 2017 (7)
  - ✓ UTGST Act, 2017 (1)
  - ✓ GST (Compensation to States) Act, 2017 (2)

3

Introduction (3/3)

- Broadsheet containing the 46 proposals (as finalized by the LC on 06.07.2018) was placed in the public domain (https://www.mygov.in/), with the approval of GIC, from 09.07.2018 to 15.07.2018, for inviting comments from the trade and public
- A total of 1270 suggestions were received on the said URL
- Suggestions were also received from FICCI, ASSOCHAM, CII, PHD Chambers, SIAM, BCAS, ICAI, L&T, Maruti Suzuki, Export Promotion Council of EOU & SEZ, E&Y, PVR & Co., IMC, PwC and AMCHAM etc.

4

Agenda Note No. 6 (i): Proposed amendments to GST Law
CGST Act (Amendment 1 & 2 of 48)

Sl. No.	Section	Proposed amendments
1.	2 (4)	2 (4) "adjudicating authority" means any authority, appointed or authorised to pass any order or decision under this Act, but does not include the Central Board of **~~Excise~~ Indirect Taxes** and Customs, the Revisional Authority, the Authority for Advance Ruling, the Appellate Authority for Advance Ruling, the Appellate Authority, **~~and~~** the Appellate Tribunal **and the Authority referred to in sub-section (2) of section 171**;
2.	2 (17) (h)	(17) "business" includes— (h) **~~services provided by~~ activities of** a race club **including** by way of totalisator or a license to book maker **or activities of a licensed book maker** in such club; and

5

Agenda Note No. 6 (i): Proposed amendments to GST Law
CGST Act (Amendment 3 & 4 of 48)

Sl. No.	Section	Proposed amendments
3.	2 (35)	(35) "cost accountant" means a cost accountant as defined in clause **~~(c)~~ (b)** of sub-section (1) of section 2 of the Cost and Works Accountants Act, 1959;
4.	2 (69)	(69) "local authority" means— (f) a Development Board constituted under article 371 **and article 371J** of the Constitution; or

6

Agenda Note No. 6 (i): Proposed amendments to GST Law
CGST Act (Amendment 5 of 48)

Sl. No.	Section	Proposed amendments
5.	2 (102)	(102) "services" means anything other than goods, money and securities but includes activities relating to the use of 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; ***Explanation*-For the removal of doubts, it is hereby clarified that the expression "services" includes facilitating or arranging transactions in securities.**

7

Agenda Note No. 6 (i): Proposed amendments to GST Law
CGST Act (Amendment 6 of 48 contd.)

Sl. No.	Section	Proposed amendments
6.	7	7. (1) For the purposes of this Act, the expression "supply" includes— (a) all forms of supply of goods or services or both such as sale, transfer, barter, exchange, licence, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business; (b) import of services for a consideration whether or not in the course or furtherance of business; **and** (c) the activities specified in Schedule I made or agreed to be made without a consideration.~~; and~~ ~~**(d) the activities to be treated as supply of goods or supply of services as referred to in Schedule II.**~~ **(1A) Certain activities or transactions, when constituting a supply in accordance with the provisions of sub-section (1), shall be treated either as supply of goods or supply of services as referred to in Schedule II.**

8

Agenda Note No. 6 (i): Proposed amendments to GST Law
CGST Act (Amendment 6 of 48)

Sl. No.	Section	Proposed amendments
6.	7	7. (2) Notwithstanding anything contained in sub-section (1),— (a) activities or transactions specified in Schedule III; or (b) such activities or transactions undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities, as may be notified by the Government on the recommendations of the Council, shall be treated neither as a supply of goods nor a supply of services. (3) Subject to the provisions of sub-sections (1), **(1A)** and (2), the Government may, on the recommendations of the Council, specify, by notification, the transactions that are to be treated as– (a) a supply of goods and not as a supply of services; or (b) a supply of services and not as a supply of goods. • **Title of Schedule II to be amended as below:** ACTIVITIES **OR TRANSACTIONS** TO BE TREATED AS SUPPLY OF GOODS OR SUPPLY OF SERVICES

9

Agenda Note No. 6 (i): Proposed amendments to GST Law
CGST Act (Amendment 7 & 8 of 48)

Sl. No.	Section	Proposed amendments
7.	Schedule I	Schedule I 4. Import of services by a ~~**taxable**~~ person from a related person or from any of his other establishments outside India, in the course or furtherance of business.
8.	Schedule III, new insertion	7. Supply of goods from a place in the non-taxable territory to another place in the non-taxable territory without such goods entering into ~~**the taxable territory**~~ **India.** ~~**Trade has represented for retrospective amendment from 01.07.2017.**~~

10

Agenda Note No. 6 (i): Proposed amendments to GST Law
CGST Act (Amendment 9 of 48)

Sl. No.	Section	Proposed amendments
9	Schedule III, new insertion	8 (a) Supply of warehoused goods to any person before clearance for home consumption. (b) Supply of goods by the consignee to any other person, by endorsement of documents of title to the goods, after the goods have been dispatched from the port of origin located outside India but before clearance for home consumption. Explanation.- For the purposes of this clause, the expression "warehoused goods" shall have the meaning as assigned to it in the Customs Act, 1962 (52 of 1962) ~~Trade has represented for retrospective amendment from 01.07.2017.~~

11

Agenda Note No. 6 (i): Proposed amendments to GST Law
CGST Act (Amendment 10 of 48)

Sl. No.	Section	Proposed amendments
10	9 (4)	~~9 (4) The central tax in respect of the supply of taxable goods or services or both by a supplier, who is not registered, to a registered person shall be paid by such person on reverse charge basis as the recipient and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.~~ **9 (4) The Government may, on the recommendations of the Council, by notification, specify a class of registered persons who shall, in respect of supply of such taxable goods or services or both received from an unregistered supplier, pay the tax on reverse charge basis as the recipient of such goods or services or both, and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.**

12

Agenda Note No. 6 (i): Proposed amendments to GST Law
CGST Act (Amendment 11 of 48 contd.)

Sl. No.	Section	Proposed amendments
11	10 (1) & (2)	10 (1) Notwithstanding anything to the contrary contained in this Act but subject to the provisions of sub-sections (3) and (4) of section 9, a registered person, whose aggregate turnover in the preceding financial year did not exceed fifty lakh rupees, may opt to pay, in lieu of the tax payable by him **under sub-section (1) of section 9**, an amount **of tax** calculated at such rate as may be prescribed, but not exceeding,— (a) one per cent of the turnover in State or turnover in Union territory in case of a manufacturer, (b) two and a half per cent. of the turnover in State or turnover in Union territory in case of persons engaged in making supplies referred to in clause (b) of paragraph 6 of Schedule II, and (c) half per cent. of the turnover in State or turnover in Union territory in case of other suppliers, subject to such conditions and restrictions as may be prescribed:

13

Agenda Note No. 6 (i): Proposed amendments to GST Law
CGST Act (Amendment 11 of 48 contd.)

Sl. No.	Section	Proposed amendments
11	10 (1) & (2)	10 (1) … Provided that the Government may, by notification, increase the said limit of fifty lakh rupees to such higher amount, not exceeding one **hundred and fifty lakh ~~crore~~** rupees, as may be recommended by the Council~~.~~ **Provided further that a person who opts to pay tax under clause (a), clause (b) or clause (c) may supply services, other than those referred to in clause (b) of paragraph 6 of Schedule II, of value not exceeding ten percent of turnover in the preceding financial year in a State or Union territory or five lakh rupees, whichever is higher.** **~~Trade has represented for increasing the cap on services to Rs. 15 lakhs.~~**

14

Agenda Note No. 6 (i): Proposed amendments to GST Law
CGST Act (Amendment 11 of 48)

Sl. No.	Section	Proposed amendments
11	10 (1) & (2)	10 (2) The registered person shall be eligible to opt under sub-section (1), if— (a) he is not engaged in the supply of services, ~~other than supplies referred to in clause (b) of paragraph (6) of Schedule II~~ save as provided in sub-section (1); (b) he is not engaged in making any supply of goods which are not leviable to tax under this Act; (c) he is not engaged in making any inter-State outward supplies of goods; (d) 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; and (e) he is not a manufacturer of such goods as may be notified by the Government on the recommendations of the Council: Provided that where more than one registered persons are having the same Permanent Account Number (issued under the Income-tax Act, 1961) (43 of 1961), the registered person shall not be eligible to opt for the scheme under sub-section (1) unless all such registered persons opt to pay tax under that sub-section.

