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Agenda for

34th GST Council Meeting

19 March 2019

माल और सेवा कर परिषद
GOODS AND SERVICES TAX COUNCIL

File No: 129/34th GSTCM/GSTC/2019
GST Council Secretariat

Room No.275, North Block, New Delhi
Dated: 11th March 2019

Notice for 34th Meeting of the GST Council 19th March 2019 through video conferencing

The undersigned is directed to refer to the subject cited above and to say that the 34th Meeting of the GST Council will be held on 19th March 2019 through **Video Conferencing** as follows:

- Tuesday, 19th March 2019 : 1200 hours onwards

2. The agenda items for the 34th Meeting of the GST Council will be communicated in due course of time.

3. Respective State NIC units may be contacted for details regarding the Video Conference.

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

(-*Sd*-)
(Dr. Ajay Bhushan Pandey)
Secretary to the Govt. of India and ex-officio Secretary to the GST Council
Tel: 011 23092653

Copy to:

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

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

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

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

5. Chairman, GST Network

Agenda Items for the 34th Meeting of the GST Council on 19th March 2019

1. Confirmation of the Minutes of 33rd GST Council Meeting held on 20th and 24th February 2019
2. Deemed ratification by the GST Council of Notifications, Circulars and Orders issued by the Central Government
3. Decisions of the GST Implementation Committee (GIC) for information of the Council
4. Decisions/Recommendations of the IT Grievance Redressal Committee for information of the Council
5. Recommendations of the Joint Committee (Fitment Committee and Law Committee) on Real Estate Sector
6. Creation of the State and Area Benches of the Goods and Services Tax Appellate Tribunal
7. Any other agenda item with the permission of the Chairperson
8. Date of the next meeting of the GST Council

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Discussion on Agenda Items

Agenda Item 1: Confirmation of the Minutes of the 33rd GST Council Meeting held on 20th and 24th February 2019

Draft Minutes of 33rd GST Council Meeting held on 20th February, 2019 (through Video Conference) and 24th February, 2019

The 33rd Meeting of the GST Council (hereinafter referred to as 'the Council') was held on 20th February, 2019 through video conferencing during which Agenda items 1- 4 and 6 were discussed and decided. For Agenda items 5 (Recommendations of the GoM for boosting Real Estate Sector under GST regime) and 7(i) (Interim report of GoM on Lottery), after discussion, it was decided that the same would be discussed in a physical meeting to be held in Delhi on 24th February, 2019. Accordingly, the Meeting of the 33rd GST Council was reconvened on 24th February, 2019 at Vigyan Bhawan, New Delhi. On both these occasions, the Meeting was chaired by the Hon'ble Union Finance Minister, Shri Arun Jaitley (hereinafter referred to as the Chairperson). A list of the Hon'ble Members of the Council who attended the meeting by video conferencing on 20th February, 2019 is at **Annexure 1** and those who attended the physical meeting on 24th December, 2018 is at **Annexure 2**.

2. A list of Officers of the Centre, the States, GST Council Secretariat and the Goods and Services Tax Network (GSTN) who attended the Meeting through video conferencing on 20th February, 2019 is at **Annexure 3** and those who attended the physical meeting on 24th February, 2019 is at **Annexure 4**.

3. The following agenda items were discussed during the 33rd Meeting of the Council.

1. Confirmation of the Minutes of 32nd GST Council Meeting held on 10th January 2019
2. Deemed ratification by the GST Council of Notifications, Circulars and Orders issued by the Central Government
3. Decisions of the GST Implementation Committee (GIC) for information of the Council
4. Decisions/recommendations of the IT Grievance Redressal Committee for information of the Council
5. Recommendations of the GoM for boosting Real Estate Sector under GST regime
6. Draft notifications and Removal of Difficulty order giving effect to the decisions of 32nd GST Council Meeting regarding MSME (including small traders)
7. Any other agenda item with the permission of the Chairperson
    i. Interim report of GoM on Lottery
8. Date of the next meeting of the GST Council

Minutes of the Meeting of 20th February, 2019

Preliminary Discussion:

4. The Hon'ble Chairperson welcomed the Members for the 33rd Meeting of the Council. He informed that three States were represented in this meeting by an alternative Minister and he welcomed them, namely Dr. Ranjit Patil, the Hon'ble Minister from Maharashtra, Shri Subodh Uniyal, the Hon'ble Minister from Uttarakhand and Shri Suresh Bhardwaj, the Hon'ble Minister from Himachal Pradesh.

4.1. Dr. Amit Mitra, Hon'ble Minister from West Bengal conveyed his best wishes for the good health of the Hon'ble Chairperson. Thereafter, he stated that while he was agreeable to discuss other

agenda items in this meeting by video conference, the agenda on Real Estate sector should be discussed in a regular meeting. He observed that in the video conference meeting, he was not even able to see which all Members were seated for discussion. He further stated that on this issue, he had also written a letter on 18th February 2019 to the Hon'ble Chairperson and highlighted that there were complex issues relating to low cost housing, black money etc., which could be deliberated in detail only in a physical meeting. He, therefore, strongly urged that the agenda item on Real Estate should be deferred and discussed in a regular meeting of the Council.

