Confidential

Agenda for

5th GST Council Meeting

2-3 December 2016

Venue: Auditorium, Pravasi Bharatiya Kendra, New Delhi

Agenda Items

TABLE OF CONTENTS

Agenda No.	Topic	Page No.
1	Confirmation of the Minutes of the 4th GST Council Meeting held on 3-4 November, 2016	4
2	Approval of the Draft GST Law, Draft IGST Law and Draft GST Compensation Law	44
3	Provision for Cross-Empowerment to ensure Single Interface under GST (outstanding agenda item from the 4th GST Council meeting)	88
4	Date of the next meeting of the GST Council	94
5	Any other agenda item with the permission of the Chairperson	94

Discussion on Agenda Items

Agenda Item 1: Confirmation of the Minutes of the 4th GST Council Meeting held on 3-4 November, 2016

Draft Minutes of the 4th GST Council Meeting held on 3-4 November 2016

The fourth meeting of the GST Council (hereinafter referred to as 'the Council') was held on 3-4 November 2016 in the Parliament House Annexe, New Delhi under the Chairpersonship of the Hon'ble Union Finance Minister, Shri Arun Jaitley. The list of the Hon'ble Members of the GST Council who attended the meeting is at **Annexure 1**. The list of officers of the Centre and the States who attended the meeting is at **Annexure 2**.

2. In his opening remarks, the Hon'ble Chairperson of the Council welcomed all the members and noted that the earlier meetings had been fruitful but some agenda items from the 3rd Council Meeting were left for consideration. He noted that these agenda items as also the other outstanding work of the Council could be moved forward in the next few meetings.

3. The following six agenda points were taken up for consideration:

(i) Confirmation of the Minutes of the 3rd GST Council Meeting held on 18-19 October 2016.

(ii) Presentation by the Goods and Service Tax Network (GSTN) on the status of development of GST Portal, Data migration/Enrolment plan, Risk factors and mitigation plan.

(iii) Finalisation of the bands of tax rates under GST regime (Outstanding agenda item from the 3rd GST Council Meeting held on 18-19 October 2016).

(iv) Provision for Cross-Empowerment to ensure Single Interface under GST (Outstanding agenda item from the 3rd GST Council Meeting).

(v) Date of the next meeting of the GST Council.

(vi) Any other agenda item with the permission of the Chairperson.

Discussion on Agenda Items

Agenda Item 1: Confirmation of the Minutes of the 3rd GST Council Meeting held on 18-19 October 2016

4. The members suggested the following amendments to the draft minutes of the 3rd meeting of the Council –

i. The Hon'ble Minister from Maharashtra stated that the existing paragraph 10 of the minutes should be replaced by the following –

'The Hon'ble Minister from Maharashtra stated that apart from Rs. 7,000 crores that his State stood to lose due to subsuming octroi in GST, they would also lose another Rs. 7,000 crores due to removal of Local Body Tax from 1st August 2015 at the instance of the Hon'ble Prime Minister of India. The action was in consonance with GST. As the State compensated the revenue to the Local bodies, the amount of compensation paid should be considered for the purpose of revenue collected by the State for year 2015-16. Similarly, his State stood to lose Rs. 700 crores due to abolition of Sugarcane Purchase Tax. He stated that his State should not suffer any loss on this count and taxes on account of octroi, Local Body Tax and Sugarcane Purchase Tax should be included in the definition of revenue.' It was agreed to by the Council to replace the version of the Hon'ble Minister's statement recorded in paragraph 10 of the draft Minutes with the formulation as proposed above.

ii. The Hon'ble Minister from Rajasthan suggested to replace the existing portion in paragraph 44 pertaining to his observation with the following: 'The Hon'ble Minister from Rajasthan mentioned that levy of cess for purposes of compensation was not desirable; instead he felt that a separate higher rate of tax of more than 50% should be imposed on demerit goods. He further observed that in Rajasthan, Bidi was taxed at 65%, Cigarette at 35%, Tobacco at 45% and Pan Masala at 35% and that the State would have to forego substantial revenue of more than Rs. 750 crores if rate on demerit goods was kept at 26%.' Further, he also suggested to add the

following in paragraph 31 of the minutes: 'The Hon'ble Minister from Rajasthan mentioned that for calculating the projected growth rate calculation, the average growth rate of best of three years of last five years or average growth rate of last five years may be considered.' It was agreed to by the Council to replace the version of the Hon'ble Minister's statement recorded in paragraphs 44 and 31 of the draft Minutes with the formulation as proposed above. Furthermore, it was also suggested to add the following words before the last sentence of paragraph 60: "The option of having cess in principle was closed and." This suggestion was not agreed to as this paragraph related to the Chairperson's remarks and he had made no such observation as suggested in the above formulation.

iii. The Hon'ble Minister from Karnataka suggested to add the following in either paragraph 31 or 32 of the minutes: "The Hon'ble Minister from Karnataka stated that, on the lines of the Hon'ble Union Finance Minister's argument that compensating for the loss arising out of reduction of CST would not be as per the Constitutional mandate as enshrined in the Constitutional Amendment, even compensating on the basis of a flat projected revenue growth rate of 14% went against the Constitutional mandate. It did not really compensate the States that have witnessed average revenue growth of more than 14% in past five years, from the loss of revenue due to introduction of GST. He argued that the States should be compensated in accordance with their past revenue performance to honour the spirit of the Constitutional provision." ' It was agreed to by the Council to add the Hon'ble Minister's version suitably in paragraph 31 or 32 of the draft Minutes with the formulation as proposed above.

iv. The Hon'ble Minister from Odisha suggested to add in paragraph 34 of the minutes that if the issue regarding the validity of Entry Tax presently being heard by the Hon'ble Supreme Court was decided in favour of the States even at a later date, the revenue accruing on this account should be added to the base year 2015-16. The Secretary to the Council stated that paragraph

34 recorded the decision of the Council and the suggestion made by the Hon'ble Minister from Odisha could not be added there. However, it could be added as the view of the Hon'ble Minister of Odisha if a suitable formulation was given in writing by the State. In pursuance of this, a written formulation was received from the Government of Odisha to record the following in Para 13 of the draft Minutes: 'The Hon'ble Minister from Odisha stated that many States were awaiting the verdict of the Hon'ble Supreme Court on the Constitutional validity of the Entry Tax Acts of the States. If the verdict went in favour of States, the Entry Tax for the base year 2015-16, which would be collected later, following the favourable judgement, should be considered in the definition of 'Revenue'.'

v. The Officer from Uttarakhand stated that in paragraph 21, it should be recorded that the exemption of taxes given by the Central Government should also be counted towards the definition of 'revenue' for the base year 2015-16 for the Special Category States referred to in Article 279A of the Constitution. The Secretary to the Council stated that it was not possible to count the revenue foregone of the Central Government towards the definition of 'revenue' of the Special Category States. However, the suggestion of Uttarakhand could be recorded as the view of the State and he requested them to communicate a suitable formulation to the GST Council Secretariat. Subsequently, the following formulation was received with a request to add it in Para-17 after the suggestions of the Hon'ble Ministers of Jammu & Kashmir and Tamil Nadu: 'The officer from Uttarakhand suggested that, for the Special Category States, the definition of revenue should include the exemptions of indirect taxes given by the State Government and the Central Government, in the revenue calculation of the base year 2015-16.'

5. In view of the above discussions, for Agenda item 1, the Council decided to adopt the draft minutes of the 3rd meeting of the Council with the following changes –

i. To replace the version of the Hon'ble Minister of Maharashtra's statement recorded in paragraph 10 of the draft Minutes with the following: 'The Hon'ble Minister from Maharashtra stated that apart from Rs. 7,000 crores that his State stood to lose due to subsuming octroi in GST, they would also lose another Rs. 7,000 crores due to removal of Local Body Tax from 1st August 2015 at the instance of the Hon'ble Prime Minister of India. The action was in consonance with GST. As the State compensated the revenue to the Local bodies, the amount of compensation paid should be considered for the purpose of revenue collected by the State for year 2015-16. Similarly, his State stood to lose Rs. 700 crores due to abolition of Sugarcane Purchase Tax. He stated that his State should not suffer any loss on this count and taxes on account of octroi, Local Body Tax and Sugarcane Purchase Tax should be included in the definition of revenue.'

ii. To replace the version of the Hon'ble Minister of Rajashtan recorded in paragraph 44 of the draft Minutes with the following: 'The Hon'ble Minister from Rajasthan mentioned that levy of cess for purposes of compensation was not desirable; instead he felt that a separate higher rate of tax of more than 50% should be imposed on demerit goods. He further observed that in Rajasthan, Bidi was taxed at 65%, Cigarette at 35%, Tobacco at 45% and Pan Masala at 35% and that the State would have to forego substantial revenue of more than Rs. 750 crores if rate on demerit goods was kept at 26%.'

iii. To add the following in paragraph 31 of the minutes: 'The Hon'ble Minister from Rajasthan mentioned that for calculating the projected growth rate calculation, the average growth rate of best of three years of last five years or average growth rate of last five years may be considered.'

iv. To add the following in either paragraph 31 or 32 of the minutes: 'The Hon'ble Minister from Karnataka stated that, on the lines of the Hon'ble Union Finance Minister's argument that compensating for the loss arising out of reduction of CST would not be as per the Constitutional mandate as enshrined in the Constitutional Amendment, even compensating on the basis of a

flat projected revenue growth rate of 14% went against the Constitutional mandate. It did not really compensate the States that have witnessed average revenue growth of more than 14% in past five years, from the loss of revenue due to introduction of GST. He argued that the States should be compensated in accordance with their past revenue performance to honour the spirit of the Constitutional provision.'

v. To add the following in paragraph 13: 'The Hon'ble Minister from Odisha stated that many States were awaiting the verdict of the Hon'ble Supreme Court on the Constitutional validity of the Entry Tax Acts of the States. If the verdict went in favour of States, the Entry Tax for the base year 2015-16, which would be collected later, following the favourable judgement, should be considered in the definition of 'Revenue'.'

vi. To add the following in Para-17 after the suggestions of the Hon'ble Ministers of Jammu & Kashmir and Tamil Nadu: 'The officer from Uttarakhand suggested that, for the Special Category States, the definition of revenue should include the exemptions of indirect taxes given by the State Government and the Central Government, in the revenue calculation of the base year 2015-16.'

6. Before taking up the agenda item 2, the Hon'ble Minister from Chhattisgarh raised a general point that letters sent to the GST Council should not go to the public domain as it caused avoidable embarrassment. He suggested that in GST Rules, there could be a provision that letters written to GST Council should not go in the public domain.

Agenda Item 2: Presentation by the Goods and Service Tax Network (GSTN) on the status of development of GST Portal, Data migration/Enrolment plan, Risk factors and mitigation plan

7. On this agenda item, a presentation was made by Shri Navin Kumar, Chairman, GSTN along with Shri Prakash Kumar, Chief Executive Officer (CEO), GSTN. The presentation broadly covered the status of development of the Information Technology (IT) systems for GST, provided an update on data migration/enrolment and on risk factors and mitigation plan. As regards the IT system, it was informed that M/S Infosys Technologies was selected as the Managed Service Provider (MSP) for GSTN in September 2015 and their scope of work included application, design and development; one-time taxpayer data porting; IT infrastructure procurement, supply, installation and information security; Data Centre (DC) and Disaster Recovery (DR); Hosting Services; Helpdesk and Training. The presentation gave an update of the GST system rollout, which was proposed to be done in three phases. Phase 1 relates to Frontend Services under GST (like taxpayer registration, invoice upload, payment, return, etc.), phase 2 relates to Backend Services under GST for 25 States and Union Territories (like assessment, refund, adjudication, etc.) and phase 3 relates to GST analytics components (business intelligence, management dashboard, etc.). It was informed that Infosys was asked to initiate software development on the basis of draft business processes approved by the Empowered Committee in May 2015 and to go ahead for hardware procurement only after receiving a nod from the Government. It was informed that the order for Hardware was placed in August 2015 after the passage of the Constitution (One Hundred and First) Amendment Act. The software delivery schedule for Phase 1 is divided into 4 releases starting from 8 Nov 2016 and ending in January 2017. It was informed that training of Master trainers would be conducted from 2 January 2017 to 15 February 2017. On migration of existing taxpayers, the Council was informed that all those whose PAN had been verified would be migrated in GST regime. It was further informed that GSTN would be providing to States material like provisional ids and passwords, instruction manual, draft of advertisements, jingles, Computer Based Training Material (CBT) on how to enroll etc. It was further informed that the States might be required to issue a notification under Value Added Tax (VAT) asking taxpayers to provide data for enrolment. The need for quick availability of GST rules relating to Input Tax Credit (ITC), Transitional Provisions,

Advance Ruling, Appeal, e-Transit Pass and Composition was highlighted during presentation. While narrating the risk factors, it was pointed out that finalization of the Model GST Law by the end of November 2016 was necessary to allow time for incorporating all changes in the GST system being developed on Model GST Act. It was also pointed out that due to tight timeline, there was no time left for Beta testing with public at large but internal tests mandated under contract shall be carried out by the vendor as well GSTN with help of tax officers.

8. After the presentation, certain questions were asked by the Hon'ble Ministers. The Hon'ble Minister from Tamil Nadu inquired about the location of hardware and it was clarified that the Data Centre (DC) and Near Data Centre (NDC) would be located in Delhi while the Disaster Recovery (DR) and Near Data Recovery (NDR) will be located at Bengaluru. It was also clarified that the backend system was being developed for those States/Union Territories which opted for it and the group of 25 States is called Model-2 States. Originally only 12 States had opted for Model-2 but subsequently, 8 more States and 5 Union Territories joined it bringing the total to 25. The Hon'ble Minister from Tamil Nadu suggested that the helpdesk of GST should be operated in local languages as well. The Chairman, GSTN clarified that the helpdesk was being operated from a centralized location in Gurugram in English and Hindi and the States were to run their own helpdesk centres in regional languages. He also added that GSTN would assist the States by providing training materials and content for knowledge management (KM) tool, which the States could get translated into local languages. The Hon'ble Minister from Jammu & Kashmir expressed that GST Helpdesk and the State run helpdesks could use common content while being located at two different places. The Secretary to the Council clarified that a centralized call centre would not be able to cope with the workload for the whole country and that local call centres would need to be developed in regional languages. The Hon'ble Minister from West Bengal observed that it was important to have software handshake between the call centre of the States and that of the GSTN so that there was adequate linkage to GSTN's database. The CEO, GSTN clarified that the local call centres would give reply based on the Frequently Asked Questions (FAQs) and user manual shared with the States. In case questions were of a more technical nature, they would be escalated to a senior agent. In case the senior agent was also not able

to answer, the query would be transferred to Infosys for providing the answer, which would then added to the FAQ. In case, questions could not be answered even by Infosys expert, the telephone number and email address of the caller would be taken and after consulting tax experts of GSTN, the answers along with question would be incorporated in the KM tool for future use by the call centres.

9. The Hon'ble Minister from Mizoram requested for a hard copy of the presentation and the same was circulated the next day. He also highlighted the problem of internet connectivity in the North Eastern States. The Secretary to the Council informed that on 28 October 2016, a meeting was called which was attended by the officers of the North Eastern States, BSNL and the Department of Telecommunications (DoT). The Dot and BSNL officials promised to look into the problem of connectivity in NE-States. The Hon'ble Minister from Delhi suggested that there should be an offline application for enrolment and it was informed by CEO, GSTN that the same would be ready by the end of November 2016. The Hon'ble Minister from Jammu & Kashmir observed that the DR site should be in two different cities. It was clarified that the DC was located in Delhi while the DR site was in Bengaluru. The Hon'ble Minister from Tamil Nadu expressed that Beta testing should be done before GST rollout. The CEO, GSTN clarified that Beta testing was not being done with the public on account of paucity of time. However, test as mandated in the contract would be carried out. The Hon'ble Minister from Tamil Nadu also enquired regarding the alignment of backend system of 25 States/Union Territories and it was clarified that such alignment was to be achieved through Application Programming Interfaces (APIs). In conclusion, the Hon'ble Chairperson observed that progress of development of IT Systems for GST would be presented before the Council from time to time.

Agenda Item 3: Finalisation of the bands of tax rates under GST regime (Outstanding agenda item from the 3rd GST Council Meeting)

10. Initiating the discussion, the Secretary to the Council briefly recapitulated the discussion on this issue in the 3rd GST Council Meeting on 18-19 October, 2016. He recapitulated the proposal to have a four rate GST structure and the rates could be 6%, 12%, 18% and 26%. He explained that a slab of 6% was needed for such goods where VAT was being charged at 5% and Central Excise duty on the same goods was Nil.

He stated that if such goods put in the 12% rate band, it would adversely affect the poorer sections of the society. He noted that the highest slab of 26% was proposed for such goods which at present cumulatively attracted a duty of 27% (VAT 14.5% and Central Excise duty 12.5%) in addition to the cascading effect and the effect of the Central Sales Tax (CST). He also recalled the suggestion to have a cess to meet the compensation requirement of the States. He clarified that if the estimated compensation requirement of Rs. 50,000 crores was to be raised through the tax route in GST, an additional Rs. 1.72 lakh crores of tax would be required to be levied, as only 29% of the tax collected under GST accrued to the Central Government. He stated that it was desirable that no extra tax burden be put on the common people under GST. He further mentioned that today only few items were being taxed at a rate between 35% to 65% or more and all these items could not be put in a slab of 40%. He informed that internationally, the practice was to keep alcohol, cigarette and petroleum products out of GST tax structure. He suggested to collect a cess and put it in a different kitty for compensation. Any residual amount left in the compensation account after the five year compensation period could be shared in the ratio of 50% each for the Centre and the States. In the 50% share of the States, the amount could be distributed to the individual States based on their share of all-India collection of SGST. He added that after five years, the modality of converting cess into GST could be decided in the GST Council and, if needed, a separate GST rate subsuming the rate of cess could be adopted. The Hon'ble Chairperson added that it was desirable that the tax rate should be inflation neutral and should lead to collection of an amount which was equal to the present tax collection and the projected tax growth.

11. Initiating the discussion, the Hon'ble Minister from Bihar stated that even if taxes were reduced, it was not certain that the manufacturers would pass this benefit to the people as they sold goods at fixed price. He pointed out that the planned expenditure of the Central and the State Governments was increasing and for this, funds are to be generated from taxes. He suggested to tax luxury goods at a rate higher than 26%. He also cautioned that tax on poor should not be so low that revenue generation was adversely affected. He suggested that the proposed 26% rate could be made 28% and 6% rate could be increased to 8%. He also noted that the tax structure should not be very rigid and a holistic view was needed. The Hon'ble Chairperson observed that GST would have some natural advantages such as a single national market,

seamless movement of trucks at State borders and elimination of cascading of tax through a seamless flow of input tax credit. He also pointed out that for compensation, a growth rate of 14% had been assumed and overall tax collection might grow at a lower rate. He also pointed to the danger of higher rate of tax leading to greater evasion as seen from the example of high duties of Customs on gold and cigarette making them the most highly smuggled goods. The Hon'ble Minister from Telangana observed that the tax rates should be such that it promoted compliance. He suggested that luxury goods like luxury cars should be taxed at a higher rate.