15

Agenda Note No. 6 (i): Proposed amendments to GST Law
CGST Act (Amendment 12 & 13 of 48)

Sl. No.	Section	Proposed amendments
12.	12 (2)	12 (2) The time of supply of goods shall be the earlier of the following dates, namely:— (a) date of issue of invoice by the supplier or the last date on which he is required under ~~sub-section (1) of~~ section 31 to issue the invoice with respect to the supply; or
13.	13 (2)	13 (*2*) The time of supply of services shall be the earliest of the following dates, namely: — (*a*) the date of issue of invoice by the supplier, if the invoice is issued within the period prescribed under ~~sub-section (2) of~~ section 31 or the date of receipt of payment, whichever is earlier; (b) the date of provision of service, if the invoice is not issued within the period prescribed under ~~sub-section (2) of~~ section 31 or the date of receipt of payment, whichever is earlier;

16

Agenda Note No. 6 (i): Proposed amendments to GST Law
CGST Act (Amendment 14 of 48)

Sl. No.	Section	Proposed amendments
14.	16 (2) (b)	16 (2) Notwithstanding anything contained in this section, no registered person shall be entitled to the credit of any input tax in respect of any supply of goods or services or both to him unless,— (a) he is..; (b) he has received the goods or services or both. *Explanation.*— For the purposes of this clause, it shall be deemed that the registered person has received the goods **or, as the case may be, services,-** **(i)** where the ..; **(ii) where the services are provided by the supplier to any person on the direction of and on account of such registered person;**

17

Agenda Note No. 6 (i): Proposed amendments to GST Law
CGST Act (Amendment 15 of 48)

Sl. No.	Section	Proposed amendments
15.	16 (2) Second proviso	16 (2)..... (c) Subject to the provisions of section 41 **or section 43A,** the tax charged in respect of such supply has been actually paid to the Government, either in cash or through utilisation of input tax credit admissible in respect of the said supply; and (*d*) he has furnished the return under section 39: Provided that -----: Provided further that where a recipient fails to pay to the supplier of goods or services or both, other than the supplies on which tax is payable on reverse charge basis, the amount towards the value of supply along with tax payable thereon within a period of one hundred and eighty days from the date of issue of invoice by the supplier, an amount equal to the input tax credit availed by the recipient shall be added to his output tax liability~~, along with interest thereon,~~ in such manner as may be prescribed. ~~**Trade has represented for retrospective amendment from 01.07.2017.**~~

18

Agenda Note No. 6 (i): Proposed amendments to GST Law
CGST Act (Amendment 16 of 48)

Sl. No.	Section	Proposed amendments
16.	17 (3)	17 (3) The value of exempt supply under sub-section (2) shall be such as may be prescribed, and shall include supplies on which the recipient is liable to pay tax on reverse charge basis, transactions in securities, sale of land and, subject to clause (b) of paragraph 5 of Schedule II, sale of building **but shall not include the value of activities or transactions (other than sale of land and, subject to clause (b) of paragraph 5 of Schedule II, sale of building) specified in Schedule III.** ~~**Trade has represented for retrospective amendment from 01.07.2017.**~~

19

Agenda Note No. 6 (i): Proposed amendments to GST Law
CGST Act (Amendment 17 of 48 contd.)

Sl. No.	Section	Proposed amendments
17.	17 (5) (a), new (aa) & (b)	17(5) Notwithstanding anything contained in sub-section (1) of section 16 and sub-section (1) of section 18, input tax credit shall not be available in respect of the following, namely:— (a) motor vehicles **for transportation of persons having approved seating capacity of not more than thirteen persons (including the driver), vessels and aircraft** ~~**and other conveyances**~~ except when they are used— (i) for making the following taxable supplies, namely:— (A) further supply of such vehicles or **vessels or aircraft** ~~**conveyances**~~; or (B) transportation of passengers; or (C) imparting training on driving, flying, navigating such vehicles, **vessels or aircraft** ~~**or conveyances;**~~ (ii) for transportation of goods; **and** **(iii) for transportation of money for or by a banking company or a financial institution.**

20

Agenda Note No. 6 (i): Proposed amendments to GST Law
CGST Act (Amendment 17 of 48 contd.)

Sl. No.	Section	Proposed amendments
17.	17 (5) (a), new (aa) & (b)	**(aa) services of general insurance, servicing, repair and maintenance in so far as they relate to motor vehicles, vessels and aircraft for which the credit is not available in accordance with the provisions of clause (a), except in case of a taxable person engaged in the manufacture of vehicles, vessels and aircraft supplied by them or the supply of General Insurance services in respect of vehicles, vessels and aircraft insured by them;** (b) the following supply of goods or services or both— (i) food and beverages, outdoor catering, beauty treatment, health services, cosmetic and plastic surgery, **renting or hiring of motor vehicles, vessels and aircraft other than those covered in exceptions referred to in clause (a), life insurance and health insurance** except where an inward supply of goods or services or both of a particular category is used by a registered person for making an outward taxable supply of the same category of goods or services or both or as an element of a taxable composite or mixed supply;

Agenda Note No. 6 (i): Proposed amendments to GST Law
CGST Act (Amendment 17 of 48)

Sl. No.	Section	Proposed amendments
17.	17 (5) (a), new (aa) & (b)	(ii) membership of a club, health and fitness centre; **and** ~~**(iii) rent-a-cab, life insurance and health insurance except where-**~~ ~~**(A) the Government notifies the services which are obligatory for an employer to provide to its employees under any law for the time being in force; or**~~ ~~**(B) such inward supply of goods or services or both of a particular category is used by a registered person for making an outward taxable supply of the same category of goods or services or both or as part of a taxable composite or mixed supply; and**~~ **(iii)** travel benefits extended to employees on vacation such as leave or home travel concession: **Provided that the input tax credit in respect of such goods or services or both shall be available, where the provision of such goods or services or both is obligatory for an employer to provide to its employees under any law for the time being in force.** **Certain inconsistencies in the formulation were pointed out during the Officer's meeting. The same will be rectified in consultation with the Law Committee.**

Agenda Note No. 6 (i): Proposed amendments to GST Law
CGST Act (Amendment 18 & 19 of 48)

Sl. No.	Section	Proposed amendments
18.	20, Explanation (c)	Clause (c) of *Explanation* to section 20: (c) the term ''turnover'', in relation to any registered person engaged in the supply of taxable goods as well as goods not taxable under this Act, means the value of turnover, reduced by the amount of any duty or tax levied under **~~entry~~ entries** 84 **and 92A** of List I of the Seventh Schedule to the Constitution and entries 51 and 54 of List II of the said Schedule.
19.	22 Explanation	Explanation (iii) to section 22 the expression "special category States" shall mean the States as specified in sub-clause (g) of clause (4) of article 279A of the Constitution except the State of Jammu and Kashmir**, Assam and Sikkim**.

23

Agenda Note No. 6 (i): Proposed amendments to GST Law
CGST Act (Amendment 20 & 21 of 48)

Sl. No.	Section	Proposed amendments
20.	24 (x)	24 (x) every electronic commerce operator **who is required to collect tax at source under section 52**;
21.	25 (2), new second, third and fourth proviso	25 (2) A person seeking registration under this Act shall be granted a single registration in a State or Union territory: Provided that a person having multiple business verticals in a State or Union territory may be granted a separate registration for each business vertical, subject to such conditions as may be prescribed: **Provided further that a person having multiple places of business in a State or Union territory may be granted a separate registration for each such place of business, subject to such conditions as may be prescribed:** **Provided also that a person having a unit, as defined in the Special Economic Zones Act, 2005 (28 of 2005), in a Special Economic Zone or being a Special Economic Zone Developer shall be granted a separate registration as distinct from his units located outside the Special Economic Zone in the same State or Union territory:** **~~Provided also that a person having more than one unit, as defined in the Special Economic Zones Act, 2005 (28 of 2005), in a Special Economic Zone shall be granted a separate registration for each such unit, subject to such conditions as may be prescribed.~~**

24

Agenda Note No. 6 (i): Proposed amendments to GST Law
CGST Act (Amendment 22 of 48)

Sl. No.	Section	Proposed amendments
22.	29 (1), new proviso	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, cancel the registration, in such manner and within such period as may be prescribed, having regard to the circumstances where,— (a) .. (b) .. (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.: **Provided that pending cancellation of registration filed by the taxable person, ~~the proper officer may suspend~~ the registration of ~~the~~ such person shall be suspended, subject to such conditions and limitations as may be prescribed.** **~~Trade has represented for retrospective amendment from 01.07.2017.~~**

25

Agenda Note No. 6 (i): Proposed amendments to GST Law
CGST Act (Amendment 23 of 48)

Sl. No.	Section	Proposed amendments
23.	29 (2), new proviso	Provided that the proper officer shall not cancel the registration without giving the person an opportunity of being heard.: **Provided further that pending cancellation of registration, the proper officer may suspend the registration of the person subject to such conditions and limitations as may be prescribed.**

26

Agenda Note No. 6 (i): Proposed amendments to GST Law
CGST Act (Amendment 24 of 48)

Sl. No.	Section	Proposed amendments
24.	34 (1) & 34 (3)	34(1) Where **~~a tax invoice has one or more tax invoices have~~** been issued for supply of any goods or services or both and the taxable value or tax charged in **~~that tax invoice~~ the said tax invoices** is found to exceed the taxable value or tax payable in respect of such supply, or where the goods supplied are returned by the recipient, or where goods or services or both supplied are found to be deficient, the registered person, who has supplied such goods or services or both, may issue to the recipient **a one or more credit notes for supplies made in a financial year** containing such particulars as may be prescribed. (2) … (3) Where **~~a tax invoice has one or more tax invoices have~~** been issued for supply of any goods or services or both and the taxable value or tax charged **in ~~that tax invoice~~ the said tax invoices** is found to be less than the taxable value or tax payable in respect of such supply, the registered person, who has supplied such goods or services or both, shall issue to the recipient **~~a~~ one or more debit notes for supplies made in a financial year** containing such particulars as may be prescribed.