12. The Hon'ble Minister from Tamil Nadu recalled that earlier there was a concept of goods of local importance for each States and enquired whether this concept still held good. The Secretary to the Council stated that the list of exempted goods should be common for the country. The Hon'ble Minister from Kerala stated that the issue of compensation should not be mixed with the rate structure. He suggested that the rate structure should be decided first and the issue of compensation could be taken up thereafter. He added that keeping in view the three principles that the tax should be revenue neutral, inflation neutral and distribution neutral, there should be a higher band of 40% as was also suggested in the report of the Chief Economic Advisor. He questioned the logic of taxing the poor at a higher rate by increasing the existing VAT rate of 5% to a GST rate of 6% while reducing the existing combined tax rate of 28% to 26%. He suggested that the lower band of tax rate should be 5% and the upper band rate should be 40%. He observed that the 40% band rate could cover demerit goods, sin goods, luxury goods and fat goods. He also suggested that in the 28% or 40% rate, the States should have a band of rates to choose from. He also suggested that the Council needed to discuss the split up of rates between the Centre and the States and suggested that it should be in proportion of the revenues of the Centre and the States being collected today. The Hon'ble Chairperson observed that the goods covered in the tax bracket of 26%-28% also included items like refrigerators and televisions which were today also consumed by the lower middle classes and taxes on them could not be raised to 40%.

13. The Hon'ble Minister from Jammu & Kashmir observed that while funneling of commodities into the existing tax rates was an administratively convenient tool, it should also be kept in mind that the tax rate structure in India was 60 years old and had large number of exemptions. He pointed out that the Consumer Price Index was adopted in 1974 and it accounted for only 18% of consumption today. He therefore suggested that fixing the goods in different rate slabs should not be reduced to a formula. He noted that goods like mobile phone were no longer items of luxury. He also observed that as Central Government had become more federal and was releasing larger amounts of funds for Panchayats and Centrally Sponsored Schemes, it needed flexibility to raise finances in order to avoid any possible cuts under other heads. He supported a special rate for compensation but not imposition of cess.

14. The Hon'ble Deputy Chief Minister from Delhi supported the idea of raising the 26% rate band to 28% but did not support the proposal of raising the 6% rate band to 8%. He observed that a large number of commodities attracted VAT at the rate of 5%. He also suggested that the items which presently attracted Nil rate of Central Excise or Service tax but State VAT should not be taken to the 12% band. He noted that there was a lot of concern at the proposal to tax gold at 4% and he suggested that it should be reduced to 2%. The Hon'ble Minister from Bihar suggested that the higher rate of tax should be kept at 30% and luxury items should be taxed at 40%. The Hon'ble Chairperson stated that if evasion could be checked by having moderate rates of GST, this would also positively impact Direct Tax collection as more transactions would get accounted in the books of account.

15. The Hon'ble Deputy Chief Minister of Gujarat suggested to keep tax on diamonds at the rate of 0%, keeping in view the fact that it accounted for export turnover of Rs. 2 lakh crore, provided employment to a large number of people in the diamond cutting and polishing industry and was an environment friendly activity. He also supported a low rate of tax on gold as it was also used by the poorer sections of the society. The Hon'ble Minister from Maharashtra also supported Gujarat's proposal in respect of diamond and gold. He broadly supported the proposed bands of rates but suggested that there should be a separate category of luxury goods and sin goods like tobacco should be charged to tax at 60% and the Centre and the States each

should get 30% of tax. The Hon'ble Minister from Rajasthan supported keeping a five band rate structure. He observed that lowering the rate of tax on demerit goods would lead to a loss of revenue of Rs. 800 crores. He observed that normal revenue growth would be in the range of 9% whereas for compensation, a secular growth rate of 14% had been agreed upon. He supported the idea of levying cess for compensation and observed that it would not be correct to keep compensation outside the GST scheme. The Hon'ble Chairperson stated that the GST Council should not only have the ownership of fixing compensation but also the ownership of raising compensation.

16. The Hon'ble Minister from Punjab expressed his agreement to the suggested slab of tax rates. However, he added that the principle of fixing tax rate based on the existing bands of taxation should be operated as a principle and not as a rigid rule. The Hon'ble Chairperson agreed that while fixing rates of tax on individual goods, the evolution of the economy and the existing distortions needed to be kept in mind. On the suggestion of having a higher slab rate of 40%, he reiterated that if GST rate was higher, the compensation kitty would be lower. He observed that at this stage, a rate of 26% could be adopted but after five years, it could possibly be increased to 40%. The Hon'ble Minister from Tamil Nadu supported the proposed band rates but suggested another band rate of 40% for demerit goods like tobacco, aerated drinks and luxury cars. He expressed that such an increased tax rate would bring down the compensation load by about Rs. 10,000 crores for States needing compensation. The Hon'ble Minister from Karnataka observed that high GST rates would invite international criticism. He observed that as Direct Tax rates were low in India, multiple rate slabs in GST were needed. He further observed that an unequal society like India could not have only one tax rate. He observed that GST was still beneficial as it simplified the taxation system, prevented cascading and helped in a more efficient economic decision making process. He further observed that if compensation was to come from GST, it would put additional burden on one or the other segment of the society. He therefore supported the idea of delinking compensation from the slab rates. He also observed that all goods presently in the slab of 26% could not be moved to the slab of 40% and creation of one more slab would cause loss of public support. He also agreed with the observation of the Hon'ble Minister from Jammu & Kashmir that if Centre's finances were squeezed, it could adversely affect funding of the

Centrally Sponsored Schemes. He also suggested that cess could be continued beyond five years and its proceeds could be shared between the Centre and the States and that this could solve multiple challenges. The Hon'ble Chairperson observed that while some developed countries had two rates in GST other than the exempt category, several other developed countries had multiple rate structure. He observed that in the Indian context, a two band rate would lead to either a steep increase or a sharp reduction in the tax incidence, and both were not desirable.

17. The Hon'ble Minister from Kerala stated that he strongly objected to lowering tax rate on goods which were currently at higher rates. He suggested that for compensation, resources could be raised through environmental and tobacco cess and any shortfall should be raised from outside GST. The Hon'ble Minister from Karnataka raised a question regarding the legality of cess, particularly if clean energy cess was used for other purposes. The Hon'ble Chairperson observed that this cess was a tax on carbon, and if needed, it could be renamed. He also informed that the Law Ministry had confirmed the legality of levy of cess. The Hon'ble Minister from West Bengal observed that he could see a wider agreement on the table on certain issues. He observed that unprocessed and unpackaged food grains were exempted from VAT in ten States (Assam, Gujarat, Delhi, Kerala, Madhya Pradesh, Rajasthan, Tamil Nadu, U.P., West Bengal and Bihar) and therefore these must remain exempted under GST. He observed that on gold, the cumulative tax in most States was 2% (1% VAT and 1% Central Excise) and increasing the rate to 4% would generate negative feelings in the country. He also observed that a lower rate of tax on gold would encourage compliance and would cater to the concerns of the common man. The Hon'ble Chairperson observed that in the gold sector, the problem was not so much regarding levy of tax but regarding problems of inspection and maintenance of books and accounts. He observed that if tax on gold was to be reduced, some other goods would need to bear this tax burden. The Hon'ble Minister from West Bengal further observed that increasing the existing tax rate of 5% to 6% would adversely affect items like cotton, edible oil, newsprint, spices of all varieties, vegetable oil, micro nutrients, bio fertilizers, etc. He therefore supported the view of the Hon'ble Minister of Kerala that the existing rate of 5% under VAT should be retained instead of raising it to 6%. In respect of goods falling under 26% bracket, he stated that the existing combined rates of tax was higher for goods

like air conditioner (27% and with cascading 30.31%), cameras and video cameras (30% and with cascading 30.31%), electric toaster (27% and with cascading 30.31%), paints (30.31% with cascading). He therefore suggested increasing the proposed rate slab of 26% to 28% which would net additional revenue of Rs. 34,724 crores and out of this, Rs. 17,862 crores would fall into the share each of the Centre and the States. He added that the Centre would retain an amount of Rs. 10,395 crores after devolution. He stated that this would be more equitable as the higher rate slab would apply on the wealthier sections of the society and the compensation kitty would be reduced because of taxes going to States. He further observed that presently, the combined rate of tax on normal cars was 38.5% (41.81% with cascading), for luxury cars was 41.5% (44.81% with cascading) and for aerated drinks was 39% (with cascading effect). He suggested to have a rate of 40% tax on luxury cars and aerated drinks. Summing up his proposal, he said that there should be five rates of 0% for food grains, 5%, 12%, 18%, 28% and 40% and the officers should fit the goods into the slabs of 12% and 18% taking into account the inflationary impact. He observed that some logical adjustments could also be done for goods falling in the slab of 28%. He stated that after the officers had carried out this exercise, it should be brought back to the Council for consideration. On gold and diamond, he stated that a view could be taken later on. He further observed that the average combined rate of tax on tobacco was in the range of 60%-65% and the House needed to take a call whether taxation on it should be kept separate from compensation and further whether a tax in addition to 40% should be imposed on it, and if so, at what rate. He added that tobacco was truly a sin good which adversely affected the lungs of the human beings. The Secretary to the Council observed that a rate higher than 28% would lead to gain to all States but compensation would be needed for only a few States.

18. The Hon'ble Minister from Assam stated that as the Centre had agreed to pay compensation at a fixed growth rate of 14%, it was important not to restrict Centre's hand in levying cess. He observed that the additional cess could be converted into a GST rate after five years. He supported the proposal to have a band rate of 26% but agreed that this could also be increased to 28%. He added that if tobacco was taxed at 40%, then the Centre would have no room to levy cess. He observed that the total combined tax on tobacco

including the cess would remain at the existing level but raising the tax to 40% would create problem for compensation fund.

19. During the lunch break on 3rd November 2016, there was an officer level meeting for one hour to aid the Hon'ble Ministers in deciding whether the proposed slab of 6% could be reduced to 5%; the proposed slab of 26% could be increased to 28%; the proposed slab on gold could be reduced from 4% to 2% and whether a new slab of 40% could be introduced. Post lunch, the Secretary to the Council briefed the Hon'ble Ministers on certain factual aspects the emerged from the officers' discussion. He stated that tax base for proposed 6% slab was estimated to be Rs. 3.66 lakh crores and reducing it to 5% is expected to lead to a revenue loss of around Rs. 3,700 crores. Tax base for 26% slab was estimated to be Rs. 12.83 lakh crores and increasing it to 28% is expected to lead to an additional revenue of around Rs. 25,600 crores. Reducing tax on gold from 4% to 2% would lead to an estimated revenue loss of around Rs. 9,000 crores and if it was reduced to 3%, the estimated revenue loss is expected to be around Rs. 4,500 crores. For aerated drinks, luxury cars and pan masala the total taxable base was estimated to be about Rs. 95,000 crores and the proposed additional 12% over the 28% would yield Rs. 11,000 crores which could entirely go for compensation, if it was levied as cess. On tobacco products the combined average tax rate was 65% (VAT 25%-30% and Central Excise 30%-35%) and the revenue collected by the Central Government from tobacco in 2015-16 was around Rs. 20,000 crores. A cess on tobacco and tobacco products at the rate of 37% (taking the GST rate at 28%) is expected to yield revenue of around Rs. 18,000 crores. The total yield for compensation from the four items, namely aerated drinks, pan masala, luxury cars and tobacco products plus the amount expected from the Clean Environment Cess would be around Rs. 55,000 crores. He further added that cess would be a part of the compensation law and a sunset clause could be introduced there. This would enable the Council to have a fresh look in regard to tax rate on these four commodities after the five year sunset period. He added that an additional slab of 40% would be open to public criticism. He also reminded that cess was to be raised only for a few States who needed compensation and any residual amount after five years would be shared with the States. He added that the Council could take a decision based on the facts as presented.

20. The Hon'ble Deputy Chief Minister of Gujarat suggested that a slab rate of 40% should be made part of GST tax rate instead of a cess. The Hon'ble Minister from Maharashtra supported this suggestion. The Hon'ble Minister from Tamil Nadu suggested that tax on gold should be reduced from 4% but the Hon'ble Minister from Bihar and Assam opposed this proposal. The Hon'ble Chairperson stated that cess could have a sunset clause and the Council could thereafter decide the GST rate on goods attracting cess. The Hon'ble Minister from Kerala supported the proposal to exempt food grains from tax and to reduce the proposed 6% slab to 5% but suggested that gold should be kept at 4%. He observed that gold was used for consumption as well as for investment purpose for which tax rate did not matter, and if its rate was reduced, tax on some other commodities would have to be raised. He supported the suggestion that products used by the weaker sections of the society should not be taxed at a higher rate of 6% instead of the existing 5% and also supported the idea of increasing 26% rate band to 28%. The Hon'ble Deputy Chief Minister of Gujarat stated that gold should be taxed at 2% and that one should be considerate towards middle classes who were growing in number. The Hon'ble Minister from Kerala suggested that the rate of tax on gold could be decided after the fitment of other commodities in various bands of rates and the evaluation of the revenue outcome of the same. He added that it should not be predetermined that only three commodities should go into the 40% slab. This number could also be decided after the fitment exercise was over. He cautioned against an obsession for revenue neutral rate and observed that more revenue was needed for welfare measures and he noted that many other commodities were taxed at a rate closer to 40%.

21. The Hon'ble Minister from Tamil Nadu stated that as Service tax was proposed to be raised from 15% to 18%, on goods side, duties could be reduced on a significant number of commodities. Gold could be one of them as mangalsutra had important cultural and emotional aspect in his State. He observed that gold was not a pure luxury good and 60% of the bottom part of the population also bought gold. He also added that if luxury goods were brought into the demerit rate, the manufacturing States would stand to gain. The Hon'ble Chairperson stated that many goods presently in the tax bracket of 26%-28% like soap, oil, television, cheaper mobile sets etc. were used by common people and a choice would have be to be made whether duty on such goods or on gold should be reduced. He observed that another option regarding gold

was to reduce duty of customs on gold on which the Government of India would take a view separately. He further suggested that after observing the experience of the first year, the Council could revisit the rate of tax on gold in the next year. The Chief Economic Advisor observed that it was important to take note that the incidence of tax on the luxury and demerit goods was not proposed to be brought down, though the optics was a different issue. He added that if the highest GST rate was kept at 28%, this could be looked upon as the demerit rate. However, if a 40% rate slab was kept, this would be the demerit rate and 28% would appear to be the standard rate which would look as a very high GST rate regime.

22. The Hon'ble Minister from Jammu & Kashmir observed that no category of goods should be exempt and pandering to cultural sensitivities of different States would become unmanageable. He stated that there should be six rates in GST: 12% and 18% as standard rates, 6% and 26% as subsidiary rates, 0% and 40% as special rates. He observed that over five years, the 40% tax structure could disappear. He stated that exempted category of goods should be avoided. He further suggested to work out average weighted GST rate after fixing the incidence of tax on each item. He also suggested that over a period of time, there should be a move towards a three rate structure. The Hon'ble Minister from Telangana suggested that the tax rate for gold could be decided later after working out the loss due to 0% tax for goods used by the poorer sections and 18% tax for goods used by the common people. He suggested to retain the proposed 26% slab and to apply cess on top of that. The Hon'ble Minister from Tamil Nadu suggested that gold and diamond should be treated on the same footing as like the diamond craftsmen in Gujarat, there was a Viswakarma community for gold spread over a wider area of the country.

23. Summing up the discussion, the Hon'ble Chairperson suggested the following bands of rates under GST: One category of items like food grains etc. shall be exempt from GST; a lower rate of 5% for goods consumed by vulnerable sections of the society; standard rates of 12% and 18% and a higher tax slab of 28%; and cess over & above 28%. A Committee of officers shall do the fitment for placing various goods and services into the above tax slabs including the items which shall fall into exempt category. Cess over and above 28% on goods like luxury cars, aerated drinks, pan masala and tobacco products shall be imposed

for the purpose of raising resources for payment of compensation to the States on account of any loss of revenue due to implementation of GST. He added that any surplus left in the Cess Compensation Fund would be shared between the Centre and the States and that there would be a sunset clause for imposition of cess after five years. He further suggested that there could be a review every year by the Council to examine what cesses could be subsumed into GST tax. He added that officers would also examine as to what items presently attracting combined tax rate of 28% could be put into 18% slab. He also added that for luxury goods, the present incidence of taxation would be maintained. He further added that the rate of tax on gold could be kept open till the completion of the fitment exercise of goods into bands of 12% and 18% by the officers and reporting back to the Council.

24. In reference to the summing up by the Hon'ble Chairperson, the Hon'ble Minister from West Bengal suggested that the GST rate of 40% could be kept for luxury cars, pan masala and aerated drinks and for tobacco, there could be a GST rate of 40% plus cess. He observed that by this rate structure, all States would get revenue and Centre would also get revenue for compensation. He advised not to be too sensitive about the world opinion as they were democratically elected representatives by the people of India, and in any case, India was a very attractive market. The Hon'ble Chairperson stated that any excess amount from the compensation kitty would be distributed between the States. He added that if at the end of the first year of the GST rollout, amount was found to be spare in the compensation fund, the incidence of cess could be reduced the next year and if there was a shortfall, the incidence of cess could be increased. The Hon'ble Minister from West Bengal reiterated the demand for a 40% tax rate for three items, namely luxury cars, pan masala and aerated drinks. The Hon'ble Chairperson stated that as observed by the Hon'ble Minister from Karnataka, a 40% tax band did not look like a progressive GST and also reminded the theme of the debate in the Parliament during the passage of the GST (Constitutional Amendment) Bill to keep the GST rates reasonable. The Secretary to the Council stated that keeping GST tax rate of 40% on the four products would mean a loss of Rs. 17,000 crores from the compensation kitty which would go to the States. He also added that the present collection from the Clean Environment Cess at the rate of Rs. 400 per metric ton on

coal, lignite and peat might not be sustainable for five years if the international prices of coal increased in future. The Hon'ble Minister from Assam stated that smaller States often depended upon devolution of fund from the Centre to meet their financial deficit and therefore Centre's tax collection needed to be robust. He added that the Hon'ble Chairperson had made a fair proposal of sunset clause for cess and the GST Council would decide the sharing of the surplus amount in the compensation fund. He also reminded that taking the tax and cess together, the consumer was not paying anything less than the existing tax rate. He also reminded that States had got a 14% assured revenue growth for five years. Keeping these facts in mind, he urged to accept the proposal of the Hon'ble Chairperson.

25. The Hon'ble Minister from Kerala observed that the financial structure of the country was traditionally biased in favour of the Centre and it was not moving in a fairer direction. He suggested to retain a 40% slab and to take weighted average of tax rate which would be less than 17%. The popular perception of a high rate GST structure could be dispelled by this means. He further observed that the GST rate as well as the number of slabs would come down over a period of time but presently a 40% slab rate should be kept for goods being currently taxed in that bracket. He observed that a shortfall of Rs. 17,000 crores of compensation could be accommodated in view of the forecast of better economic growth and tax buoyancy post GST rollout. He also observed that the Central Government could resort to borrowing of fund to tide over any shortfall. He strongly urged the Hon'ble Chairperson to agree to his suggestion in a spirit of cooperative federalism.

26. The Hon'ble Minister from Jammu & Kashmir observed that as States were insulated for the next five years with an assured 14% revenue growth, this issue need not be discussed much. The Hon'ble Minister from Tamil Nadu stated that they did not want dependency on compensation as they had to survive on their own after five years. The Hon'ble Minister from Odisha and Tamil Nadu also supported the proposal of keeping a GST rate slab of 40%. The Hon'ble Chairperson stated that if compensation was funded from GST, it would not lead to additional tax burden on people. The Hon'ble Minister from Jammu & Kashmir disagreed and stated that it would constitute an additional burden as the incidence of taxation would have

been lower without an additional cess. The Hon'ble Minister from West Bengal added that there was higher burden as no input tax credit was available on cess. The Hon'ble Minister from Punjab stated that the Central Government needed to have a cushion if compensation burden on the Centre went beyond Rs. 55,000 crores during the next year, which could occur as inflation rate was likely to be low but the annual revenue growth rate of States had been fixed at 14%.

27. The Hon'ble Minister from Punjab stated that not only food grains, but also fertilisers, insecticides and pesticides should be zero rated. The Hon'ble Minister from Andhra Pradesh supported this suggestion and stated that input supplies for farmers should be at a lower cost so that the farming community did not suffer. The Hon'ble Chief Minister from Puducherry supported the proposal and referred to the dire situation of the farmers and the instances of farmer suicides. The Hon'ble Minister from Bihar also supported the proposal. The Hon'ble Chairperson clarified that there was a difference in zero rated goods and exempted goods. If a product was kept at zero rate, the implication was that all input taxes embedded in the product would need to be refunded. The revenue implication for this would need to be studied. The Secretary to the Council added that food grains being tax exempt was not the same as being zero rated. He added that as per the present policy, there was no zero rating for any commodity except when they were exported or supplied to a Special Economic Zone (SEZ). The Hon'ble Minister from Bihar stated that the thrust of the suggestion was that there should be no additional burden on the farmers. The Hon'ble Ministers from Andhra Pradesh and West Bengal also stated that basically there should be no tax on agriculture produce. The Hon'ble Minister from Meghalaya supported the suggestion of the Hon'ble Minister from Punjab and stated that while fixing tax on different commodities, farmers should be given special attention.

28. The Hon'ble Minister from Punjab suggested that the surplus amount left in the Compensation Fund at the end of the five-year compensation period should be shared in the proportion of the contribution of cess by the States in the Compensation Fund, as this would be linked to the consumption in the States and GST was a consumption based tax. The Hon'ble Chairperson observed that this would not be a fair method and that surplus cess amount in the Compensation Fund should be treated as a joint property of the Council for

distribution. The Hon'ble Minister from Tamil Nadu stated that surplus compensation amount should be distributed as per the amount of SGST collected by each State. The Hon'ble Minister from Puducherry stated that the sharing arrangement suggested should not be on the basis of the Finance Commission formula.

29. In view of the above discussions, for Agenda item 3, the Council adopted the following decisions in respect of bands of rates of tax in the GST regime and the compensation mechanism for five years:

(i) There shall be a category of goods which shall be exempt from GST and this would include items like food grains.

(ii) There shall be a low band of tax rate of 5% and would generally cover goods which presently attract combined tax rate of Central Excise and VAT (including cascading on account of these two taxes) between 3% and less than 9%. Such goods are normally consumed by the vulnerable sections of the society or have high impact on inflation.

(iii) There shall be a standard tax rate of 12% and would generally cover goods which presently attract combined tax rate of Central Excise and VAT (including cascading on account of these two taxes) between 9% and less than 15%.

(iv) There shall be another standard tax rate of 18% and would generally cover goods which presently attract combined tax rate of Central Excise and VAT between 15% and less than 21% (including cascading on account of these two taxes).

(v) There shall be a higher band of tax rate of 28% and would generally cover goods which presently attract combined tax rate of Central Excise and VAT equal to or more than 21% (including cascading on account of these two taxes).

(vi) Supply of services shall generally be taxed at the rate of 18%.

(vii) To generate resources to compensate States for five years for any loss of revenue suffered by them on account of implementation of GST, a cess shall be levied on goods such as luxury cars, aerated drinks, pan masala and tobacco products, over and above the rate of 28%. For the goods chargeable to cess, the rate of cess shall be such so as to generally maintain the present incidence of taxation on them.

(viii) A Compensation Fund shall be created in public account and cess revenue shall be credited to it.

(ix) The Clean Environment Cess on coal, peat and lignite shall continue to be levied and its proceeds shall go to the Compensation Fund. If required, the name and purpose of this cess shall be changed.

(x) The National Calamity Contingency Duty (NCCD) shall continue to be levied and its proceeds shall continue to be allocated to the National Disaster Relief Fund (NDRF).

(xi) Cess shall be part of the Compensation Act and it shall have a sunset clause of five years.

(xii) Any residual amount left in the Compensation Fund after the five-year compensation period shall be shared in the ratio of 50% each for the Central Government and the State Governments. In the 50% share of the States, the amount shall be distributed to the individual States based on their share of all-India collection of SGST.

(xiii) There shall be a review every year by the Council to examine if, based on the need for compensation, cesses levied for compensation purpose could be subsumed into the GST tax net. Similarly, additional cesses can be imposed by the Council to meet the requirement of compensation.

(xiv) A Committee of officers of the Central Government and the State Governments shall carry out an exercise of fitment of goods in the various slab rates, namely exempted category, lower rate, the two standard rates and the higher rate on the basis of the principles enumerated at serial number (i) to (v) above, which are indicative in nature and are not fixed rules. While doing the fitment in the slab rates of 12% and 18%, the Committee of officers shall take into account the current economic and social realities. This Committee of officers shall also examine as to what items are presently attracting combined VAT and

Central Excise tax rate of 28% or above and could be put into 18% rate slab taking into account the present context in which goods earlier considered as luxuries are now largely used by all segments of the society. The Committee shall bring the outcome of this exercise to the Council for further decision.

(xv) The rate of tax on gold shall be decided by the Council after the completion of the fitment exercise as mentioned at serial number (xiv) above.

Agenda Item 4: Provision for Cross-Empowerment to ensure Single Interface under GST (Outstanding agenda item from the 3rd GST Council Meeting)

30. This agenda item was taken up for discussion on 4 November, 2016. Initiating the discussion, the Secretary to the Council brought to the notice of the Members that the GSTN had earlier shared data of the existing taxpayers under VAT, Central Excise and Service tax as on 01.01.2016 and in the 3rd GST Council meeting held on 18-19 October 2016, the States were requested to send updated data upto 31 August 2016. He informed that while 19 States had sent updated data, the data from other States was only upto 1st January 2016. He further informed that turnover wise segmented data of the taxpayers and the tax paid was available from 14 States and that there was a mismatch in the number of total taxpayers as given in this data when compared to the earlier data given by the States to the GSTN. Therefore, there was a need to match these two data sets. He recalled that in the last meeting of the Council, five options were placed before the Council to achieve single interface under GST and out of these, the first three options stood eliminated on account of various considerations like unacceptability to either the Central Government or the State Governments or due to practical problems like distinguishing between the suppliers of goods and services as for restaurant. He suggested considering Option IV or V. He pointed out that keeping in view the fact that GST would work in a highly automated environment, it could work on the same model as the Direct Tax where the assessee did not know his assessing officer unless his return was picked up for scrutiny. The Option IV was based on this concept, in which an upper cap of 5% could be put for auditing the taxpayers. This 5% could be chosen on the basis of risk parameters and then divide such assessees between the Central and the State administrations at the State level based on factors like the nature of business, geographical proximity,

etc. The Option V envisaged dividing the taxpayer base on some ratio in order to facilitate the taxpayer to know who would be his assessing officer. He expressed that as Indirect tax was also moving towards minimal human interface, it might not be relevant to provide for a system where the taxpayer has to be looked after by a particular tax jurisdiction.

31. Initiating the discussion, the Hon'ble Minister from Tamil Nadu stated that earlier the Option II (all taxpayers below a turnover of Rs. 1.5 crores to be administered by State administration and to follow cross empowerment model of Option IV for taxpayers above the turnover of Rs. 1.5 crores) was eliminated due to the logic of a large number of taxpayers going into the jurisdiction of the State tax administration. He stated that the veracity regarding the number of taxpayers needed to be tested due to fundamental difference in the numbers presented by the Hon'ble Minister from West Bengal and the Central administration. He therefore suggested that Option II should also remain on the table. The Hon'ble Minister from Andhra Pradesh supported Option II. He added that the cap of 5% audit suggested in Option IV was acceptable and that the selection of 5% for audit should be done on a computerised basis. He added that all suppliers of services below Rs. 1.5 crore turnover should also be with the States and the issue of taxpayers paying composite tax on goods and services could be discussed further. He also suggested that IGST should be considered to be with the States for administration purpose. The Hon'ble Minister from UP recalled the decision of the Empowered Committee where it was decided that administration of taxpayers below the threshold of Rs. 1.5 crores should entirely be with the States. The Hon'ble Deputy Chief Minister from Delhi supported this suggestion and also added that audit should be capped at 5% and that the taxpayers for this should be selected on the basis of data analysis and not randomly.

32. The Hon'ble Minister from West Bengal recalled the unanimous decision of the Empowered Committee that taxpayers with turnover below Rs. 1.5 crore shall be with the States for both goods and services and those above Rs. 1.5 crore turnover could be administered on the basis of cross-empowerment with a 5% cap on audit. He stated that by following this approach, taxpayers accounting for only 7.3% of revenue shall be below Rs. 1.5 crores and taxpayers accounting for 92.7% of revenue would be administered under cross-

empowerment model. The Hon'ble Chief Minister from Puducherry supported Option II for taxpayers below Rs. 1.5 crore turnover and for taxpayers above Rs. 1.5 crore turnover, he proposed an equal division between the Central and the State tax administrations. He stated that there should be a via media under which neither the Centre nor the State should suffer. The Hon'ble Minister from Bihar suggested that for three years, retailers of goods should be with the State administration and service providers and manufacturers should be with the Central administration. This arrangement could be reviewed after three years.

33. The Hon'ble Minister from Telangana supported Option II for taxpayers with turnover of below Rs. 1.5 crores and Option IV for taxpayers with turnover above Rs. 1.5 crores. The Hon'ble Minister from Meghalaya also supported this proposal. He observed that officers from the Central Government were not present in Meghalaya and this was also borne by the ongoing GST training in his State in which the Central Government officers were not present. The Chairman CBEC clarified that the situation would be addressed in the reorganization of CBEC post-GST. The Hon'ble Minister from Odisha supported Option II for taxpayers with turnover below Rs. 1.5 crores and Option IV for taxpayers with turnover above Rs. 1.5 crores and if this was not acceptable, then to go for Option V. The Hon'ble Minister from Kerala stated that clearly the sense of the House was to go for Option II for taxpayers with turnover of below Rs. 1.5 crores and Option IV for taxpayers above this turnover. He suggested that the audit sample should be 10% and not 5%.

34. The Hon'ble Minister from Chhattisgarh observed that Option IV was the most preferable. However, keeping in view the apprehensions of the small taxpayers, earlier Option III was decided upon. However, keeping in view the difficulties expressed in distinguishing between supplies of goods and services and the apprehensions of the small taxpayers, he suggested that for 3 years, Option III could be adopted with the modification that the three categories of taxpayers dealing both in goods and services, namely works contractors, restaurants and hotels could be administered by the State Governments. The Chairman CBEC stated that the Central Government's suggestion to adopt Option IV needed to be viewed in a broader

context. He pointed out that registrations were to be done by GSTN and all registrations were deemed to be done within three working days and were sent to the respective States. Similarly, payments were done on the GSTN and it went to the respective States. The GSTN also handled the front-end process for return including throwing up mismatches for the input tax credit claims. He emphasized that as the basic processes were taken care of by the GSTN, there was a move towards a system where the taxpayers need not know his administrator. He further pointed out that the areas of contact were limited to returns or mismatches and for this, administrations could proceed further by scrutiny or audit process. He further pointed out that enforcement needed to be handled independently. He urged that in a scenario where interaction was reduced, Option IV was the most desirable in which both administrations would administer the entire tax base but they would largely be driven by concerns of audit and information. This would also give the taxpayers an assurance that the administration would approach them only when there was a need to do so. He further pointed out that for routine issues, a taxpayer could go to the administration with which he was most comfortable with. He also pointed out that in Direct Tax, all returns landed in Bengaluru and in Customs, all Bills of Entry landed in Mumbai., though they might have been filed in Tuticorin or Haldia and then, if needed, an alert was sent to Tuticorin or Haldia. The Hon'ble Chairperson observed that in the GST system, all returns would land in GSTN where analysis would be by computers and suspicious returns would be thrown up for scrutiny. He observed that out of total 1 crore taxpayers, only about 5 lakh taxpayers would require scrutiny and the issue to be examined was how work would be divided for these 5 lakh taxpayers. He observed that due to use of Information Technology, work would get reduced for both the Central and the State administrations and that he had received a suggestion that in the long run, there should be convergence of Services by creating a GST cadre of officers. However, till such a thing happened, one needed to look at ways to carry out a division of work in such a way that services of both the Central and the State officers could be utilised optimally.

35. The Hon'ble Minister from Tamil Nadu observed that the ownership of various key processes in GST like education of assessees, direction for compliance, data enabling in GSTN, software development, system integration, troubleshooting, course correction and grievance handling would become very weak if

either Option IV or V was adopted. He cautioned that none of the above processes should fall between the tools. The Chairman CBEC stated that all the above processes were also to be done for taxpayers with turnover above Rs. 1.5 crores for which cross-empowerment was being considered. The Hon'ble Minister from Tamil Nadu observed that these processes could not be done from remote locations. The Hon'ble Minister from UP observed that the number of taxpayers and the complexity involved was high and the CBEC had limited bandwidth. He emphasised the importance of co-location of taxpayer and the tax administration. The Hon'ble Chairperson stated that in goods, the threshold limit for payment of Central Excise duty was turnover of more that Rs. 1.5 crore, whereas the State tax administration was dealing with small retailers. In Service tax, the Central administration was dealing with all taxpayers above the turnover threshold of Rs. 10 lakhs. He stated that the formulation for single interface in the 1st GST Council meeting was made keeping these realities into account. However, given the objections raised by the Hon'ble Minister from West Bengal and the problems of lack of distinction between goods and services for certain sectors like works contracts and restaurants, one option could be to consider the proposal made by the Hon'ble Minister from Chhattisgarh. He also shared the apprehensions expressed to him by large service tax taxpayers regarding the inadequate capacity of the State tax administrations in the area of service tax and their unease in getting their returns assessed by them. He suggested that keeping these aspects in mind, an optimally acceptable solution needed to be worked out while the entire assessment process could converge eventually.

36. The Hon'ble Minister from U.P. stated that the concerns regarding large service providers could be addressed by algorithm based allocation of taxpayers. He observed that the small States might lack capacity in Service Tax and it could be provided that service taxpayers above a certain threshold could be assessed by State tax officers of only certain specified States. The Hon'ble Minister from Jammu & Kashmir stated that his State tax administration had been administering service tax and auditing large service tax taxpayers like Airtel. He further observed that the issue was essentially a turf battle and this could be addressed by taking a decision in the Council to create a federal tax bureaucracy based on competencies of the Central and State tax administrations in two years' time. For the first two to three years, an interim arrangement

could be worked out. The Hon'ble Minister from Tamil Nadu stated that States had their own system of giving identity to goods and migrating this to the Harmonised System of Nomenclature (HSN) would be a huge challenge. He added that identity alignment of goods could not be done centrally and manufacturers in small sector would require a sense of ownership from the State tax department. The Hon'ble Minister from West Bengal observed that all major Banks as also eighteen telecom companies were registered with the State tax administration in his State for various activities like building telecom towers, obtaining way bills, disposing scrap etc. The Hon'ble Chairperson observed that these activities related to goods and service tax assessment was altogether a different matter.

37. The Hon'ble Finance Minister from West Bengal reminded that the States had ceded control over retailers above the turnover of Rs. 1.5 crores and therefore they should be given exclusive jurisdiction over taxpayers below the turnover of Rs.1.5 crores. The Hon'ble Minister from Kerala stated that the Council should not revisit the decision on this issue arrived at in the 1st Council meeting. The only issue left for decision was in respect of services and even if service providers below the turnover threshold of Rs. 1.5 crores were given to States; the Central Government would still have an additional number of taxpayers. The Hon'ble Chairperson observed that the observation might hold good for the quantum of tax, but not for the number of taxpayers. The Hon'ble Deputy Chief Minister of Delhi observed that in Delhi while the number of taxpayers below the turnover of Rs. 1.5 crore was 85%, they only accounted for 5% of revenue and that the 15% of taxpayers above the turnover of Rs. 1.5 crore accounted for 95% of revenue. The Hon'ble Minister from U.P. observed that even if registration of a taxpayer was automatic, co-location was important to ensure raising of demand where tax was not paid. The Hon'ble Minister from Telangana also supported the proposal to allow taxpayers below the turnover of Rs. 1.5 crore to be administered by States.

38. There was a discussion on the number of taxpayer base. Shri Upender Gupta, Commissioner, GST, CBEC stated that the total PAN matched taxpayer base which would be migrated to GST was around 117 lakhs. He further mentioned that GSTN had informed that out of 117 lakh taxpayer presently registered Central Excise, Service Tax and VAT, PAN had been verified in case of 93 lakh taxpayers and all these 93

lakh taxpayers would be migrated in GST and GSTIN would be provided on a provisional basis. He requested that decision about taxpayers might be taken on this basis. The Hon'ble Deputy Chief Minister from Gujarat observed that the numbers would go down if one took into account the revised taxable threshold of turnover above Rs. 20 lakhs. The Hon'ble Chairperson observed that several taxpayers below this threshold might also like to get registered to take advantage of the input tax credit chain. The Hon'ble Minister from Bengal observed that this number might not exceed 20%. The Chief Economic Advisor cautioned that too much interaction between the taxpayers and the tax administration would lead to harassment and corruption. He expressed that for small taxpayers, 97% should have self-assessment and only the remaining 3% should be audited. The Hon'ble Minister from Punjab observed that if the basis of cross-empowerment was revenue, then Option II was viable and if it was to be on the basis of numbers, then two-third of the taxpayers should be with the States and one-third should be with the Centre. The Hon'ble Minister from Bihar suggested that further work could be done on this subject before arriving at the final opinion and a committee could be constituted for it. The Hon'ble Minister from Maharashtra supported this proposal and suggested to make a committee of officers to examine this issue further and to also hear the stakeholders in the matter. The Hon'ble Chairperson observed that every argument had a basis but the issue would need to be now decided politically. He observed that while there might be corresponding pressure from the tax administrations of the Central and the State Governments to retain the maximum number of taxpayers, the basic point to be kept in mind was that resources of the Centre and the States must be used optimally to ensure that everyone had optimum work.

39. The Hon'ble Minister from Tamil Nadu raised a different issue. He observed that if increasing the exemption threshold to Rs. 20 lakhs implied removing 70% of the taxpayer base, then the issue of threshold needed to be looked at afresh. The Secretary to the Council stated that there was not much revenue loss by raising the threshold from Rs. 10 lakhs to Rs. 20 lakhs. He recalled the discussion of the 1st Council meeting of 22-23 September 2016 where the issue of exemption threshold was decided and then it was pointed out that the figures collected from the States indicated that more than 60% of the traders had a turnover of less than Rs. 25 lakhs annually, but they contributed to only 2% of the revenues, which resulted in a high cost

of collection. Similarly, in case of services, around 70% of taxpayers had a turnover of less than Rs. 25 lakhs annually and they contributed to less than 3% of the total service tax paid. The Hon'ble Minister from Karnataka also advised against revisiting the exemption threshold and pointed out that in his State, around 60% - 65% assessees fell within the bracket of a turnover of up to Rs. 20 lakhs and they accounted for only 1% of the revenue. The Hon'ble Minister from U.P. stated that in his State, only 3% of revenue was accounted for by taxpayers up to a turnover of Rs. 20 lakhs. The Hon'ble Minister from Telangana observed that the decision regarding exemption threshold of Rs. 20 lakhs was taken to take small taxpayers out of the tax base.