27

Agenda Note No. 6 (i): Proposed amendments to GST Law
CGST Act (Amendment 25 of 48)

Sl. No.	Section	Proposed amendments
25.	35 (5), new proviso	Every registered person whose turnover during a financial year exceeds the prescribed limit shall get his accounts audited by a chartered accountant or a cost accountant and shall submit a copy of the audited annual accounts, the reconciliation statement under sub-section (2) of section 44 and such other documents in such form and manner as may be prescribed: **Provided that nothing contained in this sub-section shall apply to any department of the Central Government or a State Government or a local authority, whose books of accounts are subject to audit by the Comptroller and Auditor-General of India or an auditor appointed for auditing the accounts of local authorities under any law for the time being in force.**

28

Agenda Note No. 6 (i): Proposed amendments to GST Law
CGST Act (Amendment 26 of 48)

Sl. No.	Section	Proposed amendments
26.	39(9)	**Modified amendments placed as Table Agenda in slide nos. 52 to 58**

29

Agenda Note No. 6 (i): Proposed amendments to GST Law
CGST Act (Amendment 27 of 48)

Sl. No.	Section	Proposed amendments
27.	43A new insertion	**Modified amendments placed as Table Agenda in slide nos. 52 to 58**

30

Agenda Note No. 6 (i): Proposed amendments to GST Law
CGST Act (Amendment 28 of 48)

Sl. No.	Section	Proposed amendments
28.	48	48 (2) A registered person may authorise an approved goods and services tax practitioner to furnish the details of outward supplies under section 37, the details of inward supplies under section 38 and the return under section 39 or section 44 or section 45, **and to perform such other functions and** in such manner as may be prescribed.

31

Agenda Note No. 6 (i): Proposed amendments to GST Law
CGST Act (Amendment 29 of 48 contd.)

Sl. No.	Section	Proposed amendments
29.	49(5)(c) & 49(5)(d)	49 (5) The amount of input tax credit available in the electronic credit ledger of the registered person on account of — (a) integrated tax shall first be utilised towards payment of integrated tax and the amount remaining, if any, may be utilised towards the payment of central tax and State tax, or as the case may be, Union territory tax, in that order; (b) the central tax shall first be utilised towards payment of central tax and the amount remaining, if any, may be utilised towards the payment of integrated tax; (c) the State tax shall first be utilized towards payment of State tax and the amount remaining, if any, may be utilized towards payment of integrated tax **only when the balance of the input tax credit on account of central tax is not available for payment of integrated tax**;

32

Agenda Note No. 6 (i): Proposed amendments to GST Law
CGST Act (Amendment 29 of 48)

Sl. No.	Section	Proposed amendments
29.	49(5)(c) & 49(5)(d)	49 (5) (d) the Union territory tax shall first be utilized towards payment of Union territory tax and the amount remaining, if any, may be utilized towards payment of integrated tax **only when the balance of the input tax credit on account of central tax is not available for payment of integrated tax**; (e) the central tax shall not be utilised towards payment of State tax or Union territory tax; (f) the State tax or Union territory tax shall not be utilized towards payment of central tax: **Provided that input tax credit on account of central tax, State tax or Union territory tax shall be utilised towards payment of integrated tax under clause (b), clause (c) or clause (d) only after the input tax credit available on account of integrated tax has been first utilised fully towards such payment.**

33

Agenda Note No. 6 (i): Proposed amendments to GST Law
CGST Act (Amendment 30 & 31 of 48)

Sl. No.	Section	Proposed amendments
30.	New sub-section 5A in section 49	**Notwithstanding anything contained in this section, the Government may, on the recommendations of the Council, prescribe the order of utilization of input tax credit of integrated tax, central tax, State tax or Union territory tax, as the case may be, towards payment of any such tax.**
31.	54, Explanation (2) (e)	Explanation.-For the purposes of this section,- (2) "relevant date" means- (e) in the case of refund of unutilised input tax credit under **clause (ii) of first proviso of** sub-section (3), the ~~**end of the financial year**~~ **due date for furnishing of return under section 39 for the period** in which such claim for refund arises;

34

Agenda Note No. 6 (i): Proposed amendments to GST Law
CGST Act (Amendment 32 of 48)

Sl. No.	Section	Proposed amendments
32.	54 (8) (a)	Section 54 (8) (a) refund of tax paid on ~~zero-rated supplies~~ **export** of goods or services or both or on inputs or input services used in making such ~~zero-rated supplies~~ **exports**;

35

Agenda Note No. 6 (i): Proposed amendments to GST Law
CGST Act (Amendment 33 of 48)

Sl. No.	Section	Proposed amendments
33.	54, Explanation (2)(c)(i)	Explanation.-For the purposes of this section,- (2) "relevant date" means- (*c*) in the case of services exported out of India where a refund of tax paid is available in respect of services themselves or, as the case may be, the inputs or input services used in such services, the date of— (*i*) receipt of payment in convertible foreign exchange **or in Indian Rupees where permitted by the Reserve Bank of India**, where the supply of services had been completed prior to the receipt of such payment; or (ii) issue of invoice, where payment for the services had been received in advance prior to the date of issue of the invoice;

36

Agenda Note No. 6 (i): Proposed amendments to GST Law
CGST Act (Amendment 34 of 48)

Sl. No.	Section	Proposed amendments
34.	79 (1)	In this section, ~~two~~ **one** Explanations are proposed to be inserted as under: ***Explanation .-*** ~~(1)~~ **For the purposes of this section, the word person shall include "distinct persons" as referred to in sub-section (4) or, as the case may be, sub-section (5) of section 25.** ~~**(2) For the purposes of this clause, the term "Collector" means the Collector of a revenue district and includes a Deputy Commissioner or a district magistrate or head of the revenue administration in a revenue district.**~~

37

Agenda Note No. 6 (i): Proposed amendments to GST Law
CGST Act (Amendment 35 of 48)

Sl. No.	Section	Proposed amendments
35.	107 (6)	No appeal shall be filed under sub-section (*1*), unless the appellant has paid— (a) in full, such part of the amount of tax, interest, fine, fee and penalty arising from the impugned order, as is admitted by him; and (b) a sum equal to ten per cent. of the remaining amount of tax in dispute arising from the said order, **subject to a maximum of twenty-five crore rupees,** in relation to which the appeal has been filed.

38

Agenda Note No. 6 (i): Proposed amendments to GST Law
CGST Act (Amendment 36 of 48)

Sl. No.	Section	Proposed amendments
36.	112 (8)	No appeal shall be filed under sub-section (*1*), unless the appellant has paid— (*a*) in full, such part of the amount of tax, interest, fine, fee and penalty arising from the impugned order, as is admitted by him; and (*b*) a sum equal to twenty per cent. of the remaining amount of tax in dispute, in addition to the amount paid under sub-section (*6*) of section 107, arising from the said order, **subject to a maximum of fifty crore rupees,** in relation to which the appeal has been filed.

39

Agenda Note No. 6 (i): Proposed amendments to GST Law
CGST Act (Amendment 37 of 48 contd.)

Sl. No.	Section	Proposed amendments
37.	140 (1)	(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 **of [eligible duties]** carried forward in the return relating to the period ending with the day immediately preceding the appointed day, furnished by him under the existing law in such manner as may be prescribed……" "….*Explanation 1.*—For the purposes of sub-sections **[(1)],** (3), (4) and (6), the expression "eligible duties" means— (i)… (ii) … (iii)… (iv) ~~**the additional duty of excise leviable under section 3 of the Additional Duties of Excise (Textile and Textile Articles) Act, 1978;"**~~ (v)… "

40

Agenda Note No. 6 (i): Proposed amendments to GST Law

CGST Act (Amendment 37 of 48)

Sl. No.	Section	Proposed amendments
37.	140 (1)	(1) .. "….*Explanation 2.*—For the purposes of sub-sections **(1) and** (5), the expression "eligible duties and taxes" means— (i)… (ii) … (iii)… (iv) ~~**the additional duty of excise leviable under section 3 of the Additional Duties of Excise (Textile and Textile Articles) Act, 1978;"**~~ (v)… " ***Explanation* 3.—For removal of doubts, it is clarified that the expression "eligible duties and taxes" excludes any cess which has not been specified in Explanation 1 or Explanation 2 above and any cess which is collected as additional duty of customs under sub-section (1) of section 3 of the Customs Tariff Act, 1975.** **This is proposed to be a retrospective amendment w.e.f. 01.07.2017.**

41

Agenda Note No. 6 (i): Proposed amendments to GST Law

CGST Act (Amendment 38 of 48)

Sl. No.	Section	Proposed amendments
38.	143 (1), new proviso	(1) A registered person (hereafter in this section referred to as the "principal") may under intimation and subject to such conditions as may be prescribed, send any inputs or capital goods, without payment of tax, to a job worker for job work and from there subsequently send to another job worker and likewise, and shall,— (a) bring back inputs, after completion of job work or otherwise, or capital goods, other than moulds and dies, jigs and fixtures, or tools, within one year and three years, respectively, of their being sent out, to any of his place of business, without payment of tax; (b) supply such inputs, after completion of job work or otherwise, or capital goods, other than moulds and dies, jigs and fixtures, or tools, within one year and three years, respectively, of their being sent out from the place of business of a job worker on payment of tax within India, or with or without payment of tax for export, as the case may be: **Provided that the period of one year or three years, as the case may be, may, on sufficient cause being shown, be extended by the Commissioner for a further period not exceeding one year and two years respectively.**

42

Agenda Note No. 6 (i): Proposed amendments to GST Law
CGST Act (New amendment)

Sl. No.	Section	Proposed amendments
1	Section 129(6)	129 (6) Where the person transporting any goods or the owner of the goods fails to pay the amount of tax and penalty as provided in sub-section (1) within **seven fourteen** days of such detention or seizure, further proceedings shall be initiated in accordance with the provisions of section 130:

43

Agenda Note No. 6 (i): Proposed amendments to GST Law
IGST Act (Amendment 39 of 48)

Sl. No.	Section	Proposed amendments
39.	2 (6) (iv)	(6) "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 **or in Indian Rupees where permitted by the Reserve Bank of India;** 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.

44

Agenda Note No. 6 (i): Proposed amendments to GST Law
IGST Act (Amendment 40 of 48)

Sl. No.	Section	Proposed amendments
40.	2 (16), Explanation	'governmental authority' means "an authority or a board or any other body, - (i) set up by an Act of Parliament or a State Legislature; or (ii) established by any Government, with ninety per cent. or more participation by way of equity or control, to carry out any function entrusted to a **Panchayat under article 243G or to a** municipality under article 243W of the Constitution".

45

Agenda Note No. 6 (i): Proposed amendments to GST Law
IGST Act (Amendment 41 of 48)

Sl. No.	Section	Proposed amendments
41.	**5(4)**	~~**5(4) The integrated tax in respect of the supply of taxable goods or services or both by a supplier, who is not registered, to a registered person shall be paid by such person on reverse charge basis as the recipient and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.**~~ **5 (4) The Government may, on the recommendations of the Council, by notification, specify a class of registered persons who shall, in respect of supply of such taxable goods or services or both received from an unregistered supplier, pay the tax on reverse charge basis as the recipient of such goods or services or both, and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.**

46

Agenda Note No. 6 (i): Proposed amendments to GST Law
IGST Act (Amendment 42 of 48)

Sl. No.	Section	Proposed amendments
42.	12 (8)	12 (8) The place of supply of services by way of transportation of goods, including by mail or courier to,— (a) a registered person, shall be the location of such person; (b) a person other than a registered person, shall be the location at which such goods are handed over for their transportation: **Provided that if the transportation of goods is to a place outside India, the place of supply shall be the place of destination of such goods.**

47

Agenda Note No. 6 (i): Proposed amendments to GST Law
IGST Act (Amendment 43 of 48)

Sl. No.	Section	Proposed amendments
43.	Proviso to 13 (3) (a)	(3) The place of supply of the following services shall be the location where the services are actually performed, namely:- (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: 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: 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 repairs **or such treatment or process** without being put to any other use in India, than that which is required for such repairs **or such treatment or process**;

48

Agenda Note No. 6 (i): Proposed amendments to GST Law
IGST Act (Amendment 44 & 45 of 48)

Sl. No.	Section	Proposed amendments
44.	17 (1), new proviso	**17 (1):** **Provided that fifty per cent. of such amount as may be decided on the recommendation of the Council, which does not get apportioned under clauses (a) to (f) for the time being, shall be apportioned to the Central Government on ad hoc basis and shall be adjusted against amounts apportioned under clauses (a) to (f).**
45.	17 (2), new proviso	**17 (2):** **Provided also that fifty per cent. of the amount referred to in the first proviso to sub-section (1) shall be apportioned to the State Government on ad hoc basis and shall be adjusted against amounts apportioned under clauses (a) to (f).**

49

Agenda Note No. 6 (i): Proposed amendments to GST Law
GST (Compensation to States) Act (Amendment 46 of 48)

Sl. No.	Section	Proposed amendments
46.	New 10 (3A)	**10(3A) (a) Notwithstanding anything contained in sub-section (3), the Central Government may, at any point of time in a financial year, on the recommendations of the Council, distribute the amount remaining unutilized in the Fund amongst the Centre and the States in the manner provided for in sub section (3).** **(b) In case of shortfall in the amount collected in the Fund against the requirement of compensation to be released under section 7 for any two month period, the same shall be ~~adjusted~~ recovered from the ~~amount released~~ Central and State Government. ~~from the Fund under clause (a).~~**

50

Agenda Note No. 6 (i): Proposed amendments to GST Law
GST (Compensation to States) Act (Amendment 47 of 48)

Sl. No.	Section	Proposed amendments
47.	Section 7(4)(b)(ii)	7(4)(b)(ii) the integrated goods and services tax apportioned to that State, as certified by the Principal Chief Controller of Accounts of the Central Board of ~~Excise~~ **Indirect Taxes** and Customs; and

51

Agenda Note No. 6 (i): Proposed amendments to GST Law
UTGST Act (Amendment 48 of 48)

Sl. No.	Section	Proposed amendments
48.	**7(4)**	~~**7 (4) The Union territory tax in respect of the supply of taxable goods or services or both by a supplier, who is not registered, to a registered person shall be paid by such person on reverse charge basis as the recipient and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.**~~ **7 (4) The Government may, on the recommendations of the Council, by notification, specify a class of registered persons who shall, in respect of supply of such taxable goods or services or both received from an unregistered supplier, pay the tax on reverse charge basis as the recipient of such goods or services or both, and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.**

52

Agenda Note No. 6 (i): Proposed amendments to GST Law
UTGST Act (New amendment)

Sl. No.	Section	Proposed amendments
1.	9	9. The amount of input tax credit available in the electronic credit ledger of the registered person on account of,— (a) integrated tax shall first be utilised towards payment of integrated tax and the amount remaining, if any, may be utilised towards the payment of central tax and State tax, or as the case may be, Union territory tax, in that order; (b) the Union territory tax shall first be utilised towards payment of Union territory tax and the amount remaining, if any, may be utilised towards payment of integrated tax **only when the balance of the input tax credit on account of central tax is not available for payment of integrated tax**; (c) the Union territory tax shall not be utilised towards payment of central tax: **Provided that input tax credit on account of Union territory tax shall be utilised towards payment of integrated tax under clause (b) only after the input tax credit available on account of integrated tax has been first utilised fully towards such payment.**

53

Agenda Note No. 6 (i): Proposed amendments to GST Law
UTGST Act (New amendment)

Sl. No.	Section	Proposed amendments
2.	New section 9A after section 9	**Notwithstanding anything contained in this Chapter, the Government may, on the recommendations of the Council, prescribe the order of utilization of input tax credit of integrated tax, central tax, State tax or Union territory tax, as the case may be, towards payment of any such tax.**

54

Table Agenda: Proposed amendments to CGST Act (1/7)

Sl. No.	Section	Proposed amendments
1.	39(1)	39 (1) Every registered person, other than an Input Service Distributor or a non-resident taxable person or a person paying tax under the provisions of section 10 or section 51 or section 52 shall, for every calendar month or part thereof, furnish, in such form and manner **and within such time** as may be prescribed, a return, electronically, of inward and outward supplies of goods or services or both, input tax credit availed, tax payable, tax paid and such other particulars as may be prescribed:~~, on or before the twentieth day of the month succeeding such calendar month or part thereof.~~ **Provided that the Government may, on the recommendation of the Council, and subject to such conditions and safeguards as may be specified, notify certain classes of registered persons who ~~shall~~ may furnish return for every quarter or part thereof.**

55

Table Agenda: Proposed amendments to CGST Act (2/7)

Sl. No.	Section	Proposed amendments
2.	39(7)	(7) Every registered person, who is required to furnish a return under sub-section (1) or sub-section (2) or sub-section (3) or sub-section (5), shall pay to the Government the tax due as per such return not later than the last date on which he is required to furnish such return: **Provided that the Government may, on the recommendation of the Council, and subject to such conditions and safeguards as may be specified, notify certain classes of registered persons who shall pay to the government tax due or part thereof as per such return before the last date on which he is required to furnish such return.**

56

Table Agenda: Proposed amendments to CGST Act (3/7)

Sl. No.	Section	Proposed amendments
3.	39(9)	Subject to the provisions of sections 37 and 38, if any registered person after furnishing a return under sub-section (1) or sub-section (2) or sub-section (3) or sub-section (4) or sub-section (5) discovers any omission or incorrect particulars therein, other than as a result of scrutiny, audit, inspection or enforcement activity by the tax authorities, he shall rectify such omission or incorrect particulars in the return to be furnished for the month or quarter during which such omission or incorrect particulars are noticed, **or in the amendment return prescribed for this purpose,** subject to payment of interest under this Act: Provided that no such rectification of any omission or incorrect particulars shall be allowed after the due date for furnishing of return for the month of September or second quarter following the end of the financial year, or the actual date of furnishing of relevant annual return, whichever is earlier.