40. The Hon'ble Minister from Karnataka agreed with the earlier observation of the Hon'ble Minister from Jammu & Kashmir that this subject involved a fair bit of turf issue. He observed that as fairly large number of potential assessees were outside the tax net, the most important priority was to bring them into the tax net through enforcement action and for this, both administrations needed to work together to expand the taxpayer base. He observed that another priority for the administrations should be to reduce harassment and public interface which could be achieved by preventing a division of the taxpayers between the Central and the State tax administrations. He suggested taking a leap of faith and to cross-empower the Central and the State tax administrations across the supply chain. He stated that this would not lead to any loss; rather everyone would be better off. He also observed that 80%-90% of taxpayers going to one administration was not equitable. The Hon'ble Minister from Uttar Pradesh observed that 40% of the taxpayers would go out of the tax net after increase in taxable threshold to Rs. 20 lakhs. The Hon'ble Minister from Jharkhand supported Option IV and expressed that this issue be decided today itself. The Hon'ble Chairperson observed that the House needed to work on a model which kept both the tax administrations fruitfully busy and may be a sixth model could be explored for an equitable distribution of work. He further observed that distribution of taxpayers should not be one sided both by the number of taxpayers and the quantum of revenue.

41. The Hon'ble Minister from West Bengal strongly stated that the proposed division would be equitable taking into account the proportion of tax officials of the Centre and the States where the State officials where possibly five times more than the Central officials. The Hon'ble Deputy Chief Minister of Delhi stated that eventually the tax administration of the Centre and the States needed to be converged. He also suggested to have a policy of deputation of officers between the Centre and the States and cautioned against the decision becoming a victim of the number of people employed in the tax administrations of the Centre and the States. The Hon'ble Minister from Kerala stated that he was taken aback at the debate and wondered why a compromise could not be reached on this issue when the same could be reached on a more important issue of tax rates. He urged the Hon'ble Chairperson not to be influenced by the Central bureaucracy and to go by his earlier decision of accepting a horizontal division of taxpayers. The Hon'ble Chairperson observed that the horizontal division did not have adequacy of numbers in respect of both the administrations. He further observed that the States' bureaucracy was also making a lot of statements to influence the decision. He again emphasized the need to ensure adequacy of work for both the administrations.

42. There was a discussion regarding the data of taxpayers particularly the number of taxpayers and the tax amount that would go out of the tax net due to increase in the taxable threshold from Rs. 10 lakhs to Rs. 20 lakhs. The Hon'ble Minister from West Bengal stated that for goods, about 38 lakh taxpayers would go out of the tax net out of 67 lakhs taxpayers. On the services side, he stated that about 20 lakh taxpayers would go out of the tax net out of 28.5 lakh taxpayers but the amount of revenue involved was not known. The Hon'ble Minister from Tamil Nadu observed that if after increasing the taxable threshold, 20 lakh Service Tax taxpayers were to go out of the tax net, and only 90,000 Service Tax taxpayers were to be left below the turnover of Rs. 1.5 crore, then such assessees would avoid payment of tax by splitting up their operations.

43. The House felt that to take a decision in this matter, more data was required and that it could be shared after the lunch break. Post lunch break, the Secretary to the Council shared some relevant data with the

House. He informed that the total number of existing taxpayers was around 93 lakhs, out of which VAT dealers were around 63 lakhs, Service Tax taxpayers were around 26 lakhs and Central Excise taxpayers were around 4 lakhs. He further informed that the total number of taxpayers with a turnover below Rs. 20 lakhs was around 54 lakhs and out of this, VAT dealers were around 36 lakhs, Service Tax taxpayers were around 17 lakhs and Central Excise assessees were around 1 lakh. He further stated that the total number of taxpayers below the turnover threshold of Rs. 1.5 crore was 79 lakhs and out of this, VAT dealers were around 54 lakhs (out of this, around 36 lakhs had a turnover below Rs. 20 lakhs), Service Tax taxpayers were around 23 lakhs (out of this, around 17 lakhs had a turnover below Rs. 20 lakhs) and Central Excise assessees were around 2 lakhs (out of this, around 1 lakh had a turnover below Rs. 20 lakhs). The total taxpayers above the turnover of Rs. 1.5 crore was around 14 lakhs and out of this, VAT dealers were around 9 lakhs, Service Tax taxpayers were around 3 lakhs and Central Excise assessees were around 2 lakhs. He stated that going by these numbers, 85% taxpayers were below the turnover of Rs. 1.5 crore and 15% were above it. He further stated that information regarding revenue in these segments was not available. He also stated that the data regarding the number of taxpayers between the turnover of Rs. 10 lakhs and Rs. 20 lakhs was not available. The Secretary to the Council added that irrespective of the method of division, both administrations should be empowered to take information based enforcement action and there should be no exclusion of jurisdiction.

44. The Hon'ble Minister from West Bengal once again strongly reiterated that based on the data shared by the Secretary to the Council, the proposed division of taxpayers was equitable on the basis of proportionality of the strength of the officers. The Hon'ble Deputy Chief Minister of Gujarat made an alternate suggestion that there should be no threshold ceiling of Rs. 1.5 crore and the taxpayers paying all three taxes could be divided in the ratio of two-third to the States and one-third to the Centre. The Hon'ble Minister from Kerala opposed this suggestion of vertical division. He observed that the Central tax administration did not have officers to reach tax payers at the taluka and the block level and the revenue paid by the taxpayers below Rs. 1.5 crore turnover was very small. The Hon'ble Minister from Telangana also supported this view and observed that the State officers were present in every nook and corner of the State and experienced officers

could deal with large taxpayers. The Hon'ble Minister from Tamil Nadu also opposed the proposal of the Hon'ble Deputy Chief Minister of Gujarat and stated that this would lead to considerable loss of taxpayer base to the States. The Hon'ble Minister from Assam supported the proposal of the Hon'ble Deputy Chief Minister of Gujarat and reminded the House that the Central Government had always handled the Service Tax taxpayers below Rs. 1.5 crore. He observed that there was expertise in the administrations of the Central and the State Governments and both should be used. The Hon'ble Minister from Maharashtra and the Hon'ble Chief Minister of Puducherry also supported the proposal of the Hon'ble Deputy Chief Minister of Gujarat. The Hon'ble Chief Minister of Puducherry observed that with Rs. 20 lakh taxable threshold, a large number of taxpayers would go out of the tax net and the officers of the State and the Central Governments needed to be fully involved in the administration of GST. He further observed that the discussions also needed to focus on how to check tax evasion.

45. The Hon'ble Minister from Tamil Nadu suggested to revisit the taxable threshold for goods and services and take it back to Rs. 10 lakhs and then adopt Option II. The Hon'ble Minister from U.P. observed that the intention behind keeping taxpayers below Rs. 1.5 crore turnover with the States was that such taxpayers were located in small cities and they could interact in the same language with the officers. The Hon'ble Chairperson stated that in a situation where 85% of taxpayers were below Rs. 1.5 crore turnover and 15% were above it, Option II would not lead to optimum sharing of work. The Hon'ble Minister from Punjab observed that in terms of revenue, both the Centre and the States collected 50% whereas the present taxpayer base with States was 65% and that with the Centre was 35%. Keeping this in view, he suggested to do a vertical division of taxpayers in the ratio of two-third for the States and one-third for the Centre. He suggested that such a division could be based on an algorithm. The Hon'ble Deputy Chief Minister of Gujarat supported this proposal and suggested that the small taxpayers could be kept with the States. The Hon'ble Minister from West Bengal observed that the State Governments had their manpower in small talukas but the Central administration had none. The Hon'ble Chairperson observed that the Union of India should be involved in the administration of its taxes. The Hon'ble Minister from Kerala observed that the horizontal division principle for goods was a firm decision of the 1st meeting of the Council and the demand

was to apply this decision to services looking at the number of Service Tax taxpayers. The Hon'ble Minister from Jharkhand stated that the method of division on the basis of Rs. 1.5 crore turnover or a vertical two-third/one-third division looked the same. The Hon'ble Minister from Tamil Nadu stated that if taxpayer base was reducing by 42%, there was a need to look at the existing workforce and the possibility of redeploying one-third of the workforce of both the Central and the State tax administrations. However, subsequently he also observed that the entire taxpayer base might not shrink because dealers making inter-State supply would need to be registered irrespective of the turnover threshold.

46. The Hon'ble Minister from Chhattisgarh reiterated his proposal to go by the decision of the 1st meeting of the Council with the modification that the taxpayers in the sectors of hotel, restaurant and works contract should be with the States. The Hon'ble Minister from Karnataka suggested to add Information Technology to this list as they also paid a big component of VAT. The Hon'ble Minister from Jammu & Kashmir suggested to go with the suggestion of the Hon'ble Minister from Tamil Nadu or have one-third/two-third division. He also suggested to start work on a federal tax bureaucracy. The Hon'ble Minister from Tamil Nadu also requested to provide data regarding the number of taxpayers and the revenue that would go out of the tax net due to increase in exemption threshold from Rs. 10 lakhs to Rs. 20 lakhs.

47. The Hon'ble Chairperson summing up the discussion observed that broadly two suggestions had emerged: one was to have a horizontal division with taxpayers below Rs. 1.5 crore turnover to be with the States and those above to be administered on cross-empowerment model and the second was to divide the taxpayers vertically between the Centre and the State administrations. He observed that these two options or a mix of the two needed to be further discussed informally to find a political solution. He suggested to have an informal meeting of all State Ministers on 20 November, 2016 in New Delhi to discuss this issue. This was agreed to unanimously.

48. In view of the above discussions, for Agenda item 4, the Council adopted the following decision: to defer decision on the issue of provision for Cross-Empowerment to ensure Single Interface under GST and to meet informally on 20 November, 2016 to find a solution for this issue.

Agenda item 5: Date of the next meeting of the GST Council

49. The Chairperson informed that as the Model GST Law was not yet ready, the proposed meeting of the Council on 9-10 November, 2016 would not be held. Instead he proposed that the Council could meet on 24-25 November, 2016 from 3 PM to 8 PM on both days as this would give sufficient time to complete the work on Model GST Law and to present it for Council's consideration. The Council agreed to this suggestion.

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

Annexure 1

(List of the Hon'ble Members of the GST Council who attended the 4th GST Council Meeting)

S No.	Centre/State/UT	Name of Minister	Designation
1	Government of India	Shri Arun Jaitley	Union Minister of Finance and Corporate Affairs
2	Government of India	Shri Santosh Kumar Gangwar	Union Minister of State for Finance
3	Puducherry	Shri V Narayanasamy	Chief Minister
4	Delhi	Shri Manish Sisodia	Deputy Chief Minister
5	Goa	Shri Francis D'Souza	Deputy Chief Minister
6	Gujarat	Shri Nitinbhai Patel	Deputy Chief Minister
7	Andhra Pradesh	Shri Yanamala Ramakrishnudu	Minister of Finance, Planning & Commercial taxes
8	Assam	Shri Himanta Biswa Sarma	Minister of Finance
9	Bihar	Shri Bijendra Prasad Yadav	Minister for Commercial Taxes
10	Chhattisgarh	Shri Amar Agrawal	Minister of Commercial Taxes
11	Himachal Pradesh	Shri Prakash Chaudhary	Minister for Excise and Taxation
12	Jammu and Kashmir	Dr Haseeb A. Drabu	Minister of Finance
13	Jharkhand	Shri C.P. Singh	Minister, Urban Development, Housing & Transport
14	Karnataka	Shri Krishna Byregowda	Minister for Agriculture
15	Kerala	Dr. T M. Thomas Isaac	Minister of Finance
16	Maharashtra	Shri Sudhir Mungantiwar	Minister of Finance
17	Meghalaya	Shri Zenith M. Sangma	Minister of Taxation
18	Mizoram	Shri Lalsawta	Minister of Finance
19	Odisha	Shri Pradip Kumar Amat	Minister of Finance
20	Puducherry	Shri M.O.F.H. Shahjahan	Minister for Revenue
21	Punjab	Shri Parminder Singh Dhindsa	Minister of Finance
22	Rajasthan	Shri Rajpal Singh Shekhawat	Minister for Local Self Government & Urban Development
23	Sikkim	Shri R.B. Subba	Minister for HRD, Law & Parliamentary Affairs
24	Tamil Nadu	Shri K.Pandiarajan	Minister for School Education & Sports & Youth Welfare
25	Telangana	Shri Etela Rajender	Minister of Finance
26	Tripura	Shri Bhanu Lal Saha	Minister of Finance
27	Uttar Pradesh	Shri Abhishek Mishra	Minister for Vocational Education and Skill Development
28	West Bengal	Dr. Amit Mitra	Minister for Finance and Excise

Annexure 2

(List of officers from the Centre and States who attended the 4th GST Council Meeting)

S No.	Organization	Name of Officer	Designation
1	Govt of India and GST Council	Shri Hasmukh Adhia	Revenue Secretary and ex-officio Secretary to the GST Council
2	Govt. of India	Shri Najib Shah	Chairman, CBEC
3	Govt. of India	Shri Ram Tirath	Member (GST), CBEC
4	Govt. of India	Shri B.N. Sharma	Additional Secretary, Department of Revenue
5	Govt. of India	Shri P.K. Mohanty	Advisor (GST), CBEC
6	Govt. of India	Shri Vivek Johri	Principal Commissioner, Customs, Delhi, CBEC
7	Govt. of India	Shri Upender Gupta	Commissioner (GST), CBEC
8	Govt. of India	Shri Alok Shukla	Joint Secretary (TRU), CBEC
9	Govt. of India	Shri Amitabh Kumar	Joint Secretary (TRU), CBEC
10	Govt. of India	Shri Udai Singh Kumawat	Joint Secretary, Department of Revenue
11	Govt. of India	Shri D.S. Malik	Additional Director General, Ministry of Finance
12	Govt. of India	Ms. Aarti Saxena	Deputy Secretary, Department of Revenue
13	Govt. of India	Shri Manu Tentiwal	PS to MoS (Finance)
14	Govt. of India	Shri Paras Sankhla	OSD to Finance Minister
15	Govt. of India	Shri Siddharth Jain	Assistant Commissioner (GST), CBEC
16	GST Council	Shri Arun Goyal	Additional Secretary
17	GST Council	Shri Shashank Priya	Commissioner
18	GST Council	Shri Manish K Sinha	Commissioner
19	GST Council	Ms. Himani Bhayana	Joint Commissioner
20	GST Council	Shri G.S. Sinha	Joint Commissioner
21	GST Council	Shri Santosh Kumar Mishra	Deputy Commissioner
22	GST Council	Shri Rohan	Deputy Commissioner
23	GST Council	Ms. Thari Sitkil	Deputy Commissioner
24	GST Council	Shri Kaushik TG	Assistant Commissioner
25	Andhra Pradesh	Shri J. Syamala Rao	Commissioner, Commercial Tax
26	Andhra Pradesh	Shri T. Ramesh Babu	Additional Commissioner, Commercial Tax
27	Andhra Pradesh	Shri D. Venkateswara Rao	OSD, Revenue
28	Arunachal Pradesh	Dr. Brij Mohan Mishra	Secretary-cum-Commissioner, Tax & Excise
29	Arunachal Pradesh	Shri Marnya Ete	Commissioner, Industry
30	Assam	Shri Anurag Goel	Commissioner, Tax
31	Bihar	Ms. Sujata Chaturvedi	Principal Secretary-cum-Commissioner, Commercial Taxes

32	Bihar	Shri Arun Kumar Mishra	Additional Secretary, Commercial Taxes
33	Bihar	Shri Ajitabh Mishra	Assistant Commissioner
34	Chattisgarh	Shri Amit Agrawal	Secretary, Finance & Commercial Tax
35	Chattisgarh	Ms. Sangeetha P	Commissioner, Commercial Taxes
36	Chattisgarh	Shri S.L. Agrawal	Additional Commissioner, Commercial Taxes
37	Delhi	Shri H. Rajesh Prasad	Commissioner, VAT
38	Delhi	Shri R.K. Mishra	Special Commissioner, Policy
39	Delhi	Anand Tiwari	Joint Commissioner, VAT
40	Goa	Shri Dipak Bandekar	Commissioner, Commercial Tax
41	Gujarat	Dr. P.D. Vaghela	Commissioner, Commercial Tax
42	Gujarat	Ms. Mona Khandhar	Secretary (Economic Affairs)
43	Haryana	Shri Sanjeev Kaushal	Additional Chief Secretary
44	Haryana	Shri Shyamal Misra	Commissioner, Excise & Taxation
45	Haryana	Shri Vidya Sagar	Joint Commissioner, Excise & Taxation
46	Himachal Pradesh	Shri Sanjay Bhardwaj	Additional Commissioner, Excise & Taxation
47	Himachal Pradesh	Shri K.L. Negi	OSD to Excise & Taxation Minister
48	Jammu & Kashmir	Shri Navin K. Choudhary	Finance Secretary
49	Jammu & Kashmir	Shri P.I. Khateeb	Commissioner, Commercial Taxes
50	Jammu & Kashmir	Shri P.K. Bhat	Additional Commissioner, Commercial Taxes (Tax Planning)
51	Jharkhand	Shri Ranjan Kumar Sinha	Joint Commissioner, Commercial Taxes
52	Jharkhand	Shri Sanjay Kumar Prasad	Deputy Commissioner, Commercial Taxes
53	Karnataka	Shri Ritvik Pandey	Commissioner, Commercial Taxes
54	Kerala	Shri P. Marapandiyan	Additional Chief Secretary, Taxes
55	Kerala	Shri Rajan Khobragade	Commissioner, Commercial Taxes
56	Madhya Pradesh	Shri Raghwendra Kumar Singh	Commissioner, Commercial Taxes
57	Madhya Pradesh	Shri Sudip Gupta	Deputy Commissioner, Commercial Taxes
58	Maharashtra	Shri Rajiv Jalota	Commissioner, Commercial Taxes
59	Maharashtra	Shri Rajendra Bhagat	Deputy Secretary (Finance)
60	Manipur	Shri T. Ranjit Singh	Commissioner, Commercial Taxes
61	Manipur	Shri R.K. Khurkishor	Assistant Commissioner, Taxes
62	Meghalaya	Shri Abhishek Bhagotia	Commissioner, Taxes
63	Meghalaya	Shri L. Khongsit	Assistant Commissioner, Taxes
64	Mizoram	Shri C. Vanlal Chhuana	Commissioner, Taxes
65	Mizoram	Shri H. Hrangthanmawia	Superintendent, Taxes
66	Nagaland	Asangba Chuba Ao	Commissioner, Taxes
67	Odisha	Shri Tuhin Kanta Pandey	Principal Secretary (Finance)