57

Table Agenda: Proposed amendments to CGST Act (4/7)

Sl. No.	Section	Proposed amendments
4.	43A new insertion	**(1) Notwithstanding anything contained in sub-section (2) of section 16, section 37 or section 38, every registered person, other than an Input Service Distributor, a non-resident taxable person and a person paying tax under the provisions of section 10 or section 51 or section 52, shall electronically in the return furnished under section 39, in addition to the details of outward supplies or the inward supplies furnished, verify, validate, modify or delete supplies, for which details have been furnished by the suppliers.** **(2) Notwithstanding anything contained in section 41, section 42 or section 43, the procedure for availing of input tax credit by the recipient and verification thereof shall be such as may be prescribed.** **(3) The procedure for furnishing the details of a tax invoice by the supplier on the common portal, for the purposes of availing input tax credit by the recipient shall be such as may be prescribed.**

58

Table Agenda: Proposed amendments to CGST Act (5/7)

Sl. No.	Section	Proposed amendments
4.	43A new insertion	**(4) The procedure for availing credit on the basis of invoice not reported in terms of sub-section (3) shall be such as may be prescribed and such procedure may include the maximum amount of the input tax credit which can be so availed, not exceeding twenty percent of the input tax credit available on the basis of invoices reported as per sub-section (3).** **(5) The amount of tax specified in an invoice for which the details have been furnished by the supplier under sub-section (3) shall be deemed to be tax payable by him under the provisions of the Act, notwithstanding the fact that return in respect of such invoice has not been furnished and tax specified therein has not been paid.** **(6) The supplier and the recipient of a supply shall be jointly and severally liable to pay tax or to pay the input tax credit availed, as the case may be, in relation to invoices for which the details have been furnished in terms of sub-section (3) or sub-section (4) but return thereof has not been furnished.**

59

Table Agenda: Proposed amendments to CGST Act (6/7)

Sl. No.	Section	Proposed amendments
4.	43A new insertion	**(7) The procedure for recovery of the amount of tax payable or input tax credit availed, in respect of invoices for which details have been furnished under sub-section (3) or sub-section (4), but return thereof has not been furnished, shall be such as may be prescribed and such procedure may provide for non-recovery of an amount of tax or input tax credit not exceeding one thousand rupees.** **(8) The procedure, safeguards and threshold of tax amounts in the invoices, the details of which can be furnished under sub-section (3) by a registered person within six months of taking a registration shall be such as may be prescribed provided that such threshold shall not exceed twenty five lakh rupees, which may be raised on sufficient reason being shown by the proper officer .** **(9) The procedure, safeguards and threshold of tax amounts in the invoices, the details of which can be furnished under sub-section (3) by a registered person who has defaulted in payment of tax and where such default has continued for more than two months from the due date of payment of such defaulted amount, shall be such as may be prescribed.**

60

Table Agenda: Proposed amendments to CGST Act (7/7)

Sl. No.	Section	Proposed amendments
5.	49	**49. Payment of tax, interest, penalty and other amounts:** (1) Every deposit made towards tax, interest, penalty, fee or any other amount by a person by internet banking or by using credit or debit cards or National Electronic Fund Transfer or Real Time Gross Settlement or by such other mode and subject to such conditions and restrictions as may be prescribed, shall be credited to the electronic cash ledger of such person to be maintained in such manner as may be prescribed. (2) The input tax credit as self-assessed in the return of a registered person shall be credited to his electronic credit ledger, in accordance with section 41 **or section 43A**, to be maintained in such manner as may be prescribed.
6.	52	**52. Collection of tax at source:** (1) Where the details of outward supplies furnished by the operator under sub-section (4) do not match with the corresponding details furnished by the supplier under section 37 **or section 39**, the discrepancy shall be communicated to both persons in such manner and within such time as may be prescribed. (2)….

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Thank You

Annexure 5

Presentation on Return Design

Simplification of GST Return

GST Council Meeting on 21st july, 2018

Scheme of presentation:

1) Main features
2) Return structure
3) Quarterly return
4) Proposal before the council

1

Background and Process

- GST Council in its 27th meeting held on 4th of May, 2018 had approved the basic principles of GST return design and directed the law committee to finalize the return.
- Based on the decisions of the council and guidance of GoM, the GST Law Committee have further detailed the GST return which is now before the council for approval.
- Wide consultations were held with trade and GST compliance community during the process and their inputs have been duly incorporated in the return design.
- GSTN and the implementing IT company were part of the return design process and are fully on board with the design.

2

Key Features

- **Monthly return:** All taxpayers excluding small taxpayers and a few exceptions like ISD etc. shall file one monthly return.
- **Quarterly Return:** Small taxpayers having turnover below Rs. 1.5 Cr. may file quarterly return with monthly payment of taxes.
- **Staggered date:** The due date for filing of return by a large taxpayer shall be 20th of the next month whereas the due date for the smaller taxpayers shall be 25th.
- **Nil return:** Taxpayers who have no output tax liability and no input tax credit to file return through SMS.
- **Continuous uploading and viewing:** Facility for continuous upload of invoices by the supplier and viewing by the recipient along with tax payment status of an invoice shall be available.

3

- **Invoice uploaded but return not filed:** In cases where no return is filed after uploading of the invoices, it shall be treated as self-admitted liability by the supplier.
- **Credit on uploaded invoices:** Invoices uploaded by the supplier before the 10th of the next month shall be posted in the viewing facility of the recipient by 12th of the next month.
- **IT tool** would be provided to continuously upload invoices. IT tool/facility for matching of the invoices downloaded from the viewing facility of the buyer shall also be provided.
- **Locking of invoices:** Locking of invoices means a handshake between the recipient and supplier indicating acceptance of the transaction reported in the invoice. Facility for locking of invoice by the recipient before filing of the return shall be available. Locked invoices can not be amended.
- **Deemed locking:** Invoices can be deemed locked by reporting pending or rejected invoices. IT tool for matching shall have facility to create recipient and seller master list from which correct GSTIN can be matched.

4

- **Pending invoices:** Pending invoices are invoices which have been uploaded by the supplier for which supplies have not been received or the recipient is of the view that the invoice needs amendment.
- **Better availability of credit:** Where goods or services have been received before filing of a return by the supplier, input tax credit for the same can be availed by the recipient.
- **No automatic reversal of credit:** There shall not be any automatic reversal of input tax credit at the recipient's end where tax has not been paid by the supplier.
- The first response of revenue administration in case of default in payment of tax shall be to recover it from seller.
- In some exceptional circumstances like missing dealer, closure of business by the supplier, recovery of input tax credit from recipient shall be through a due process of service of notice and personal hearing.

5

- **Amendment of return:** To err is human and therefore the new return design provides facility for amendment of invoice and also the other details filed in the return.
- Amendment shall be carried out by filing of a return called amendment return. For each of the tax period, upto two amendment returns can be filed.
- **Payment** would be allowed to be made through the amendment return as it will help save interest liability for the taxpayer.
- Negative liability due to amendment return shall be carried forward to the next liability.
- **Late fee:** For change in liability of more than 10% through an amendment return, a late fee may be prescribed after sometime of the implementation of the new return.

6

- **Exports:** The table for export of goods in return would contain details of the shipping bill also.
- The registered person can either fill this information at the time of filing the return or after filing of the return using a separate facility for uploading shipping bill details.
- There shall be facility for correcting details of the shipping bills submitted.
- **Supply side control:** For a newly registered taxpayer and a taxpayer who has defaulted in payment of tax beyond a time period and/or above a threshold, uploading of invoices shall be allowed only after the default in payment of tax is made good.
- **Return format:** The main return shall have two main tables, one for reporting supplies on which tax liability arises and one for availing input tax credit.
- Some additional details are also proposed to be captured for ascertaining turnover and taking details of capital goods credit.

7

Profile based return: There are many kinds of supplies which can be made under GST and also there are many types of inputs using which input tax credit can be availed. A questionnaire shall be used to profile the taxpayer and only a part of return shall be shown to him.

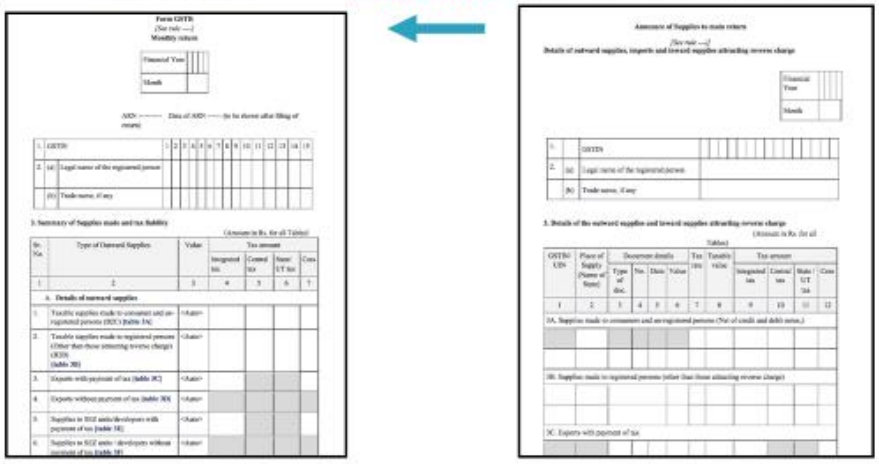
Sr. No.	Description	Option	
1.	Do you intend to file 'Nil' return	Yes	No
2.	Choose the type of return to be filed.	Sahaj	Sugam
		Monthly Profile	Quarter -ly Profile
3.	Would you like to create a new profile ?	Yes	No

Sr. No.	Description	Option	
1.	Have you made B2C supply (table 3A)	Yes	No
2.	Have you made B2B supply (table 3B)	Yes	No

8

Invoice upload: Uploaded invoices in the annexure of the return shall auto-populate the main liability table of the return.

Main Return — Auto-populate → **Annexure to Main Return**



9

Invoice upload Table in Annexure

GSTIN/ UIN	Place of Supply (Name of State)	Document details				Tax rate	Taxable value	Tax amount			
		Type of doc.	No.	Date	Value			Integrated tax	Central tax	State / UT tax	Cess
1	2	3	4	5	6	7	8	9	10	11	12
3B. Supplies made to registered persons (other than those attracting reverse charge)											

10

Structure of the return: Upload-lock-pay

1& 2	GSTIN & Name

3. Summary of Supplies made and tax liability
A. Details of outward supplies
B. Details of inward supplies attracting reverse charge
C. Details of Credit/Debit notes, Advances received/ adjusted /Other adjustments
D. Details of supplies having no liability

4. Summary of input tax credit (ITC)
A. Details of Credit received based on auto-population
B. Details of reversal, rejection, pendency and adjustment of credit
C. Net ITC

6	Interest and late fee liability
7	Payment of tax

11

Quarterly Return with monthly payment: up to 1.5 Cr

1. **83.3 %** taxpayers would benefit :

Sl. No.	Turnover(Cr)	No. (Lakhs)	No in %	Rev. Cash (Cr)	% of Total
1	Upto 1.5	71.3 L	83.3%	48942	8.85%
2	Above 1.5	14.3 L	16.7%	503944	91.15%
Total		85.6 L		552886	

2. Even for small taxpayers **settlement to the extent of 90%** would be monthly, as IGST utilisation for SGST constitutes 90% of the settlement. IGST used for payment of SGST is in the order of 250 Cr. below 1.5 Cr.
3. Transaction within small sphere is **quite low at 2.2 %** and **credit utilisation** is also **lower** than medium and large businesses:



12

Quarterly Return : Salient features

- **Quarterly filing and monthly payments:** It is proposed to provide facility for filing of quarterly return to small tax payers with requirement to to pay their taxes on monthly basis and avail input tax credit on self-declaration basis.

- **Simplified Quarterly Return:** Quarterly return shall be similar to main return with monthly payment facility but for two kinds of registered persons – small traders making only B2C supply or making only B2B + B2C supply, further simplified return has been designed called Sahaj and Sugam.

- **Payment declaration form for payment of monthly taxes:** These small taxpayers would use a payment declaration form to make the payment.

Sr. No.	Description	Integrated tax	Central tax	State/ UT tax	Cess
1.	Liability to pay tax				
2.	Input tax credit				

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- **Continuous uploading of invoices:** The recipients from these small taxpayers would need invoice for availing input tax credit and therefore the small taxpayers would have option to continuously upload the invoices.

- **Lesser information:** In Sahaj and Sugam, some of the details of information have been dropped and such information shall be collected in the annual return eg: HSN details, non-GST supply, Capital goods credit.

- **No pending and missing invoices:** Small taxpayers may not be in a position to keep invoices pending as they have fully utilized the credit to keep the cost of business operations low. Also they have only a few supplies so they can avail Input tax credit by ensuring that there are no missing invoices.

- **Lower compliance cost:** The benefit of this simplification would be that the compliance cost for small taxpayers would come down as payment declaration form is not a return and minor errors in the same would not lead to initiation of any legal action.

- **One-time option:** Option for filing monthly or quarterly return shall be taken from these small taxpayers once during the beginning of the year.

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Structure of SAHAJ (only B2C supplies)

Place of Supply (Name of State)	Tax rate	Taxable value	Tax amount			
			Integrated tax	Central tax	State / UT tax	Cess

Sr. No.	Description	Value	Input Tax Credit (ITC)			
			Integrated tax	Central tax	State/ UT tax	Cess
1.	Inward supplies received net of credit and debit note	<Auto>				
2.	Inward supplies rejected by recipient (wrong GSTIN etc.)	<Auto> <editable>				
3.	Reversal & adjustments (+/–)	<User input>				
	Net ITC	<Auto>				

SUGAM (B2B +B2C supplies) Has Invoice Annexure too

GSTIN/ UIN	Place of Supply (Name of State)	Document details				Tax rate	Taxable value	Tax amount			
		Type of doc.	No.	Date	Value			Integrated tax	Central tax	State / UT tax	Cess
1	2	3	4	5	6	7	8	9	10	11	12

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Proposal before the GST Council :

1. The monthly and quarterly returns (including SAHAJ and SUGAM) may be approved.

2. The key features and all the formats of the return May be placed in the public domain for information.

3. Final features and formats would be finalised with minor amendments which may be needed due to inputs received from many quarters such as officers, trade, IT team during development etc. GSTC may authorise GIC to approve the final format.

4. The final provisions in law shall be finalised In consultation with suggestions of the Ministry of Law and other inputs which May there after Be allowed to be approved by the GIC.

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Annexure 6

Table Agenda for reduction in GST rate from 28% to 18% on certain goods

The list of 28% items has been reviewed and it is felt that on certain items GST rate may be reduced from 28% to 18%. In general, these goods fall under the categories of,-

a) Paints, varnishes and putty;
b) household white goods, namely small TVs (Upto 68 cm), electromechanical domestic appliances like mixer, juicer, grinder, vacuum cleaner, refrigerators; water heaters, iron etc
c) Special purpose vehicles, work truck, trailers and semi-trailers;
d) Certain equipment of industrial use;
e) Miscellaneous items involving small revenue

2. The details of these goods are as under:

S. No	HSN	Description	Present applicable GST rate	Proposed GST rate
1	3208	Paints and varnishes (including enamels and lacquers) based on synthetic polymers or chemically modified natural polymers, dispersed or dissolved in a non-aqueous medium; solutions as defined in Note 4 to this Chapter	28%	18%
2	3209	Paints and varnishes (including enamels and lacquers) based on synthetic polymers or chemically modified natural polymers, dispersed or dissolved in an aqueous medium	28%	18%
3	3210	Other paints and varnishes (including enamels, lacquers and distempers); prepared water pigments of a kind used for finishing leather	28%	18%
4	3214	Glaziers' putty, grafting putty, resin cements, caulking compounds and other mastics; painters' fillings; non-refractory surfacing preparations for facades, indoor walls, floors, ceilings or the like	28%	18%
5	8418	Refrigerators, freezers and other refrigerating or freezing equipment, electric or other; heat pumps other than air conditioning machines of heading 8415	28%	18%
6	8508	Vacuum cleaners	28%	18%
7	8509	Electro-mechanical domestic appliances, with self-contained electric motor, other than vacuum cleaners of heading 8508 [other than wet grinder consisting of stone as a grinder]	28%	18%

8	8510	Shavers, hair clippers and hair-removing appliances, with self-contained electric motor	28%	18%
9	8516	Electric instantaneous or storage water heaters and immersion heaters; electric space heating apparatus and soil heating apparatus; electrothermic hair-dressing apparatus (for example, hair dryers, hair curlers, curling tong heaters) and hand dryers; electric smoothing irons; other electro-thermic appliances of a kind used for domestic purposes; electric heating resistors, other than those of heading 8545	28%	18%
10	8528	TV upto the size of 68 cm	28%	18%
11	8705	Special purpose motor vehicles, other than those principally designed for the transport of persons or goods (for example, breakdown lorries, crane lorries, fire fighting vehicles, concrete-mixer lorries, road sweeper lorries, spraying lorries, mobile workshops, mobile radiological unit)	28%	18%
12	8709	Works trucks, self-propelled, not fitted with lifting or handling equipment, of the type used in factories, warehouses, dock areas or airports for short distance transport of goods; tractors of the type used on railway station platforms; parts of the foregoing vehicles	28%	18%
13	8716	Trailers and semi-trailers; other vehicles, not mechanically propelled; parts thereof [other than Self-loading or self-unloading trailers for agricultural purposes, and Hand propelled vehicles (e.g. hand carts, rickshaws and the like); animal drawn vehicles]	28%	18%
14	9504	Video games consoles and Machines, article and accessories for billiards [9504 20 00], other games operated by coins, banknotes, i.e., casino games [9504 20 00] and others [other than board games of 9504 90 90]	28%	18%
15	9616	Scent sprays and similar toilet sprays, and mounts and heads therefor; powder-puffs and pads for the application of cosmetics or toilet preparations	28%	18%
16	9804	All dutiable articles intended for personal use	28%	18%
17	9614	Smoking pipes (including pipe bowls) and cigar or cigarette holders, and parts thereof	28%	18%

3. The net revenue loss on account of above reduction will about Rs 6315 crore in a financial year.

Annexure 7

Table Agenda on Digital Payments

Briefly stated, with an objective to incentivise digital transactions, an Agenda Note [Annexure-I] was circulated for consideration by the GST Council in its 23rd Meeting [held on 10.11.2017]. The said Agenda Note proposed for providing a concession of 2% in GST rate [where the GST rate was 3% or more] on B2C supplies, for which payment is made through digital mode [1% each from applicable CGST and SGST rates, if the applicable GST rate is 3% or more] subject to a ceiling of Rs. 100 per transaction, interalia, on the following grounds:

(a) With this incentive, consumer will be offered two prices; one with normal GST rates for purchases made through cash payment and the other with 2% lower GST rate for digital payments.