68	Odisha	Shri Saswat Mishra	Commissioner, Commercial Taxes
69	Odisha	Shri Sahadev Sahoo	Joint Commissioner, Commercial Taxes
70	Puducherry	Shri G. Srinivas	Commissioner, Commercial Taxes
71	Punjab	Shri D.P. Reddy	Additional Chief Secretary (Taxation)
72	Punjab	Shri Rajat Agarwal	Excise & Taxation Commissioner
73	Punjab	Shri Pawan Garg	Assistant Commissioner
74	Rajasthan	Shri Prem Singh Mehra	Principal Secretary (Finance)
75	Rajasthan	Shri Praveen Gupta	Secretary (Finance)
76	Rajasthan	Shri Alok Gupta	Commissioner, Commercial Taxes
77	Rajasthan	Shri Vinod Sharma	Additional Commissioner (GST), Commercial Taxes
78	Rajasthan	Shri Dinesh Rakhecha	Assistant Commissioner (GST), Commercial Taxes
79	Sikkim	Ms. Dipa Basnet	Commissioner, Commercial Taxes
80	Sikkim	Shri Manoj Rai	Joint Commissioner, Commercial Tax
81	Tamil Nadu	Shri C. Chandramouli	Additional Chief Secretary, Commercial Taxes
82	Tamil Nadu	Shri D. Soundararajapandian	Joint Commissioner, Taxation
83	Telangana	Shri Ajay Mishra	Special Chief Secretary
84	Telangana	Shri Anil Kumar	Commissioner, Commercial Taxes
85	Telangana	Shri Laxminarayan Jannu	Joint Commissioner, Policy
86	Tripura	Shri M. Nagaraju	Principal Secretary (Finance)
87	Uttar Pradesh	Shri Mukesh Kumar Meshram	Commissioner, Commercial Taxes
88	Uttar Pradesh	Shri S.C. Dwivedi	Special Secretary
89	Uttar Pradesh	Shri Vivek Kumar	Additional Commissioner, Law
90	Uttarakhand	Shri Amit Singh Negi	Secretary (Finance)
91	Uttarakhand	Shri Ranveer Singh Chauhan	Commissioner, Taxes
92	Uttarakhand	Shri Piyush Kumar	Additional Commissioner, Commercial Tax
93	West Bengal	Shri H. K. Dwivedi	Principal Secretary, Finance
94	West Bengal	Ms. Smaraki Mahapatra	Commissioner, Commercial Tax
95	West Bengal	Shri Khalid A Anwar	Senior Joint Commissioner, Commercial Tax
96	GSTN	Shri Navin Kumar	Chairman
97	GSTN	Shri Prakash Kumar	CEO

Agenda Item 2: Approval of the Draft GST Law, Draft IGST Law and Draft GST Compensation Law

SALIENT FEATURES OF THE DRAFT CGST LAW

Contents

1. Definitions (Section 2): 46
2. Supply (Section 3): 46
3. Levy and collection of GST on intra-State supplies (Section 8): 48
4. Composition Levy (Section 9): 49
5. Power to grant exemption from tax (Section 11): 50
6. Taxable Person (Section 10): 50
7. Time of Supply (Section 12 to 14): 50
8. Place of Supply: 51
9. Valuation (Section 15) : 52
10. Input Tax Credit (Section 16 to 20): 52
11. Input Service Distributor (Section 21 & 22): 54
12. Registration (Section 23 to 27): 55
13. Tax Invoice, etc. (Section 28 to 31): 57
14. Returns (Section 32 to 43): 57
15. Payment of tax (Section 44 to 46): 58
16. Tax Deduction at source (TDS) (Section 46): 59
17. Refund (Section 48 to 52): 59
18. Maintenance of Accounts and Records (Section 53-54): 61
19. Job Work (Section 55): 61
20. Tax Collection at Source (Section 56): 62
21. Assessment (Section 57 to 62): 62
22. Audit (Section 63 to 65) : 63
23. Demand and Recovery Proceedings (Section 66 to 78): 63
24. Tax wrongfully collected and deposited (Section 70): 65
25. Inspection, Search, Seizure and Arrest (Section 79 to 84): 66
26. Offences and Penalties (Section 85 to 87): 67
27. Detention or confiscation of goods or conveyances in transit (Section 89 and 90): 67
28. Prosecution (Section 92 to 97): 69
29. Appeals and Revision (Section 98 to 112): 69
30. Advance Ruling Mechanism (Section 113 to124): 71
31. Liability to pay in certain cases (Section 127 to 136): 72
32. GST Compliance Rating (Section 138): 72
33. Obligation to furnish information return (Section 139): 72
34. Anti-profiteering Measure (Section 163): 72
35. Transitional Provisions (Section 165 to 197): 73

The Model GST Law (hereinafter referred to as, "MGL") is divided into XXVII Chapters, 197 Sections and 5 Schedules. It lays down provisions for taxability of intra-State supply of goods or services. The salient features of MGL are as follows:

1. Definitions (Section 2):

1) Section contains 111 definitions of various terms used in MGL.
2) Some definitions contained in draft Integrated Goods and Services Tax (hereinafter referred to as, "IGST") have also been adopted.

2. Supply (Section 3):

1) There is a shift from present tax regime which provides for levy of tax on manufacture / production of goods (subject to Central Excise duty) or provision of services (subject to Service Tax) or sale of goods (subject to VAT / CST) to levy of tax on **supply of goods or services**.

2) Supply includes:

   - all forms of supply of goods or services such as sale, transfer, barter, exchange, license, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business;
   - importation of services, for a consideration whether or not in the course or furtherance of business, and
   - a supply specified in Schedule I, made or agreed to be made without a consideration.

3) To obviate the difficulties arising out of the interpretation whether a supply is a supply of goods or supply of services, certain supplies have been declared as supply of goods or supply of services in Schedule II. Since the said list is not exhaustive, it has been provided that the Central Government or State Government may declare, on the recommendation of GST Council (hereinafter referred to as, "GSTC"), certain supplies as supply of goods or supply of services.

4) It has been provided that certain activities listed in Schedule III and certain activities undertaken by the Central Government or State Government or a local authority as listed in Schedule IV are neither supply of goods nor supply of services. In other words, they are out of the scope of the term 'supply'. Since the said list is not exhaustive, it has been provided that the Central Government or State Government may declare, on the recommendation of GSTC, certain supplies as neither supply of goods nor supply of services.

5) The tax liability on a composite or a mixed supply is proposed to be determined in the following manner:

- a composite supply comprising two or more supplies, one of which is a principal supply, shall be treated as a supply of such principal supply;
- a mixed supply comprising two or more supplies shall be treated as supply of that particular supply which attracts the highest rate of tax.

6) Certain transactions which are deemed as supplies or which have been declared as supply of services or that of goods are as follows:

Schedule I : Transactions to be treated as supply even if made without consideration	
a. Permanent transfer/disposal of business assets where input tax credit has been availed on such assets.	
b. Supply of goods or services between related persons, or between distinct persons in the course or furtherance of business. Distinct person has been defined in section 10.	
c. Supply of goods between agent and principal, where the agent acts on behalf of the principal.	
d. Importation 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.	
Schedule II : Matter to be treated as supply of goods or services	
Supply of Services	**Supply of Goods**
a. Transfer of goods or right in goods or undivided share in goods without transfer of title	a. Transfer of title in goods
b. Lease, tenancy, easement, license to occupy land	b. Any transfer of title in goods under an agreement which stipulates that property in goods will pass at a future date upon payment of full consideration as agreed
c. Lease, letting out of building (commercial/industrial/residential complex) for business or commerce	c. Transfer/disposal of goods forming part of business assets whether or not for a consideration
d. Treatment/process applied to another person's goods	d. Goods forming part of business assets wherein any person ceases to be a taxable person except in case of transfer as a going concern or business

	carried by personal representative who is a taxable person
e. Goods held or used for purposes of business but made available to any person for personal use or for use, for any purpose other than for purpose of business whether or not for consideration	e. Supply of goods by any unincorporated association or body of persons to a member thereof
f. Renting of immovable property	
g. Construction of complex, building, civil structure including the one intended for sale except where the entire consideration has been received after issuance of completion certificate by the competent authority or before its first occupation whichever is earlier	
h. Temporary transfer/ permitting use or enjoyment of intellectual property right	
i. Development, design, programming, customization, adaptation, upgradation, enhancement, implementation of information technology software	
j. Obligation to refrain from an act/tolerate an act or situation or to do an act	
k. Works contract including transfer of property in goods involved in the execution of a works contract	
l. Transfer of right to use any goods for any purpose	
m. Supply, by way of or as part of any service, of food or drink (other than alcoholic liquor) for human consumption	

3. Levy and collection of GST on intra-State supplies (Section 8):

1) Central Goods and Services Tax (hereinafter referred to as, "CGST") & State Goods and Services Tax (hereinafter referred to as, "SGST") shall be levied by the Central and State

Government respectively on all intra-State supplies of goods or services or both, at the rate to be prescribed, but not exceeding 14%, on the recommendation of GSTC.

2) The value of supplies would be determined in terms of Section 15.

3) Section 4 of IGST Act, 2016 contains the provisions to determine whether the supply is intra-State supply or inter-State supply.

4) The tax would normally be paid by supplier of goods or services. The Central or State Government may, on the recommendation of GSTC, provide that:

- in case of certain supplies, the recipient (instead of supplier) would be liable to pay GST (popularly called reverse charge mechanism);
- in case of certain specific categories of services, the tax would be paid by the electronic commerce operator (popularly called Aggregators model) if such services are supplied through it.

4. Composition Levy (Section 9):

1) A registered taxable person, with aggregate turnover not exceeding Rs. 50 lakhs in a financial year will have an option to pay, in lieu of the tax payable by him, an amount calculated at such rate as may be prescribed, but not less than 1% (2.5% in case of a manufacturer) of the turnover during the year, subject to the following conditions:

- The benefit of composition scheme shall not be permitted to a person who:
  - ✓ is supplier of services;
  - ✓ makes any supply of goods which are not leviable to tax under the Act;
  - ✓ makes any inter-State outward supplies of goods;
  - ✓ makes any supply of goods through an electronic commerce operator who is required to collect tax at source;
  - ✓ is a manufacturer of notified goods.
- The taxable person opting for composition levy shall not collect any tax from the recipient on supplies made by him.
- The taxable person opting for composition levy shall not be eligible for credit of input tax.
- Permission for composition scheme to be granted to a taxable person only if all registered taxable persons having same PAN also opt for composition scheme concurrently.

5. Power to grant exemption from tax (Section 11):

1) The Central and State Government, on the recommendation of GSTC, may grant exemption by notification or by special order, to any goods or services.
2) The exemption would have prospective effect only.
3) Provision has also been made to insert a clarificatory explanation in any notification or order within one year from issue of such notification or order.

6. Taxable Person (Section 10):

1) Taxable person means a person who is registered or liable to be registered under Schedule - V.
2) A person having more than one registration, whether in one State or more than one State would be treated as distinct persons in respect of each such registration.
3) An establishment of a person having more than one registration, whether in one State or more than one State would be treated as establishment of distinct persons.
4) Liability to registration arises only when the turnover crosses the exemption threshold i.e. Rs. 20 lacs (Rs. 10 lacs for special category States). Certain categories of suppliers, however, would be required to obtain registration (and therefore liable to pay tax) even if their turnover is below threshold limit. Such persons are listed in para 12(7) below.
5) Persons engaged in exclusive supply of exempted / non-taxable goods or services or those engaged in agricultural activities, as an agriculturist, may not take registration.
6) Persons registered under earlier law are also liable to obtain registration under the GST regime. They would, however, be migrated to new regime.
7) The Central / State Government and local authorities are also regarded as taxable person except for the activities specified in Schedule - IV.

7. Time of Supply (Section 12 to 14):

1) The CGST / SGST is required to be paid at the time of supply of goods or services.
2) Specific provisions have been made to determine the time of supply where there is a change in rate of tax.
3) The time of supply, generally, is determined as follows:

EVENT	TIME OF SUPPLY
Normal Supply of goods or services	Earlier of:

	• date of issue of invoice by the supplier or the last date on which he is required to issue the invoice; • date on which supplier receives the payment.
Supply of goods attracting reverse charge	Earliest of: • date of receipt of goods; • date on which payment is made; • date immediately following **thirty days** from the date of invoice issued by the supplier. The time of supply would be the date of entry in the books of account of the recipient of supply, if not determinable as above
Supply of services attracting reverse charge	Earlier of: • date on which payment is made; • date immediately following **sixty days** from the date of invoice issued by the supplier. The time of supply would be the date of entry in the books of account of the recipient of supply, if not determinable as above. In case of associated enterprises, the time of supply would be earlier of the date of entry in the books of accounts or date of payment.
Supply of vouchers	• date of issue of voucher, if the supply is identifiable at that point; • date of redemption of voucher in all other cases.
Residual cases	• where a periodical return has to be filed, be the date on which such return is to be filed; • the date on which tax is paid.

8. Place of Supply:

Place of supply for the purpose of CGST Act would be determined as per provisions of section 7 and section 9 of the IGST Act for goods and services respectively.

9. Valuation (Section 15) :

1) Tax is to be paid on **Transaction value** of supply generally i.e. the price actually paid or payable for the supply of goods or services:
    - where supplier and recipient of the supply are not related; and
    - price is the sole consideration for the supply.
2) Transaction value shall, inter-alia, include:
    - any taxes, duties, cesses, fees and charges levied under any statute other than CGST / SGST / IGST Act and Compensation Cess;
    - any amount that the supplier is liable to pay in relation to such supply but which has been incurred by the recipient;
    - incidental expenses such as commission, packing etc. charged by the supplier to the recipient of supply;
    - interest or late fee or penalty for delayed payment of any consideration for any supply;
    - subsidies directly linked to the price excluding subsidies provided by the Central or State Government.
3) Transaction value shall not include any discount given:
    - before or at the time of the supply provided such discount has been duly recorded in the invoice;
    - after the supply has been effected, provided that:
        - ✓ such discount is established in terms of an agreement entered into at or before the time of such supply and specifically linked to relevant invoices; and
        - ✓ input tax credit has been reversed by the recipient of the supply as is attributable to the discount.
4) The value would be determined in accordance with the GST valuation Rules:
    - in cases where value of supply cannot be determined as above; or
    - in case of certain supplies as notified by the Central or State Government on recommendation of GSTC.

10. Input Tax Credit (Section 16 to 20):

1) Input Tax Credit (hereinafter referred to as "ITC") is available in respect of taxes paid on any supply of goods or services used or intended to be used in the course or furtherance of business (i.e. for business purposes).
2) **Conditions for allowing of ITC:** ITC of tax paid on goods or services used for making taxable outward supplies by a taxable person is allowed subject to the following four conditions:

- possession of invoice / tax paying document;
- receipt of goods or services;
- tax has actually been paid to government by the supplier (in cash or credit);
- recipient has furnished the return.

3) **Proportionate credits** would be allowed in case inputs, inputs services and capital goods are partly used for taxable and non-taxable supplies or partly for business and non-business purposes.

4) **Option for Banking and Financial Institutions:** Banking and Financial institutions including a NBFC have been given an option to avail either 50% of the eligible ITC credit or follow normal procedure.

5) **Blocked ITC**: ITC is not allowed on the following goods or services subject to certain specified conditions:
   - motor vehicles and other conveyances with certain exceptions;
   - supply of goods and services namely, food and beverages for consumption, outdoor catering, beauty treatment, rent-a-cab, etc. with certain exceptions;
   - works contract services when supplied for construction of immovable property with certain exceptions;
   - goods on which tax has been paid under composition scheme;
   - goods or services used for personal consumption;
   - goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples; and
   - any tax paid in terms of proceedings under section 67, 89 or 90 (pursuant to demand notice).

6) ITC on all capital goods (except in case of pipelines and telecom towers) is also allowed in one installment. In case of pipelines and telecom towers, ITC would be permitted in three installments.

7) ITC on capital goods, however, would not be admissible if the depreciation has been claimed on the tax component of the cost of capital goods under the provisions of Income Tax Act.

8) A taxable person shall not be entitled to take ITC in respect of any supply of goods or services after filing of the return for the month of September of the following year.

9) ITC would continue to be allowed, subject to specified conditions, even if the inputs or capital goods are sent to job-worker.

10) **ITC in special circumstances**: Following persons would be entitled to take ITC on inputs held in stock or inputs contained in semi-finished goods or finished goods held in stock on relevant dates:

- person obtaining fresh registration;
- person obtaining voluntary registration;
- person switching from composition scheme to normal scheme (ITC on capital goods would also be allowed);
- exempted goods or services becoming taxable (ITC on capital goods would also be allowed).

Note: ITC, in above cases, would not be permitted after the expiry of one year from the date of issue of tax invoice.

11) ITC on inputs held in stock or inputs contained in semi-finished goods or finished goods held in stock on relevant dates would be required to be reversed in case of situations which are opposite to those listed in para 10) above.

12) **Provisional ITC (Section 36):** ITC is available only on provisional basis for a period of two months until payment of tax and filing of valid return by the supplier.

13) **Invoice Matching for ITC (Section 37 & 38)**: Provisions have been made for matching of supplier's and recipient's data. ITC would be confirmed only after matching of such data.

14) **Unutilized ITC** can be carried forward or can be claimed as refund in case of exports or in case of inverted duty structure.

15) **Manner of utilization of credit (Section 44):**

- ITC of IGST can be utilized towards payment of IGST, CGST and SGST in that order;
- ITC of CGST can be utilized towards payment of CGST and IGST in that order;
- ITC of SGST can be utilized towards payment of SGST and IGST in that order;
- No cross-utilization of CGST and SGST credits.

16) **Recovery of ITC:** Recovery of wrongly taken ITC would be made in accordance with the provisions of this Act.

11. Input Service Distributor (Section 21 & 22):

1) Input Service Distributor (ISD) can distribute ITC amongst its units located in different States or different business verticals within the State, on the strength of a prescribed document, by utilising:

- ITC of CGST as ITC of CGST or IGST;
- ITC of SGST as ITC of SGST or IGST;
- ITC of IGST as ITC of IGST or CGST.

2) The ITC would be distributed subject to specified conditions most important being that the distribution would be in ratio of turnover.

3) Where distribution has been done in contravention of the provisions contained in section 21 resulting in excess distribution of credit, such excess credit shall be recovered from the supplier(s) (i.e. recipient of ITC) along with the interest.

12. Registration (Section 23 to 27):

1) **Liability to be registered:** Every person liable to obtain registration is required to apply for registration within 30 days from the date from which he becomes liable to obtain registration. A casual or non-resident taxable person, however, would apply for registration at least five days prior to the commencement of business.

2) A supplier has to take registration in every State from where taxable goods or services are supplied.

3) The Central or State Government, however, may on recommendation of GSTC, specify special procedure with regard to registration for any class of taxable persons in terms of provisions contained in section 137.

4) A person having multiple business verticals in a State may obtain separate registration for each business vertical.

5) A person, though not liable to be registered, may take voluntary registration.

6) Registration would be PAN based.

7) Normally any person would be required to obtain registration only on crossing the threshold limit but in following circumstances, the registration would be required even though the turnover is below threshold:

- Person making inter-State supply;
- Casual taxable person;
- Non-resident taxable person;
- Person liable to pay tax under reverse charge;
- Persons liable to deduct tax at source;
- Persons liable to collect tax at source;
- Persons working as an agent;

- Input Service Distributor;
- Persons supplying goods or services through an electronic commerce operator;
- Electronic commerce operator;
- Person supplying digital supplies from a place outside India.