(b) The consumer will see visible benefits of making payments [for supplies received by him] through digital mode, in terms of reduction in tax amount payable.

1.1. The said Agenda Note also stated that this concession would not be available to supplies made by registered persons paying tax under the Composition Scheme.

2. The Agenda Note sought in principle approval of the Council for the above proposal, along with authorisation to the GST Implementation Committee [GIC] to approve changes in the CGST/SGST/UTGST Rules necessary for implementing this proposal.

3. Subsequently, an addendum to the said Agenda Note was placed before the GST Council in its 27th meeting (held on the 04.05.2018) [Annexure II].

4. The GST Council constituted a GOM to look into the issue. The GOM after detailed deliberations concluded that while the proposal is good for the economy, its implementation may be deferred for some time as GST is yet not fully stabilised, the new return process is still work in progress, GST revenue still to reach a comfortable level and the revenue implications of the proposal are significant. [Agenda Note. 8 refers]

5.1 While it is a common view that digital transactions needs to be incentivised, certain concerns have been expressed as regard its coverage in GST, revenue implications, beneficiary of such incentive, and implementation modalities.

5.2 These aspects have been re-examined. Incentivising digital payments have far reaching positive implications for the economy. Apart from providing visible upfront benefits of making digital payments and thereby incentivising digital payment, it will also result in,-

a) better compliance;
b) gradual formalisation of economy;
c) reduction in cash transactions and
d) accordingly, a buoyancy in revenue

5.3 Accordingly, following proposal is placed before the council:

i) the GST concessions on digital payments be given on the B2C transactions through the modes that are used across the country. Accordingly, it is proposed that to begin with GST concession be given only on the B2C transactions made through RuPay (Debit Card) and UPI-Unified Payment Interface, BHIM, USSD.

ii) the GST concession shall be given by way of refund to the consumer in his account through an automated route.

iii) the concession shall be 10% of the CGST, 10% of SGST paid subject to the total ceiling of Rs 100 (Rs 50 CGST and Rs 50 SGST) per transaction.

5.4 This proposal would ensure wide coverage in terms of consumers, simplified implementation and a direct incentive to the consumer. IT infra to implement account linked refund is already available (similar cash back is already in operation for auto fuels) which may require minor tweaking.

6. Revenue implications:

6.1 **The volumes and revenue implication under the proposed modes are as follows:**

A. Volumes:

S. No.	Modes	Volume (17-18) [In Cr]	Value (17-18) [In Cr]
1	UPI-Unified Payment Interface, BHIM, USSD	92	109832
2	RuPay (POS)	46	48886
3	RuPay (eCom)	21	16635
	Total Source: NPCI/MeitY	**159**	**175353**

B. Revenue implication: A large number of digital transactions may be done for utility payments or other payments that do not attract GST. The benefit would accrue only on B2C transactions involving GST supplies. Further Benefit would be restricted to Rs 100 per transaction. Accordingly, revenue estimation done is as follows.

S. No.	Description	Amount
1	Average value per transaction	**Rs 1103**
2	Weighted average GST rate	**14%**
3	**If 33% of the above stated transactions are eligible for benefit**-the revenue implication at the rate of 20% of GST paid would be = Total Value*(33%)*weighted rate (5)*20%	**Rs 1636 cr**
4	If 25% of the transactions are eligible for concession, the implication would be	**Rs 1239 cr**
5	If 20% of the transactions get the benefit, the GST concession would be	**Rs 991 cr**

7. In the above background, the Council may consider providing a concession equal to 20% GST paid on B2C supplies, for which payment is made through digital mode of UPI-Unified Payment

Interface, BHIM, USSD and RuPay Debit card [10% each from applicable CGST and SGST rates, or as the case may be, 20% of IGST paid] subject to a ceiling of Rs. 100 per transaction. This concession would, however, not be available to supplies made by registered persons paying tax under the Composition Scheme.

8. The CGST amount given as cash back shall be pooled in by the Centre and SGST amount shall be pooled in by the Respective States.

9. On approval of the proposal, the exact modalities for providing the concession shall be put in place in consultation with the Line Ministry (MeitY).

Second Addendum to Agenda Note on

Incentives to promote Digital Transactions

(CIRCULATED FOR GST COUNCIL MEETING HELD ON 10TH NOVEMBER, 2017)

Briefly stated, with an objective to incentivise digital transactions, an Agenda Note [Annexure-I] was circulated for consideration by the GST Council in its 23rd Meeting [held on 10.11.2017]. The said Agenda Note proposed for providing a concession of 2% in GST rate [where the GST rate was 3% or more] on B2C supplies, for which payment is made through digital mode [1% each from applicable CGST and SGST rates, if the applicable GST rate is 3% or more] subject to a ceiling of Rs. 100 per transaction, interalia, on the following grounds:

(a) With this incentive, consumer will be offered two prices; one with normal GST rates for purchases made through cash payment and the other with 2% lower GST rate for digital payments.

(b) The consumer will see visible benefits of making payments [for supplies received by him] through digital mode, in terms of reduction in tax amount payable.

The said Agenda Note also stated that this concession would not be available to supplies made by registered persons paying tax under the Composition Scheme.

2. The Agenda Note sought in principle approval of the Council for the above proposal, along with authorisation to the GST Implementation Committee [GIC] to approve changes in the CGST/SGST/UTGST Rules necessary for implementing this proposal.

3. Subsequently, an addendum to the said Agenda Note was placed before the GST Council in its 27th meeting (held on the 04.05.2018) [Annexure II].

4. The GST Council constituted a GOM to look into the issue. The GOM after detailed deliberations concluded that while the proposal is good for the economy, its implementation may be deferred for some time as GST is yet not fully stabilised, the new return process is still work in progress, GST revenue still to reach a comfortable level and the revenue implications of the proposal are significant. [Agenda Note. 8 refers]

5.1 While it is a common view that digital transactions needs to be incentivised, certain concerns have been expressed as regard its coverage in GST, revenue implications, beneficiary of such incentive, and implementation modalities.

5.2 These aspects have been re-examined. Incentivising digital payments have far reaching positive implications for the economy. Apart from providing visible upfront benefits of making digital payments and thereby incentivising digital payment, it will also result in,-

a) better compliance;
b) gradual formalisation of economy;
c) reduction in cash transactions and
d) accordingly, a buoyancy in revenue

5.3 Accordingly, following proposal is placed before the council:

i) the GST concessions on digital payments be given on the B2C transactions through the modes that are used across the country. Accordingly, it is proposed that to begin with GST

concession be given only on the B2C transactions made through RuPay (Debit Card) and UPI-Unified Payment Interface, BHIM, USSD.

ii) the GST concession shall be given by way of refund to the consumer in his account through an automated route.

iii) the concession shall be 10% of the CGST, 10% of SGST paid subject to the total ceiling of Rs 100 (Rs 50 CGST and Rs 50 SGST) per transaction.

5.4 This proposal would ensure wide coverage in terms of consumers, simplified implementation and a direct incentive to the consumer. IT infra to implement account linked refund is already available (similar cash back is already in operation for auto fuels) which may require minor tweaking.

6. Revenue implications:

6.1 The volumes and revenue implication under the proposed modes are as follows:

A. Volumes:

S. No.	Modes	Volume (17-18) [In Cr]	Value (17-18) [In Cr]
1	UPI-Unified Payment Interface, BHIM, USSD	92	109832
2	RuPay (POS)	46	48886
3	RuPay (eCom)	21	16635
	Total Source: NPCI/MeitY	**159**	**175353**

B. Revenue implication: A large number of digital transactions may be done for utility payments or other payments which do not attract GST. The benefit would accrue only on B2C transactions involving GST supplies. Further Benefit would be restricted to Rs 100 per transaction. Accordingly revenue estimation done is as follows.

S. No.	Description	Amount
1	Average value per transaction	**Rs 1103**
2	Weighted average GST rate	**14%**
3	**If 33% of the above stated transactions are eligible for benefit**-the revenue implication at the rate of 20% of GST paid would be = Total Value*(33%)*weighted rate (5)*20%	**Rs 1636 cr**
4	If 25% of the transactions are eligible for concession, the implication would be	**Rs 1239 cr**
5	If 20% of the transactions get the benefit, the GST concession would be	**Rs 991 cr**

7. In the above background, the Council may consider providing a concession equal to 20% GST paid on B2C supplies, for which payment is made through digital mode of UPI-Unified Payment Interface, BHIM, USSD and RuPay Debit card [10% each from applicable CGST and SGST rates, or as the case may be, 20% of IGST paid] subject to a ceiling of Rs. 100 per transaction. This concession would, however, not be available to supplies made by registered persons paying tax under the Composition Scheme.

8. The CGST amount given as cash back shall be pooled in by the Centre and SGST amount shall be pooled in by the Respective States.

9. On approval of the proposal, the exact modalities for providing the concession shall be put in place in consultation with the Line Ministry (MeitY).

ANNEXURE – I

Incentives to promote Digital Transactions

[FOR GST COUNCIL MEETING TO BE HELD ON 10th November, 2017]

To incentivise digital transaction it is proposed to provide a concession of 2% in GST rate on B2C supplies, for which payment is made through digital mode [1% each from applicable CGST and SGST rates, if the applicable GST rate is 3% or more] subject to a ceiling of Rs. 100 per transaction. This effectively means that applied rate of GST for such transactions will be 2% lower than the otherwise applicable GST rate, though subject to a ceiling of Rs. 100 per transaction for such incentive. This scheme, however, would not be available to registered persons paying tax under the composition scheme.

2. With this incentive, consumer will be offered two prices; one with normal GST rates for purchases made through cash payment and the other with 2% lower GST rate for digital payments. As a result the consumer will see visible benefits of making payments [for supplies received by him] through digital mode, in terms of reduction in tax amount payable.

3. For example, if the GST rate applicable to supply a particular goods/service is 18%, then B2C supply of such goods, where payment made through digital mode will be 16%, subject to a maximum GST concession of Rs. 100 per transactions.

Illustration:

Value of goods/service= Rs 5000

Tax payable if payment made in cash = Rs 900 [18% of Rs. 5000]

Tax payable if payment made digitally = Rs 800 [16% of Rs. 5000]

Upfront tax incentive to the customer = Rs 100.

4. Estimated revenue implication [based on information provided by MeitY]

- In 2016-17, the number of digital transactions was 1076 crore. Average value per transaction (based on debit and credit card transaction) was Rs 1833. Out of this the transaction below Rs 1000 were 16%, between Rs 1000 and Rs 2000, were 14%, and above Rs 2000 were 70%.
- In 2017-18, the estimated number of digital transaction for the financial year 1800. Till Oct this number was 1000 crore.
- Based on these numbers (taking annual number of digital transaction as 1800 crore), the revenue implication of the proposal is estimated to be as follows:

	Tax relief (2%)	
Taking Average size (Rs)	1500	1800
% of transaction getting benefit	**Tax Implication (Rs Crore)**	
20%	10800	12960
30%	16200	19440
40%	21600	25920

5. The loss in tax revenue may however be recovered to certain extent through better compliance. It would further encourage digital payment and consumer would seek these services from merchants.

6. This proposal was discussed by the Fitment Committee on 30th October, 2017, but the Committee could not arrive at consensus on the issue.

7. It is proposed that the Council may kindly accord in principle approval to this proposal. Further the GIC may be authorised to approve the changes in the CGST / SGST/UTGST Rules, as recommended by the Law Committee, in order to implement this proposal.

Annexure - II

ADDENDUM TO AGENDA NOTE

Incentives to promote Digital Transactions

[CIRCULATED FOR GST COUNCIL MEETING HELD ON 10TH NOVEMBER, 2017]

Briefly stated, with an objective to incentivise digital transactions, an Agenda Note [Annexure-I] was circulated for consideration by the GST Council in its 23rd Meeting [held on 10.11.2017]. The said Agenda Note proposed for providing a concession of 2% in GST rate [where the GST rate was 3% or more] on B2C supplies, for which payment is made through digital mode [1% each from applicable CGST and SGST rates, if the applicable GST rate is 3% or more] subject to a ceiling of Rs. 100 per transaction, interalia, on the following grounds:

(a) With this incentive, consumer will be offered two prices; one with normal GST rates for purchases made through cash payment and the other with 2% lower GST rate for digital payments.

(b) The consumer will see visible benefits of making payments [for supplies received by him] through digital mode, in terms of reduction in tax amount payable.

The said Agenda Note also stated that this concession would not be available to supplies made by registered persons paying tax under the Composition Scheme.

2. The Agenda Note sought in principle approval of the Council for the above proposal, along with authorisation to the GST Implementation Committee [GIC] to approve changes in the CGST/SGST/UTGST Rules necessary for implementing this proposal.

3. Taking the annual number of digital transaction as 1800 crore [which included all modes of digital transactions], the revenue implication of the proposal was estimated as under:

	Tax relief (2%)	
Taking average transaction size (Rs)	1500	1800
% of transaction getting benefit	**Tax Implication (Rs Crore)**	
20%	10800	12960
30%	16200	19440
40%	21600	25920

4. However, due to paucity of time the said Agenda Note was not discussed by the GST Council in its 23rd meeting [held on 10.11.2017] and in 25th meeting [held on 18.01.2018].

5. As mentioned above, concession of 2% in GST rate on B2C supplies, apart from providing visible upfront benefits of making digital payments and thereby incentivising digital payment, will also result in,-

a) better compliance;
b) gradual formalisation of economy; and
c) reduction in cash transaction vis-à-vis GDP .

6. Meanwhile, the full year granular data, mode wise, on digital payments for 2017-18 was obtained from MeitY and the details are as under:

S. No.	Modes	Volume (17-18) [in Cr]	Value (17-18) [In Lakh Cr]
1	NACH (National Automated Clearing House)	237	9.7
2	IMPS (Immediate Payment Service)	101	8.9
3	UPI + BHIM+USSD [Unified Payments Interface, Bharat Interface for Money, Unstructured Supplementary Service Data)	92	1.1
4	RuPay (POS)	46	0.5
5	RuPay (eCom)	20	0.2
6	AEPS Total (Aadhaar Enabled Payment System)	98	0.3
7	BBPS (Bharat Bill Payment System)	3	0.0
8	NETC (National Electronic Toll Collection)	13	0.0
	Sub Total (Source : NPCI)	**610**	**20.7**
9	Debit Card (excluding RuPay)	262	3.9
10	Credit Card	138	4.5
11	NEFT	189	175.1
12	M-Wallet	301	1.1
13	RTGS	12	1500.9
14	PPC	44	0.3
	Sub Total (RBI)	**946**	**1686**
15	Closed Loop	111	0.02
16	Internet Banking	143	99.3
17	Mobile Banking	62	2.7

18	Others	120	21.5
	Sub Total (BANK)	**325**	**123.5**
	Total	**1992**	**1830**

Source: MeitY

7. Payment modes namely, RTGS, NEFT, IMPS (Immediate Payment Service), NACH (National Automated Clearing House), NETC (National Electronic Toll Collection) and Closed Loop may not in general be used for procuring goods and services. While, the remaining modes, namely, UPI/BHIM/USSD, RuPay, AEPS, BBPS, Debit Card, Credit Card, m-wallet, PPC, internet banking, mobile banking and other banking modes are generally used for procuring taxable goods and services. The volume and value of transactions for these modes and average size of transactions is as below:

	Without internet banking and other transactions [S. No. 18 of the Table above]	With internet banking and other transactions [S. No. 18 of the Table above]
Total no of transactions	1066 crore	1329 crore
Value of transactions (Rs.)	14.6 lakh crore	135.4 lakh crore
Average size of transaction (Rs.)	1400	10158

8. Based on above numbers, the revenue implication of the proposal [taking the average size of the transaction as Rs. 900, Rs, 1200 and Rs. 1400] is re-estimated as under:

	Tax relief (2%)		
Taking Average size on which concession is allowed (Rs)	900	1200	1400
A. Without internet banking and other transactions [No. of transactions being 1066 crore]			
% of transaction getting benefit	Tax Implication (Rs Crore)		
20%	3838	5117	5970
30%	5756	7675	8954
40%	7675	10,234	11,939
B. With internet banking and other transactions [No. of transactions being 1329 crore]			
% of transaction getting benefit	Tax Implication (Rs Crore)		
20%	4784	6379	7442
30%	7177	9569	11,164
40%	9569	12,758	14,885

*Formula for revenue implication = No. of transactions X % of transaction getting benefit X Ticket Size X 2/ 100

8.1. However, the above revenue implication may vary, as the RTGS, NEFT, IMPS and NACH modes of digital payments may occasionally, be used for payment for procuring taxable goods and services.

9. In the above background, the Council may consider providing a concession of 2% in GST rate [where the GST rate was 3% or more] on B2C supplies, for which payment is made through digital mode [1% each from applicable CGST and SGST rates, if the applicable GST rate is 3% or more] subject to a ceiling of Rs. 100 per transaction. This concession would, however, not be available to supplies made by registered persons paying tax under the Composition Scheme.

10. The exact modalities for providing the concession of 2% in GST would be finalized along with the new GST return. The proposed concession in GST will be made effective from when the new GST return will be introduced.