8) Similarly, in following situations the registration is not required even though the turnover is beyond threshold:
    - Person engaged exclusively in the business of supplying goods or services that are not liable to tax or are wholly exempt from tax;
    - Agriculturist for the purpose of agriculture.
9) UN agencies, Embassies etc. shall be granted a **Unique Identity Number (UIN)** instead of registration.
10) Any class of persons, other than suppliers, may be required to obtain **UIN** instead of registration.
11) Both Central and State Tax Authorities would give registration on the basis of a common e-application.
12) Grant of registration or rejection of application for registration / UIN by one Authority would be deemed to grant or rejection by other authority also.
13) Registration would be deemed to be granted within **three common working days** unless objections are raised.
14) Special provisions have been made for registration of casual or non-resident taxable persons.
15) The registered person himself (**on self-service basis**), except in case of certain specified details of registration, can carry out amendments in registration particulars. Approval of tax authorities would be required for amendments in specified details.
16) Provision for surrender of registration and also for suo-motu cancellation under certain circumstances has been made.
17) Provisions have been made for revocation of cancellation of registration also.
18) Cancellation of registration under CGST Act means cancellation of registration under SGST Act and vice-versa.
19) Provision for migration of existing registrants have been made. In such cases, the existing taxpayers would not be required to apply for fresh registration.

13. Tax Invoice, etc. (Section 28 to 31):

1) Tax invoice is required to be issued within specified time limits for supply of goods or services.
2) A document, other than tax invoice, would be treated as invoice in certain situations.
3) A bill of supply is to be issued in respect of exempted supplies.
4) Provision has been made for issuance of revised invoice in certain circumstances.
5) Special provisions have been made for issuance of invoices in case of continuous supply of goods or services.
6) Amount of tax is required to be indicated separately in tax invoice.
7) Provision has been made for issuance of debit or credit note in case of increase or decrease respectively in value and / or tax charged in respect of any supply.

14. Returns (Section 32 to 43):

1) **First return**: Every registered taxable person shall declare the supplies made during the period on which he became liable for registration till the date on which registration was granted in the first return filed by him after grant of registration.

2) **Return by normal taxpayers:** Normally, registered taxable persons are required to furnish, electronically, monthly **GSTR-1** (for outward supplies) by 10th of the month, **GSTR-2** (for inward supplies) by 15th of the month and **GSTR-3** (return) consisting of all details by 20th of the month succeeding the tax period.

3) The Central or State Government, however, may on recommendation of GSTC, specify special procedure with regard to returns for any class of taxable persons in terms of provisions contained in section 137.

4) **Return by compounding taxpayers:** Compounding taxpayers are required to furnish quarterly returns by 18th of the month after end of such quarter.

5) **Return by TDS Deductor:** Every deductor is required to furnish a return, within 10 days after the end of month in which deduction is made.

6) **Return by Input Service Distributor (ISD)**: Every ISD is required to furnish a return within 13 days after the end of tax period.

7) Different cut off dates for furnishing of returns have been provided keeping in mind auto-population and matching requirements.
8) Short-filing of return is allowed but returns filed without payment of full tax shall not be treated as a **valid return** for allowing ITC and fund transfer between Centre and States.
9) Return is required to be furnished even when no supplies have been made during a tax period.
10) ITC shall be provisionally allowed on furnishing of return.
11) **Annual return** is required to be furnished by 31st December of the following Financial Year along with a reconciliation statement.

12) Provision for levy of fees has been made in case of late filing of return.
13) **Invoice Matching**: After filing of return, inward supplies details in GSTR-2 shall be matched with the corresponding outward supplies details declared by the corresponding supplier in his GSTR-1. In case of matching, ITC claimed by the recipient shall be finally accepted. In case of mismatch, ITC would be disallowed to recipient after a period of two months. Recipient can take ITC again if supplier uploads the details of outward supplies in his valid return.
14) **Final return**: Every registered taxable person who applies for cancellation of registration is required to furnish a final return within three months of the date of cancellation or date of cancellation order, whichever is later.
15) **Rectification of errors:** Omission/incorrect particulars in return can be self-rectified up to the due date for furnishing of return for the month of September or actual date of filing of annual return of the relevant financial year whichever is earlier.
16) Provision has been made to extend the time limits for furnishing the return in special circumstances.
17) A scheme of TAX RETURN PREPARERS has been provided to assist the taxable persons in filing the returns.

15.Payment of tax (Section 44 to 46):

1) There will be an electronic cash ledger, electronic credit ledger and electronic liability register system for every taxpayer.
2) Tax, interest, penalty, fee and any other amount can be deposited by using internet banking, debit/ credit card and NEFT / RTGS.
3) Date of credit to the account of the Government in the authorized bank shall be deemed to be the date of deposit in the electronic cash ledger.
4) **Electronic Cash Ledger:** Every deposit made by a taxable person shall be credited to the electronic cash ledger.
5) **Electronic Credit Ledger**: ITC, as self-assessed in the return of a taxable person, shall be credited to the electronic credit ledger.
6) **Electronic liability Ledger:** All liabilities of a taxable person shall be recorded and maintained in electronic liability register.
7) Payment of tax, interest, penalty, fees or any other amount can be made by way of the debit in the electronic cash ledger.
8) Payment of tax can be made by way of the debit in the electronic credit ledger.
9) Tax and other dues are required to be discharged in the following order:
    - self-assessed tax, and other dues related to returns of the previous tax period;

- self-assessed tax, and other dues related to returns of the current tax period;
- any other amount payable under the Act including the demand determined post issuance of show cause notice.

10) The delayed payment of self-assessed or determined tax would require payment of interest at specified rates.

16. Tax Deduction at source (TDS) (Section 46):

1) Certain persons including government departments, local authorities and government agencies shall deduct tax @ 1% from the payment made or credited to the supplier in case total value of supply, under a contract, exceeds Rs. 5 lakhs.
2) The deductor would deposit the amount so deducted within ten days after the end of the month in which such deduction has been made and file a return.
3) The deductor would furnish a certificate to the deductee about the TDS.
4) On the basis of return of deductor, the deductee's electronic cash ledger would be credited with the amount so deducted and may use it to discharge his tax liability.

17. Refund (Section 48 to 52):

1) **Limitation period for filing refund application**: Application for claiming refund of tax or interest can be filed within two years from the relevant date. The refund of balance in electronic cash ledger can be claimed through return itself. UN agencies, etc. can file refund application before the expiry of six months from the last date of the month in which supply was received.
2) **Relevant Date:** Different relevant dates have been provided for different refund scenarios which are as follows:

REFUND SCENARIO	RELEVANT DATE
Refund on account of export of goods	• if the goods are exported by sea or air, the date on which the ship or the aircraft in which such goods are loaded, leaves India; • if the goods are exported by land, the date on which such goods pass the frontier; • if the goods are exported by post, the date of despatch of goods by the Post Office concerned to a place outside India.

Refund on account of deemed Exports of goods	• date on which the return relating to such deemed exports is filed
Refund on account of export of services	• date of receipt of payment in convertible foreign exchange, where the supply of service had been completed prior to the receipt of such payment; or • date of issue of invoice, where payment for the service had been received in advance prior to the date of issue of the invoice.
Refund as a consequence of judgment, decree, order or direction of the Appellate Authority, Appellate Tribunal or any Court	• date of communication of such judgment, decree, order or direction.
Refund of unutilized input tax credit	• end of the financial year in which such claim for refund arises.
Refund of tax paid provisionally	• date of adjustment of tax after the final assessment thereof.
Refund claimed by a person, other than the supplier	• date of receipt of goods or services by such person.
Refund in any other case	• date of payment of tax.

3) **Refund of unutilized ITC** is allowed in case of exports or where the credit accumulation is on account of inverted duty structure.

4) Refund shall be granted within sixty days from the date of receipt of complete application.

5) Interest is payable after sixty days from the date of receipt of application till the date of refund.

6) **Provisional Refund**: In case of refund claim on account of exports, 90% of the amount of refund claim would be given on a provisional basis.

7) Refund application is required to be accompanied with prescribed documentary evidences so as to establish that refund is due.

8) **Unjust Enrichment**: Applicant shall produce documentary evidence to satisfy that the incidence of tax has not been passed on to any other person. No need to furnish such evidence if the refund claim is for an amount less than Rs. 5 lacs (in such as case, self-certification would suffice). In certain situations, it would be presumed that the incidence has not been passed on.

9) Refund would be granted to the applicant if the incidence has not been passed on to any other person. If the incidence has been passed on, the refund will be credited to the Consumer Welfare Fund.

10) Provision has been made to withhold the refund in specified circumstances even without any stay from any higher appellate fora.

11) The amount lying in Consumer Welfare Fund would be utilized for welfare of consumers.

18. Maintenance of Accounts and Records (Section 53-54):

1) Every registered taxable person shall keep and maintain correct account of production or manufacture of goods, of inward or outward supply of goods and/or services, of stock of goods, of input tax credit availed, of output tax payable and paid and such other particulars as may be prescribed.

2) Every registered taxable person whose turnover exceeds the prescribed limit is required to get his accounts audited and submit a copy of audited annual accounts and reconciliation statement.

3) If the taxable person fails to account for goods or services, then such unaccounted goods or services will be considered as a supply and show cause notice as per Section 66 or 67 will be issued.

4) Every owner or operator of warehouse or godown, etc. used for storage of goods shall maintain records of consignor, consignee, etc. of goods.

5) The records, etc. are required to be retained for a period of sixty months from the due date of filing of Annual return. In case of any pending proceedings, the same would be maintained for a period of one year after the final disposal of proceedings or the period specified earlier, whichever is later.

19. Job Work (Section 55):

1) A registered person (principal) can send inputs or capital goods for job work without payment of tax subject to specified conditions and restrictions.

2) The Principal can bring back inputs, after completion of job work or capital goods to any of his place of business without payment of tax for supply within India or for export.

3) Provision for supply of inputs (after completion of job work) and capital goods directly from premises of job worker has also been made if the principal declares the place of business of job worker as his additional place of business.

4) The time limit for return from job-worker or clearance from job-workers' premises has been kept as one year for inputs and three years in case of capital goods (other than moulds and dies, jigs and fixtures or tools).

20. Tax Collection at Source (Section 56):

1) **Tax collection at Source (TCS)**: E-Commerce Operators is required to collect 'tax at source' @ 1% of the net value of taxable supplies made through it where the consideration with respect to such supplies is to be collected by such operator.
2) The operators are required to submit a monthly electronic statement containing details of supplies effected through it, supplies returned and the amount collected, etc. by 10th of the following month.
3) The supplier, on whose account, the tax has been collected would claim the credit of the amount so collected in his electronic cash ledger on the basis of return filed by the operator.
4) Provision for matching of details contained in the return filed by the operator and actual supplier has been made.
5) Operator may be required to submit additional information by tax authorities.

21. Assessment (Section 57 to 62):

1) **Self – Assessment:** Registered Taxable person should self-assess the taxes payable by him and furnish his return.
2) **Provisional Assessment:** Taxable person may request for provisional assessment in cases where he is unable to determine the value or rate of tax subject to following conditions:
    - Taxable person will have to furnish bond and security for availing this facility;
    - Provisional assessment is to be finalized within 6 months or such period as may be permitted by the proper officer;
    - After final assessment, the taxable person shall be liable to pay additional tax or may claim refund, as the case may be.
3) **Scrutiny of Returns:** Provision has been made for scrutiny of returns by the proper officer.
4) **Assessment in certain cases**:
    - Provision for best judgement assessment has been made in case of non-filer of returns. The assessment order would be withdrawn in case return is filed afterwards.
    - Provision for best judgement assessment has also been made in case of unregistered persons.
    - Provision for summary assessment in certain special cases has also been made.

22. Audit (Section 63 to 65):

1) The tax authorities can conduct audit at the place of business of the taxable person or at their office.
2) Taxable person shall be informed sufficiently in advance, prior to the conduct of audit.
3) **Time Bound Audit:** Audit is required to be completed within a period of 3 months, which can be extended by a further period of 6 months.
4) On conclusion of audit, the proper officer shall within a period of 30 days inform the taxable person of the findings, the taxable person's rights and obligations and reasons for the findings.
5) **Issuance of Notice**: The proceedings under Section 66 or 67 may be initiated if any short levy, etc. is detected during audit.
6) **Special Audit**: With prior approval of the Commissioner, special audit by Chartered Accountants or Cost Accountants can be ordered in certain special circumstances.
7) **Powers of CAG**: GST officer, on request by the office of CAG, shall provide information, records and returns required for conduct of audit under CAG Act.

23. Demand and Recovery Proceedings (Section 66 to 78):

1) **Normal period for demand proceedings:** In cases of tax not paid or short paid or erroneously refunded or ITC wrongly availed or utilized, for any reason other than fraud or any wilful misstatement or suppression of facts, the adjudication order will be issued within **three years** from the due date of filing of annual return for the year in respect of which the discrepancy is noticed. Further, show cause notice (SCN) is required to be issued at least **three months** prior to the time limit. It has also been provided that SCN need not be issued if tax along with interest is paid before issue of SCN.
2) **Extended period for demand proceedings:** In cases of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilized, for reasons of fraud or wilful misstatement or suppression of facts, the adjudication order will be issued within **five years** from the due date of filing of annual return for the year in respect of which the discrepancy is noticed. Further, SCN is required to be issued at least **six months** prior to the time limit. It has also been provided that SCN need not be issued if tax along with interest and penalty equal to 15% is paid before issue of SCN.
3) The period of stay, if any, would be excluded while calculating the time period for issuance of SCN or passing of order.
4) Similarly, the time period during which appeal is pending in any appellate fora would be excluded while calculating the time period for issuance of SCN or passing of order.

5) It has been specifically provided that no SCN needs to be issued for recovery of unpaid self-assessed tax as per return and interest thereon.

6) **Flexibility in payment of penalty:** Following provisions for payment of reduced penalty, from audit/investigation to the stage of passing of adjudication order and thereafter, have been made:

EVENT	AMOUNT OF PENALTY
In normal cases: • Person chargeable with tax, before service of notice, pays tax along with interest payable thereon on the basis of his own ascertainment or as ascertained by the proper officer	• NIL
• Person chargeable with tax, pays tax along with interest within thirty days of issue of SCN	• NIL
• Person chargeable with tax, pays tax along with interest after issue of order	• 10% or Rs. 10000/- whichever is higher
In fraud cases: • Person chargeable with tax, before service of notice, pays tax along with interest payable thereon on the basis of his own ascertainment or as ascertained by the proper officer	• 15%
• Person chargeable with tax, pays the said tax along with interest within thirty days of issue of SCN	• 25%
• Person served with an order pays tax along with interest payable within thirty days of the communication of order	• 50%
• Person chargeable with tax, pays tax along with interest after 30 days of issue of order	• 100%

7) **Principles of Natural Justice**: Following provisions have been made for following a fair and just process for passing adjudication orders:

- Adequate opportunities (maximum three) for personal hearing to be provided.
- The officer shall, in his order, set out the relevant facts and the basis of his decision.
- No demand shall be confirmed on grounds other than the grounds specified in the notice.
- Bar on recovery proceedings till ninety days from the date of order.
  - ✓ Automatic stay if the taxpayer is in appeal and has deposited the prescribed amount of pre-deposit.

8) **Tax collected but not paid to the Government**:

- Any amount collected as tax, along with interest, from customers shall be paid to account of the Government regardless of whether the supplies are taxable or not.
- A SCN, without any time limit, needs to be issued if the amount so collected has not been deposited.
- Adjudication order needs to be issued within one year from the date of issuance of SCN.

9) **Recovery of tax from the person in default:**

a) Following modes for recovery have been provided:

- the proper officer may deduct the amount from any money owing to such person which is under his control or he may make a request to another officer to do so.
- the proper officer may recover the amount by detaining and selling goods or moveable or immovable property belonging to such person which are under his control, or he may make a request to another officer to do so.
- the proper officer may, by notice in writing, require any other person from whom money is due or may become due to such person to pay the amount to the Government.
- the proper officer may prepare a certificate specifying the amount and send it to District Collector, who shall recover the amount as if it were an arrear of land revenue.

10) Provision has been made to provide facility to tax payer to pay arrears in maximum twenty-four (24) installments.

11) Powers have also been given to officers to provisionally attach properties for protection of revenue.

12) The outstanding amount of tax, interest or penalty would be the first charge on the property of taxable person.

24. Tax wrongfully collected and deposited (Section 70):

In case, any supply, which was earlier, treated as intra-State supply by the taxable person but which is later on treated as inter-State supply by the tax authority:

- IGST would be payable;
- Refund of CGST / SGST paid earlier would be granted;
- No interest would be charged on CGST / SGST now paid.

25. Inspection, Search, Seizure and Arrest (Section 79 to 84):

1) **Power to Inspect:** Officer above the rank of Joint Commissioner, can authorize any other officer of GST to inspect any place of business of the taxable person or the persons engaged in the business of transporting goods or the owner or the operator of warehouse or godown or any other place.

2) **Power to confiscate / search &seizure:** Officer above the rank of Joint Commissioner, can authorize GST officer to search and seize any goods, documents or books or things liable to confiscation and which may be useful for or relevant to any proceedings under the Act.

3) **Release of Goods:**

   - goods so seized shall be released, on a provisional basis, upon execution of a bond and furnishing of a security or on payment of applicable tax, interest and penalty payable;
   - after seizure of goods, if notice is not given within six months (extendable by further period not exceeding six months), the goods shall be returned to the person;
   - goods of perishable or hazardous nature can be disposed off by the proper officer in prescribed manner.

4) The provisions of the Code of Criminal Procedure, 1973 (2 of 1974), relating to search and seizure would apply.

5) **Inspection of goods in Movement**:

   - Transporter is required to carry prescribed documents or devices during transportation (Meta permit);
   - GST officers may intercept and inspect conveyances for verification of documents and devices.

6) **Power to Arrest**:

   - Power to order arrest has been provided at the level of Commissioner (cases listed in para 28(1) below).
   - Procedure for arrest is as per Code of Criminal Procedure, 1973 (2 of 1974);
   - Bail can be granted by DC or AC in case of non-cognizable or non-bailable offences.

7) **Power to summon**: Provision for summoning any person whose attendance is considered necessary either to give evidence or to produce a document or any other thing in any inquiry for any of the purposes of this Act.

8) **Access to business premises:** Any GST officer authorized by Additional/Joint Commissioner shall have access to any place of business of a registered taxable person to inspect books of account, documents, computers, computer programs, computer software for purposes of carrying out any audit, scrutiny, verification to safeguard the interest of revenue.

9) **Officers required to assist GST Officers:** All officers of Police, Railways, Customs and those of State or Central Government engaged in collection of goods and services tax and all officers of State or Central Government engaged in the collection of land revenue, and all village officers have been empowered and are required to assist the CGST or SGST officers.

26. Offences and Penalties (Section 85 to 87):

1) Penalty of Rs. 10000/- or amount of tax involved whichever is higher has been provided in case of 21 listed offences.

2) Taxpayers involved in **repeated short payment** of self-assessed tax (three returns during any six consecutive tax periods) would be liable to a penalty of Rs. 10000/- or 10% of the tax short paid, whichever is higher.

3) Penalty of Rs. 25000/- has been provided in case of five listed offences.

4) **General Penalty:** For any contravention where there is no penalty specified elsewhere in the Act, a general penalty of Rs. 25,000/- has been provided.

5) No substantial penalty is to be imposed for minor breaches.

6) No penalty shall be imposed without issue of SCN and without giving an opportunity of being heard.

7) Reasoning to be given in the order, specifying the nature of the breach and the applicable laws or procedure.

27. Detention or confiscation of goods or conveyances in transit (Section 89 and 90):

1) **Detention of Goods or conveyances in transit:** Provisions have been made for detention or seizure of goods and conveyances carrying such goods if they are being transported or stored in contravention of the provisions of this Act or rules made thereunder.

2) Such detained or seized goods or conveyances to be released:
   - on payment of the applicable tax and penalty equal to 100% of the tax payable on such goods, where the owner of the goods comes forward for payment of such tax and penalty;

- on payment of the applicable tax and penalty equal to 50% of the value of the goods reduced by the tax amount paid thereon, where the owner of the goods does not come forward for payment of such tax and penalty.

3) The proper officer detaining or seizing goods or conveyances shall issue a notice specifying the tax payable and thereafter, pass an order for payment of tax and penalty.
4) In case of failure to pay the amount of tax and penalty within seven days of detention, proceedings for confiscation to be initiated.
5) **Confiscation of goods or conveyances:** Goods or conveyances are liable to confiscation in following scenarios:
    - Supply or receipt of any goods in contravention of any of the provisions of this Act or rules made thereunder with intent to evade payment of tax;
    - Non – accountal of goods on which tax is liable to be paid under this Act;
    - Supply of goods liable to tax under this Act without registration;
    - Contravention of any of the provisions of this Act or rules made thereunder with intent to evade payment of tax;
    - Any conveyance used as a means of transport for carriage of taxable goods in contravention of the provisions of this Act or rules made thereunder.
6) The adjudicating officer shall give an option to the owner of the goods or, where such owner is not known, the person from whose possession or custody such goods have been seized or the owner or the person in-charge of the conveyance, to pay in lieu of confiscation such fine as the said officer thinks fit.
    - Such fine shall not exceed the market value of the goods confiscated, less the tax chargeable thereon;
    - Such fine & penalty shall not be less than the penalty as specified in para 2) above;
    - In addition, be liable to any tax and charges payable in respect of such goods.
7) Where any such conveyance is used for the carriage of the goods or passengers for hire, the owner of the conveyance shall be given an option to pay in lieu of the confiscation of the conveyance a fine equal to the tax payable on the goods being transported thereon.
8) No order of confiscation of goods or conveyance or imposition of penalty to be issued without service of SCN and without giving the person a reasonable opportunity of being heard.
9) On confiscation, the title of goods or conveyance shall vest in the appropriate Government.
10) The proper officer may dispose the goods or conveyance if such goods or conveyance are not required on any proceedings and if the fine in lieu of confiscation has not been paid within three months.

28. Prosecution (Section 92 to 97):

1) A list of 13 offences have been outlined in the law, which are punishable as per the following monetary limits:

OFFENCES	PUNISHMENT
Amount of tax evaded exceeds Rs. 250 lacs	5 years imprisonment plus fine
Amount of tax evaded exceeds Rs. 100 lacs but does not exceed Rs. 250 lacs.	3 years' imprisonment plus fine
Amount of tax evaded exceeds Rs.50 lacs but does not exceed Rs.100 lacs	1 year imprisonment plus fine
Repeat offences	5 years imprisonment plus fine

2) Certain class of offences (five out of thirteen) where the amount of tax evaded or the amount of ITC wrongly availed or the amount of refund wrongly taken exceeds Rs. 100 lacs shall be cognizable and non-bailable.
3) Any offence, either before or after institution of prosecution, can be compounded by Competent Authority on payment of compounding amount to the Central Government or the State Government.
4) Compounding is not permitted in certain specified cases.
5) Compounding amount:
    - Minimum amount is greater of Rs. 10000/- or 50% of tax involved;
    - Maximum amount is greater of Rs. 30000/- or 150% of tax involved.
6) Compounding is allowed only after making payment of tax, interest and penalty involved in such offences.
7) Option of compounding is available only once in certain cases.

29. Appeals and Revision (Section 98 to 112):

1) **First Appellate Authority (hereinafter referred to as, "FAA")**: First appeal, by the taxpayer, against any order passed by an adjudicating authority shall lie before the FAA. Appeal can be filed within three months from the date of communication of order.
2) **Review of Original Order:** Commissioner, to suo-motu or on request of the Commissioner of SGST / CGST, call for and examine the record of any proceedings in which an adjudicating authority has passed any decision or order under this Act or under the [SGST/CGST Act] for the purpose of satisfying himself as to the legality or propriety of the said decision or order and direct a subordinate officer to file an appeal to the FAA within a period of 6 months from the date of communication of order.

3) **Revision Powers:** The Commissioner / Chief Commissioner may revise the order passed by any officer subordinate to him, if he feels that such order is prejudicial to the interest of the revenue and illegal and improper subject to following conditions:
    - Order cannot be reviewed if the same has been appealed against;
    - Order has already been taken up for revision at any earlier stage;
    - Time period for filing appeal (six months) or more than three years have expired.
4) **National Appellate Tribunal:**
    - There would be a National Appellate Tribunal headed by a National President.
    - State Appellate Tribunals too would be constituted.
    - State Tribunal would consist of Technical and Judicial members.
5) **Appeal Mechanism:** Provisions are as follows:
    - Appeals against orders of First Appellate Authority or revisional orders can be filed within three months from the date of communication of order before Tribunal;
    - Elaborate provisions have been laid including for pre-deposit;
    - Appeals against orders of Tribunal would generally lie before High Court except in few cases;
    - Appeal would lie directly before Supreme Court in following cases:
        - ✓ where two or more States or a State and the Centre have difference of views regarding place of supply; or
        - ✓ where two or more States or a State and Centre have difference of views regarding treatment of supply being intra-State or inter-State.
6) **Pre-deposit for filing of an appeal:** No appeal to be filed unless the appellant has deposited**:**
    - in full, admitted tax liability, interest, fine, fee and penalty arising from impugned order; and
    - 10% of the remaining amount in dispute.

    Commissioner can request FAA / Tribunal for higher amount of pre-deposit not exceeding 25% in serious cases.
7) **Time Bound orders**: FAA /Tribunal shall hear and decide the appeal within a period of one year, where it is possible to do so.
8) **Appearance by Authorized Representative:**
    - Certain category of persons has been specified as Authorized Representative (AR);
    - Certain persons cannot work as AR;
    - AR may represent taxable person.

9) **Appeal not to be filed in certain cases:** Government may, on recommendation of GSTC, fix monetary limits below which appeals may not be filed.

10) **Non-Appealable decisions:** No appeal can be filed in following cases:

- an order for transfer of proceeding from one officer to another officer;
- an order pertaining to seizure or retention of books of account, register and other documents;
- an order sanctioning prosecution under the Act;
- an order allowing payment of tax dues in installments.

30. Advance Ruling Mechanism (Section 113 to124):

1) A mechanism for Advance Ruling has been provided to enable the taxpayer to seek a binding clarity from the department. This helps in bringing certainty in tax planning and tax administration.

2) **Advance Ruling Authority** would be established in every State having SGST / CGST members.

3) Advance ruling **may be sought** in respect of:

- classification of any goods or services under the Act;
- applicability of notification having a bearing on the rate of tax;
- the principles to be adopted for the purposes of determination of value of the goods or services under the provisions of the Act;
- admissibility of input tax credit;
- determination of the liability to pay tax on any goods or services under the Act;
- liability to be registered under the Act;
- whether the transaction is 'supply' or not.

4) Advance ruling is not to be given where the issue is:

- already pending in the applicants' case before any appellate forum;
- the same as in a matter already decided by the FAA, Appellate Tribunal or any Court;
- the same as in a matter already pending in any proceedings in the applicant's own case;
- the same as in a matter in applicant's case already decided by the adjudicating / assessing authority.

5) Advance ruling order is to be issued within 90 days of receipt of application.

6) Advance ruling shall be binding only on the applicant and jurisdictional tax authorities.

7) Advance ruling shall be binding unless there is a change in law or facts.

8) Advance ruling shall be void in certain circumstances.

9) Advance ruling can be appealed against before the Appellate Authority by the applicant or the tax Authority.

10) Appellate Authority to pass order within 90 days of receipt of appeal.

31. Liability to pay in certain cases (Section 127 to 136):

Elaborate provisions have been made so as to provide the circumstances under which certain persons would be liable to pay tax dues, interest and penalty.

32. GST Compliance Rating (Section 138):

1) Every taxable person shall be assigned a GST compliance rating score based on his record of compliance with the provisions of GST Act.

2) Parameters for determining the score would be prescribed.

3) Scores shall be updated at periodic intervals and also placed in public domain to enable person to take informed decisions while dealing with them.

33. Obligation to furnish information return (Section 139):

A large number of persons (not registered as supplier in GST) have been mandated to furnish information return so as to enable tax administration to verify tax compliances by taxable person.

34. Anti-profiteering Measure (Section 163):

Provision for constituting an Authority, or entrusting an existing Authority constituted under any law, to examine whether ITC availed or whether the reduction in the tax rate have actually resulted in a commensurate reduction in the price of the said goods or services supplied by the taxable person.

35. Transitional Provisions (Section 165 to 197):

Elaborate provisions have been made for smooth transition of existing taxpayers to GST regime. Some of the important provisions are as follows:

- **Registration**: All existing taxpayers having valid PAN to be migrated to GST.
- **Input Tax Credit**: Input Tax Credit of CENVAT/ Value Added Tax available to tax payers would be allowed in GST regime:
    - ✓ ITC carried forward in returns filed by the taxpayers under the earlier laws;
    - ✓ Unavailed credit on capital goods, not carried forward in a return;
    - ✓ ITC of eligible duties & taxes in respect of inputs held in stock by manufacturer of exempted goods, provider of exempted services, first or second stage dealer;
    - ✓ Credit of VAT / Excise duty paid on inputs lying with service providers / dealers on appointed day;
    - ✓ ITC in respect of inputs in case of switching in or out of composition scheme respectively on appointed day;
    - ✓ ITC in relation to goods sent for job-work before the appointed day;
    - ✓ ITC in respect of inputs or input services during transit;
- Provisions made for treatment of goods lying with agents, goods sent on approval basis, goods returned, goods sent for job work, branch transfers, etc.;
- Provisions for revision of prices in pursuance of a contract;
- Provisions made for handling pending refund applications, assessment and adjudication cases;
- Provisions made for treatment of long-term contracts entered before appointed day.

*****

DRAFT IGST LAW

SALIENT FEATURES OF THE DRAFT IGST LAW

Contents

1. Definition (Section 2):.....76
2. Applicability of provisions of CGST Act (Section 17): 76
3. Inter-State supply (Section 3):.....76
4. Intra-State supply (Section 4):.....76
5. Levy of IGST (Section 5):.....77
6. Exemptions (Section 6):.....77
7. Place of supply of goods or services (other than in case of export or import) (Section 7 and 9):.....77
8. Place of supply of goods or services (in case of export or import) (Section 8 and 10):.....80
9. Payment of tax, interest, penalty etc. (Section 11): 82
10. Special provision for supply of online information and database access or retrieval services (Section 12): 833
11. Transfer of ITC (Section 13 & 14):.....833
12. Apportionment of tax and settlement of funds (Section 15): 83
13. Zero rated supply (Section 16):.....84
14. Refund of IGST paid by an outbound tourist on supply of goods (Section 20): …….. 85
15. Transitional provisions (Section 21):.....85

The draft IGST Act contains 11 Chapters and 24 Sections. This Act lays down provisions for taxability of inter-State supply of goods and services.

Definition (Section 2):

a) Section contains 29 definitions of various terms used in draft IGST Act.
b) Definitions contained in draft Model GST Law (hereinafter referred to as 'MGL') have also been adopted.

Applicability of provisions of CGST Act (Section 17):

The draft IGST Act is not a self-contained law and many provisions of the MGL (provisions in CGST & SGST Act would be same and based on recommendation of the GST Council) have been adopted. Major provisions which have been adopted relates to definitions, registration, valuation, time of supply of goods or services, input tax credit, job work, accounts and records, tax deduction at source, returns, tax collection at source, compliance verification, payment of interest, appeals, advance rulings, etc.

Inter-State supply (Section 3):

Following supplies are inter-State supplies:

a) Where location of supplier of goods or services and place of supply are in different States;

b) Supply of goods in the course of imports into the territory of India till they cross the customs frontiers of India;

c) Supply of services in the course of imports into the territory of India;

d) Supply of goods or services when the supplier is located in India and place of supply is outside India.

e) Supply of goods or services by a developer of SEZ or a unit in SEZ.

f) Supply of goods or services to a developer of SEZ or a unit in SEZ.

g) Any supply of goods or services, in the taxable territory, not being an intra-State supply and not covered elsewhere.

Place of supply would be determined in terms of the provisions contained in Section 7 and Section 9.

Intra-State supply (Section 4):

Where location of supplier of goods or services and place of supply are in same State are intra-State supplies.

Place of supply would be determined in terms of the provisions contained in Section 7 and Section 9.

Levy of IGST (Section 5):

a) IGST would be levied and collected on inter-State supply of goods or services except in case of import of goods.

b) Taxable value would be determined under Section 15 of MGL.

c) IGST rate, not exceeding 28%, would be notified on the recommendation of GST Council (hereinafter referred to as 'GSTC').

d) Generally, IGST would be payable by supplier of goods or services.

e) In certain cases, on the recommendation of GSTC, liability to pay IGST may be casted on recipient of goods or services (popularly called reverse charge mechanism) or on electronic commerce operator for services (popularly called aggregator model).

Exemptions (Section 6):

a) The exemptions as per MGL would be applicable under IGST Act also.

b) Central Government may grant absolute or conditional exemptions, on the recommendation of GSTC, in certain other cases also.

Place of supply of goods or services (other than in case of export or import) (Section 7 and 9):

Elaborate provisions for determining Place of Supply of goods or services, in case of domestic supplies, have been made. These are as follows:

Scenarios	Place of Supply
Goods – Section 7	
Where the supply involves movement of goods	location of the goods at the time at which the movement of goods terminates for delivery to the recipient
Where the goods are delivered by the supplier to a recipient or any other person, on the direction of a third person	Location of principal place of business of such third person
Where the supply does not involve movement of goods	Location of such goods at the time of the delivery to the recipient
Where the goods are assembled or installed at site	Place of installation or assembly
Where the goods are supplied on board a conveyance	Location at which such goods are taken on board of such conveyance

Where the place of supply cannot be determined in terms of above provisions	Location to determine in a manner prescribed by Central Government on recommendation of the Council
Services – Section 9	
Place of supply of services, except the specified services, made to a registered person	Location of registered person
Place of supply of services, except the specified services, made to any person other than a registered person	(i) Location of the recipient where the address is on record; (ii) Location of the supplier of services in other cases
Place of supply directly in relation to an immovable property (including services supplied by architects, engineers etc. in relation to immovable property)	Location of immovable property
Place of supply by way of lodging accommodation by a hotel, inn, guest house, homestay, club or campsite	Location of immovable property (hotel, inn, guest house, etc.)
Place of supply by way of accommodation in any immovable property for organizing any marriage or reception or matters related therewith, official, social, cultural, religious or business function	Location of immovable property
Where immoveable property is located in more than one State, the supply would be deemed to have been made in each of the State in proportion of the value of services determined in terms of contract or on reasonable basis if the contract is not available	
Place of supply of restaurant and catering services, personal grooming, fitness, beauty treatment, health service including cosmetic and plastic surgery	Location where the services are actually performed
Place of supply of services in relation to training and performance appraisal	(i) Location of registered person, if supplied to a registered person; (ii) Location where the services are actually performed, if supplied to a person other than a registered person
Place of supply of services provided by way of admission to a cultural, artistic, sporting, scientific, educational, or entertainment event or amusement park or any other place and ancillary services	Place where the event is actually held or where the park or such other place is located

Place of supply of services provided by way of organization of a cultural, artistic, sporting, scientific, educational or entertainment event including supply of service in relation to a conference, fair, exhibition, celebration or similar events, and services ancillary to organization of any of the above events or services, or assigning of sponsorship of any of the above events	(i) Location of registered person, if supplied to a registered person; (ii) Place where the event is actually held, if supplied to a person other than a registered person
Where event is held in more than one State, the supply would be deemed to have been made in each of the State in proportion of the value of services determined in terms of contract or on reasonable basis if the contract is not available	
Place of supply of services by way of transportation of goods, including by mail or courier	(i) Location of registered person, if supplied to a registered person; (ii) Location at which such goods are handed over for their transportation, if supplied to a person other than a registered person
Place of supply of passenger transportation service	(i) Location of registered person, if supplied to a registered person; (ii) Place where the passenger embarks on the conveyance for a continuous journey, if supplied to a person other than a registered person
Place of supply of services on board a conveyance such as vessel, aircraft, train or motor vehicle	Location of the first scheduled point of departure of conveyance for the journey
Place of supply of telecommunication services including data transfer, broadcasting, cable and direct to home television services	(i) Location where the telecommunication line, leased circuit or cable connection or dish antenna is installed for receipt of services, in case of services by way of fixed telecommunication line, leased circuits, internet leased circuit, cable or dish antenna; (ii) Location of billing address of the recipient of services on record of the supplier of services, in case of mobile connection for telecommunication and internet services provided on post-paid basis; (iii) in cases where mobile connection for telecommunication and internet service are provided on pre-payment through a voucher or any other means:

	(a) through a selling agent, a re-seller or a distributor, location of address of the agent or distributor; (b) by any person to final subscriber, location where such pre-payment is received or such vouchers are sold (iv) address of recipient as per records of supplier in cases not covered in (ii) and (iii) (v) Location of the supplier where address is not available in the records of supplier
Where leased circuit is installed in more than one State, the supply would be deemed to have been made in each of the State in proportion of the value of services determined in terms of contract or on reasonable basis if the contract is not available	
Place of supply of banking and other financial services including stock broking services	(i) Location of recipient of services on the records of the supplier; (ii) Location of the supplier of services, if location of recipient is not in the records of supplier
Place of supply of insurance services	(i) Location of registered person, if supplied to a registered person; (ii) Location of the recipient of services on the records of the supplier of services, if supplied to a person other than a registered person
Place of supply of advertisement services to the Central Government, a State Government, a statutory body or a local authority meant for identifiable States	Location shall be taken as located in each of such States and the value of such supplies specific to each State shall be in proportion to amount attributable to service provided by way of dissemination in the respective States as may be determined in terms of the contract or agreement entered into in this regard. In the absence of such contract or agreement, on such other reasonable basis as may be prescribed in this behalf

Place of supply of goods or services (in case of export or import) (Section 8 and 10):

Elaborate provisions for determining Place of Supply of goods or services, in case of international supplies, have been made. These are as follows:

Scenarios	Place of Supply
Goods - Section 8	
Imported into India	Location of the importer in India
Exported from India	Location outside India
Services – Section 10	
Place of supply of services, except the specified services	(i) Location of recipient of service; (ii) where location is not available in ordinary course of business, place of supply would be location of supplier of service
Place of supply of services which are supplied in respect of goods which are required to be made available by the recipient to the supplier	(i) Location where services are actually performed i.e. location of goods; (ii) Location of goods at the time of supply of services, where services are provided from a remote location by electronic means
Place of supply of services given to an individual or his representative which require physical presence of receipient	Location where services are actually performed i.e. location of recipient
Place of supply directly in relation to an immovable property or supply of hotel accommodation	Location at which the immovable property is located
Place of supply of services provided by way of admission to a cultural, artistic, sporting, scientific, educational, or entertainment event or amusement park or any other place and ancillary services	Location where the event is actually held
Place of supply of services by a banking or non-banking financial company to an account holder	Location of supplier of services
Place of supply of intermediary services	Location of supplier of services

Note: For the purposes of this section, expression 'goods' would include 'securities'.	
Place of supply of services by way of hiring of means of transport, other than aircrafts and vessels except yachts, up to a period of one month	Location of supplier of services
Place of supply of services by way of transportation of goods, other than by way of mail or courier	Place of destination of goods
Place of supply of passenger transportation service	Place where the passenger embarks on the conveyance for a continuous journey
Place of supply of services on board a conveyance such as vessel, aircraft, train or motor vehicle	Location of the first scheduled point of departure of that conveyance for the journey
Place of supply of Online information and database access or retrieval service	Location of recipient of service

Payment of tax, interest, penalty etc. (Section 11):

Following identical provisions are contained in CGST, SGST and IGST Act with respect to payment of taxes, etc.:

a) Payment of tax, interest, penalty, fee or any other amount payable under IGST Act can be made by using internet banking or by using credit/debit cards or NEFT / RTGS. Other modes may also be prescribed in future.

b) Ledger system has been provided. There would be an electronic cash ledger and electronic credit ledger. These ledgers would be available on dashboard of every taxpayer on GSTN.

c) The date of credit to the account of the appropriate Government in the authorized bank shall be deemed to be the date of deposit in the electronic cash ledger.

d) Every deposit towards tax, interest, penalty etc. would be credited to the electronic cash ledger.

e) The amount in the electronic cash ledger can be used for payment of tax, interest, penalty, fees or any other amount payable under the IGST Act.

f) Input Tax Credit (ITC) as self-assessed by the registered taxable person would be credited to the electronic credit ledger. Amount in this ledger can be used only for payment of tax, and not of interest, penalty and fee. In addition, ITC can only be used for payment of output tax. In other words, ITC cannot be used for payment of tax by a person who is required to pay tax under reverse charge.

g) ITC of IGST can be utilized for payment of IGST, CGST or SGST in that order. ITC of CGST can be utilized for payment of CGST or IGST in that order. ITC of SGST can be utilized for payment of SGST or CGST in that order. ITC of CGST cannot be utilized for payment of SGST and ITC of SGST cannot be utilized for payment of CGST.

h) A registered taxable person is required to first discharge his liabilities declared in the previous return(s). Thereafter, he is required to discharge his liabilities declared in the return of the current tax period. Then, the balance in the ledger can be used for payment any liability determined under adjudication order passed under section 66 or 67 of MGL.

i) The balance in the electronic cash or electronic credit ledger can be refunded in terms of section 48 of MGL.

Special provision for supply of online information and database access or retrieval services (Section 12):

a) A person located in a non-taxable territory will pay IGST on supplies of online information and database access or retrieval services to a non-taxable recipient in India.

b) Such person would be registered a simplified registration scheme. If the person has a representative or agent in India, such representative or agent may take registration on behalf the person located in a non-taxable territory.

Transfer of ITC (Section 13 & 14):

a) A registered taxable person can take ITC, on self-assessment basis, in his return and such amount shall be credited, on a provisional basis, to his electronic credit ledger

b) The said ITC shall be utilized only for payment of self-assessed tax liability as per the return.

c) The provisions of section 37 and 38 of MGL relating to matching, reversal and reclaim of input tax credit or reduction in output tax liability shall apply *mutatis mutandis* to the matching, reversal and reclaim of ITC or reduction in output tax liability under the IGST Act.

d) On utilization of IGST credit for payment of CGST, the amount of IGST so utilized shall stand reduced and the amount of IGST so reduced shall be transferred to CGST account.

e) On utilization of IGST credit for payment of SGST, the amount of IGST so utilized shall stand reduced and the amount of IGST so reduced shall be transferred to the account of the appropriate State government.

Apportionment of tax and settlement of funds (Section 15):

a) Out of IGST paid on an inter-State supply of goods or services, the amount of tax calculated at the CGST rate on similar intra-State supply shall be apportioned to the Central Government in following situations:

(i) supply to an unregistered person;

(ii) supply to a composition taxpayer;

(iii) supply to a registered taxable person where such person is not eligible to claim ITC;

(iv) supply to a registered taxable person where such person does not avail of ITC within the specified period and thus IGST remains in the account even after expiry of due date of filing of annual return for the year in which supply was made.

b) Out of IGST paid on import of goods or services, the amount of tax calculated at the CGST rate on similar intra-State supply shall be apportioned to the Central Government in following situations:

(i) import by an unregistered person;

(ii) import by a composition taxpayer;

(iii) import by a registered taxable person where such person is not eligible to claim ITC;

(iv) import by a registered taxable person where such person does not avail of ITC within the specified period and thus IGST remains in the account even after expiry of due date of filing of annual return for the year in which supply was made.

c) The balance amount of tax in IGST account on such supply or imports shall be apportioned to the State where supply take place as per Place of Supply provisions contained in Section 7 to 10 of the Act.

d) Where place of supply made by a taxable person cannot be determined separately, the balance amount of tax in IGST account shall be apportioned to the States to which taxable person has made supplies during the financial year in the proportion of total supplies made to each of States.

e) Where taxable person making supplies cannot be determined, the balance amount shall be apportioned to all States as per order made by the President under clause (2) of Article 270 of the Constitution.

f) The methodology used for apportionment of tax shall be used for apportionment of interest, penalty and compounding amount.

Zero rated supply (Section 16):

a) Export of goods and services and supply of goods or services to a SEZ developer or a SEZ unit are zero rated supplies.

b) Provision has been made to allow ITC on goods or services used for making zero rated supplies.

c) Exporter of goods or services would be eligible to claim refund of unutilised ITC or to claim refund of IGST paid, if any at the time of exports.

d) SEZ Developer or a unit in SEZ would be eligible to claim refund of IGST paid by the supplier.

Refund of IGST paid by an outbound tourist on supply of goods (Section 20):

Provision has been made to grant refund to tourist on goods taken out of India subject to the prescribed procedure.

Transitional provisions (Section 21):

a) Transitional provisions contained in CGST Act would be applicable.

b) Import of services and inter-State supply of goods or services made after the appointed day shall be liable to tax under IGST Act, irrespective of the fact that invoice was issued or payment was made before the appointed day. If payment has been made before this day, tax on the balance amount shall be payable under IGST Act.

*****

GST (COMPENSATION TO THE STATES FOR LOSS OF REVENUE) BILL, 2016

The Goods and Services (Compensation to the States for Loss of Revenue) Bill, 2016 is proposed to be introduced in the Parliament in the Winter Session of 2016, to provide for compensation to the States for loss of revenue, arising on account of implementation of Goods and Services Tax, for a period of five years, as per Section 18 of the Constitution (One Hundred and First Amendment) Act, 2016.

2. The draft GST Compensation Bill was discussed in the GST Council in their meetings held on 22-23 September, 2016, 30 September, 2016, 18-19 October, 2016 and 3-4 November 2016. In the first meeting held on 22-23 September, 2016, it was decided that

i) The financial year 2015-16 shall be taken as the base year for the purpose of calculating compensation amount payable to States.
ii) Revenue to be compensated shall consist of all taxes levied by the States which are now proposed to be subsumed under GST.
iii) Compensation may be released quarterly against the figures given by the Central accounting authorities tentatively and final adjustment can be done after getting audited accounts of the year.

3. In the second meeting held on 30 September, 2016, it was decided that

i) All entities exempted from payment of indirect tax under any existing tax incentive scheme shall pay tax in the GST regime.
ii) The decision to continue with any incentive given to specific industries in existing industrial policies of States or through any schemes of the Central Government shall be with the concerned State or Central Government.
iii) In case the State or Central Government decides to continue any existing exemption/ incentive/ deferral scheme, then it shall be administered by way of a reimbursement mechanism through the budgetary route, the modalities for which shall be worked out by the concerned State/Centre.

4. In the third meeting held on 18-19 October, 2016, it was decided that

i) For the eleven Special Category States referred to in Article 279A of the Constitution, the revenue foregone on account of exemption of taxes granted by States shall be counted towards the definition of Revenue for the base year 2015-16.
ii) ITC reversals shall be included in the definition of 'Revenue subsumed' for the base year 2015-16 for the calculation of compensation to the States for any loss of revenue owing to the implementation of GST for five years.
iii) Such revenues of States that did not go to the Consolidated Fund of the States but were directly devolved to 'mandi' or municipalities would also be included in the definition of 'revenue subsumed' if these were collected under the authority of Entries 52, 54, 55 and 62 of List II of Schedule Seven of the Constitution of India and were subsumed in the GST.
iv) In the definition of 'revenue', CST shall be calculated @ 2%.
v) The formula for calculating the projected growth rate for GST compensation shall be a fixed rate of 14% per annum.

5. In the fourth meeting held on 3-4 November, 2016, it was decided that

i. To generate resources to compensate States for five years for any loss of revenue suffered by them on account of implementation of GST, a cess shall be levied on goods such as luxury cars, aerated drinks, pan masala and tobacco products, over and above the rate of 28%. For the goods chargeable to cess, the rate of cess shall be such so as to generally maintain the present incidence of taxation on them.

ii. A Compensation Fund shall be created in public account and cess revenue shall be credited to it.

iii. The Clean Environment Cess on coal, peat and lignite shall continue to be levied and its proceeds shall go to the Compensation Fund. If required, the name and purpose of this cess shall be changed.

iv. The National Calamity Contingency Duty (NCCD) shall continue to be levied and its proceeds shall continue to be allocated to the National Disaster Relief Fund (NDRF).

v. Cess shall be part of the Compensation Act and it shall have a sunset clause of five years.

vi. Any residual amount left in the Compensation Fund after the five-year compensation period shall be shared in the ratio of 50% each for the Central Government and the State Governments. In the 50% share of the States, the amount shall be distributed to the individual States based on their share of all-India collection of SGST.

6. The above recommendations of the GST Council have been incorporated in the draft GST Compensation Bill. The draft Bill has also been discussed with the officers of the State Governments in the meeting held under the chairmanship of the Revenue Secretary.

Agenda Item 3: Provision for Cross-Empowerment to ensure Single Interface under GST (outstanding agenda item from the 4th GST Council meeting

(*Agenda Note same as for the 3rd GST Council Meeting held on 18-19 Oct 2016*)

(i) Distribution of taxpayers between States and Centre under GST regime
(ii) Modalities for exercising information based enforcement action
(iii) Periodicity of review of the distribution

Background: In the first GST Council meeting held on 22-23 September,2016 the issue of Single Interface was discussed in detail and a broad framework to resolve the issue was arrived at which consisted of the elements such as traders/manufacturers of goods with a turnover above Rs. 1.5 crores shall be administered by both the Central and State tax administrations on the basis of the cross empowerment model; existing registered service providers irrespective of the value of turnover shall continue to be administered by the Central tax administration; States will also get jurisdiction along with the Centre over those service providers who get registered under GST in future etc. In the second meeting of the GST Council held on 30th September, 2016 differences emerged on the interpretation of the details of the framework arrived at in the first meeting. As these differences were persistent, Council directed that a team of officers discuss the issue and present before the Council an acceptable framework for creating single interface for the taxpayers in the GST regime.

2. The issue has since been discussed at the officers' level in the meeting held on 8th of October, 2016, where the Secretary to the Council chaired the meeting. In this meeting following models for distribution of taxpayers between Centre and State were discussed, namely -

2.1 Option I (Horizontal Division based on turnover): A division of taxpayers both for administrative and audit purposes based on a cut off turnover such that taxpayer having a turnover over Rs. 1.5 crore would be administered only by the Centre and taxpayer having turnover below Rs 1.5 crore would be administered by the State. This model was found unacceptable to the States as it provided little control over revenue to the States because taxpayers having turnover above Rs. 1.5 crore are estimated to contribute almost 90% of the revenue.

2.2 Option II (Horizontal Division in which States administer taxpayers with turnover below Rs. 1.5 crores and Centre and States jointly administer taxpayers with turnover above Rs. 1.5 crore with Cross Empowerment): A division of taxpayers both for administrative and audit purposes based on a cut off turnover such that taxpayer having a turnover over Rs. 1.5 crore would be administered by both Centre and State and taxpayer having turnover below Rs. 1.5 crore would be administered solely by the State. This model was found unacceptable to the Centre as it provided little control over taxpayers base by numbers to the Centre as 93% of Service tax assesses and 85 % of the VAT taxpayers have a turnover below Rs. 1.5 crore.

2.3 Option III (Division based on services or goods with horizontal divide for goods): In the first GST Council meeting held on 22-23rd of September, 2016, a tentative framework was arrived

at for distribution of taxpayers which incorporated the following elements, namely, traders /manufacturers of goods with a turnover of less than Rs. 1.5 crores shall be under the jurisdiction of the State administration; traders/manufacturers of goods with a turnover above Rs. 1.5 crores shall be administered by both the Central and State tax administrations on the basis of the cross empowerment model, all existing registered service providers shall continue to be administered by the Central tax administration etc. In the offices meeting held on 8th of October, 2016, it was felt that any division of taxpayers on the basis of nature of supply, namely trading in goods or supply of services would be difficult to implement. In GST era tax is on supply and any artificial division between goods and services is undesirable as there are a very large number of supplies which involve both goods and services. An illustrative list in this regard is enclosed as **Annexure I**.

2.4 Option IV (Cross-empowerment with division only for audit, based on protocol or random distribution): As per the business processes under GST, there would hardly be any need for interaction between taxpayers and the tax administration. Therefore, a view emerged that there is no need to assign taxpayers to specific administration either to the State or the Centre. The most important function where there is interface with the taxpayer is audit and it was proposed that for division of taxpayers for audit, the Centre and the State will separately prepare, at the beginning of the year, a list of taxpayers to be audited based on risk parameters. The list will be merged and based on agreed protocol; the taxpayers would be distributed for audit between the Centre and the State. As an alternative, it was also proposed that distribution for audit can be done on random basis. A cap on audit of 5% of the total number of taxpayers was proposed as adequate. Once a taxpayer was allocated to either the Centre or the State, the same will be reviewed only after three years. Size of the taxpayers based on turnover, geographical considerations and available competencies would also need to be factored so that the revenue yield can be maximized by audit. For any residual administrative matters, both the Centre and the State officers may sit together at state level through a committee and allocate taxpayers to tax administrations, if required. In this model all subsequent action arising due to audit of CGST and/or SGST such as issue of demand notice, adjudication of the case, appeal proceedings etc. would be handled by the authority which initiated the action. The main disadvantage of the option is that the taxpayer would not know which administration to approach in case of difficulty.

2.5 Option V (Complete vertical division based on ratios): The last option discussed in the meeting of the officers on 8th October, 2016, consisted of following attributes, namely, to assign taxpayers to a tax administration, Centre or State, for a period of three years for all purposes including audit. In assigning the taxpayers, geographical considerations, size of the taxpayers based on turnover and available competencies could also be factored. Taxpayers could be divided in a ratio which would balance the interest of Centre and the State, both with respect to revenue and spread of numbers. Different ratios for distribution of taxpayers between Centre and State could apply above and below the turnover threshold of Rs. 1.5 crore leading to better balance of revenue and distribution of taxpayers between Centre and State. The views expressed by the officers from Centre and State regarding the ratio in which the taxpayers could be administered by Centre and State could vary from 50:50 to 60:40, above and below the threshold. It was also noted

that this option had advantages such as, taxpayers would be aware as of the office to which he should address his concerns or problems for servicing and the problems due to division based on nature of supply - goods or services would be avoided. In this model, all subsequent action arising due to audit of CGST and/or SGST such as issue of demand notice, adjudication of the case, appeal proceedings etc. would be handled by the authority which initiated the action.

3. Any cross empowerment model would lead to detection of IGST irregularity by SGST officers during scrutiny or audit of a taxpayer. IGST disputes would predominantly be to determine place of supply as it would lead to determination whether the supply is intra-state or inter-state. Audit would occur in the exporting state where the taxpayer is located and the decision about the nature of supply will affect the revenue of both exporting and importing state as GST is a destination based tax. Thus, there may be conflicting interests of the state which would need to be objectively adjudicated. Further, IGST is a Central Levy and as a corollary such irregularity when detected by SGST officer during audit or scrutiny shall be forwarded to the IGST officer for further necessary action such as issuing demand and adjudicating the same.

Modalities for exercising information based enforcement action

4. In relation to enforcement action based on intelligence, in the officers meeting on 8th of October, 2016, it was generally felt that both the Centre and the State should have freedom to take action on the basis of specific intelligence of evasion of tax. This is so because such intelligence is sensitive in nature and sharing of intelligence may be avoided to ensure effective enforcement action. Such arrangement would also add to checks and balances in the system. The June 2014 Report of the Empowered Committee of State Finance Ministers [Committee on Problem of Dual Control, Threshold and Exemption in GST Regime co-chaired by the Additional Secretary, Dept. of Revenue and the Member Secretary, Empowered Committee of State Finance Ministers] had also agreed that both the Central and State authorities, in specific evasion information cases, can take action on their own. Once one authority initiates the action, the factum of such action having been initiated could be intimated to the other authority leading to the other authority getting precluded from taking any action against the same taxpayer for a given period of time. Once the basic agreement was reached, further details on the subject would be worked out. This would also lead to creation of data base of offences which would be useful for policy analysis in the future.

Periodicity of review of the distribution

5. In the meeting on 8th of October, 2016 at New Delhi, the issue of review of the administrative arrangement was also discussed. Most of the officers of the State and Centre were of the view that taxpayers should not be frequently rotated between the administrations. A review after a period of three years would be in order.

6. Hon'ble Council may accordingly consider deciding the following issues, namely –

(i) Which of the five options I to V above would be most appropriate to provide single interface to the taxpayers in the GST regime?

(ii) What period may be appropriate to review the arrangement made for providing single interface to the taxpayers?

(iii) The most appropriate arrangement for enforcement action when specific intelligence is available with a tax administration?

Annexure I

SALE OF GOODS AND PROVISION OF SERVICE	
(1)	Works Contract
(2)	Erection, Commissioning and Installation
(3)	Commercial Construction
(4)	Construction of Residential Complex
(5)	Maintenance and Repair (MRO)
(6)	Restaurant
(7)	Outdoor Catering
(8)	Hire Purchase on instalments/licensing/leasing
(9)	Dry Lease v/s Wet Lease(aircraft industry)
(10)	Transfer or right to use goods (supply of goods leviable to VAT)as against licence/permission to use goods (supply of service leviable to service tax)
(11)	Advertising Services (supply of physical property and services)
(12)	Authorized Service Station
(13)	Event Management
(14)	Franchise service
(15)	Business exhibition services
(16)	Intellectual property Services other than copyright
(17)	Cleaning services other than in relation to agriculture, horticulture, animal husbandry or dairying
(18)	Ship Management Services
(19)	Packaging services
(20)	Business support services
(21)	Design services
(22)	Interior Decoration/ Designer Services
(23)	Automated Teller Machine Operations, Maintenance or Management
(24)	Cargo handling (only inland cargo)
(25)	Transport of goods by road (GTA under reverse charge)
(26)	Photographic Services
(27)	Commercial training or coaching
(28)	Fashion designers
(29)	Mandap Keeper Services
(30)	Pandal or Shamiana services

(31)	Convention Services
(32)	Beauty parlours
(33)	Services of providing of accommodation in hotels/Inn/clubs/guesthouses/campsite
(34)	Video Tape Production Services
(35)	Supply of customized information technology software on media on which there is no legal requirement to affix RSP
(36)	Dredging services of rivers, ports harbours, backwaters and estuaries
(37)	Services provided by any person in relation to supply of tangible goods
(38)	Services related to (a) Transferring Temporarily or (b) permitting the use or enjoyment of any copyright
(39)	Sound Recording Services

Agenda Item 4: Date of the next meeting of the GST Council

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