4.2. Dr. Thomas T.M. Isaac, Hon'ble Minister from Kerala stated that he fully shared the sentiments of the Hon'ble Minister from West Bengal. He had also written a letter yesterday to the Hon'ble Chairperson requesting not to discuss the issues of Lottery and Real Estate through video conference. He drew attention to the Minutes of the 1st Meeting of the Council held on 22-23 December, 2016 in which the desirability of holding Council meeting *via* video conference was suggested by the Hon'ble Minister from Tamil Nadu and on which the Hon'ble Chairperson had observed that the idea of video conference could be explored at a later date, specifically in cases of meeting where the agenda points were few and required just a formal approval. He stated that the issues being taken up during the meeting went beyond just formal approval and required substantial discussion. Furthermore, the desirability of postal ballot was also discussed and it was decided that it was not required. He added that during the 1st Meeting of the Council, the mechanism to resolve the issues where serious difference of opinion arises among the Members was also discussed. He further cited Rule 15 of Chapter VI of the Rules of Procedures and Conduct of Business in GST Council which deals with 'Division' and stated that it was unfortunate that the decision was being taken based on the interim report of GoM on Lottery when many Members including him were unable to attend the meeting of the GoM on Lottery. He added that the meeting of the GoM was held inspite of his and Punjab Minister's request to the Convenor of the GoM to postpone the meeting by few days. He informed that due to health reason and doctor's advice, he was unable to travel and the Hon'ble Punjab Minister was presenting his Budget on the day of the meeting of the GoM. He stated that due to the manner in which the decision was being taken, he wanted to give advance notice to seek a division on the proposal on lottery. He stated that as per the Rules of Procedure, if a division was to be made, it should be in a physical meeting.

4.3. Shri J. Syamala Rao, Chief Commissioner, State Tax (CCST), Andhra Pradesh stated that the Hon'ble Minister of his State would join the meeting shortly. He added that the Hon'ble Minister had also written a letter yesterday to the Hon'ble Chairperson to postpone the discussion on the two agenda items on Lottery and Real Estate and to take them up in a physical meeting at an early date.

4.4. Shri Manish Sisodia, Hon'ble Deputy Chief Minister of Delhi stated that he had also written a letter yesterday to the Hon'ble Chairperson stating that the two agenda items on Real Estate and Lottery required detailed discussion and therefore this should be postponed and should be discussed in a physical meeting. Shri Manu Shrivastava, Principal Secretary, State Tax, Madhya Pradesh stated that the Hon'ble Minister would be joining the meeting shortly and he informed that the Hon'ble Minister desired that a physical meeting of the Council could be held in Delhi even at a very short notice to discuss the subject of Real Estate.

4.5. Shri Nitin Bhai Patel, Hon'ble Deputy Chief Minister of Gujarat stated that in view of the upcoming General elections and the fact that the Model Code of Conduct was likely to be introduced shortly, it was desirable that these major issues relating to Lottery and Real Estate were not kept pending and should be finalized today only as all Members were available on video conference as well. Shri

Conrad K. Sangma, Hon'ble Chief Minister of Meghalaya wished the Hon'ble Chairman a speedy recovery and then stated that the issues on Lottery and Real Estate were very important and should be decided before the Lok Sabha Election. He added that it was in the interest of everyone that these two issues were moved forward at the earliest. Shri Sushil Kumar Modi, Hon'ble Deputy Chief Minister of Bihar stated that in the last meeting of the Council, the preliminary issues regarding the Real Estate were discussed and there was a worry that Real Estate sector was facing almost a crisis situation. Since the Report of the Group of Minister (GoM) on Real Estate had been received and there was a general consensus on the same, there was no need to postpone a decision on this issue as it was very important for the overall Indian economy. He further stated that in order to give boost to the Real Estate sector, this issue should be discussed in this meeting through video conference and everyone could place his views through video conference. He added that the issue should be discussed and decided in this meeting.

4.6. Shri Rajesh Agarwal, Hon'ble Minister from Uttar Pradesh wished the Hon'ble Chairperson good health and then stated that the issues of Lottery and Real Estate were discussed in the last meeting of the Council and both should be finalized in this meeting after discussion through video conference. Shri Anurag Goel, Commissioner, State Tax (CST), Assam stated that his Hon'ble Minister had instructed to convey that both the issues, namely Lottery and Real Estate, should be discussed through video conference and decided today. Shri C.P. Singh, Hon'ble Minister from Jharkhand stated that the issue of Real Estate was very important for his State and suggested that this should be discussed and decided today, so that action could be initiated from today itself. As regards the agenda on Lottery, he stated that his State did not have Lottery.

4.7. Shri Suresh Bhardwaj, Hon'ble Minister from Himachal Pradesh stated that Real Estate was a badly affected sector in his State and suggested that discussion on the issues relating to Real Estate sector should be held today through video conference so that some decision could be taken. He added that there was no Lottery in his State. Dr. Ranjit Patil, Hon'ble Minister from Maharashtra supported the observations of the Hon'ble Deputy Chief Minister of Gujarat made earlier. He added that Real Estate and Lottery were very important issues and should be discussed and decided through video conference and that there was no reason for them to be decided only in a physical meeting. Shri Jarkar Gamlin, Hon'ble Minister from Arunachal Pradesh stated that the issue of Lottery and Real Estate should be decided today over video conference. Shri M.S. Srikar, CST, Karnataka stated the Hon'ble Minister from Karnataka had directed to convey the view of the State. He stated that the State of Karnataka was a member of GoM on Real Estate and the Hon'ble Minister of his State was not able to attend the meeting on 8th February, 2019 as the Budget was being laid in the assembly on that day. He informed that the Hon'ble Minister had requested the Convenor of the GoM to postpone the meeting scheduled on 8th February 2019.

4.8. Captain Abhimanyu, Hon'ble Minister from Haryana wished the Hon'ble Chairman good health and then stated that the majority view was that the two important issues of Real Estate and Lottery should be discussed and decided today. He added that the subject of Real Estate was very important for his State but he did not have any objection to taking up a discussion and decision on Lottery too. Shri Mauvin Godinho, Hon'ble Minister from Goa stated that both the issues of Real Estate and Lottery should be discussed and decided today itself. He further stated that after agricultural sector, the Real Estate sector was the largest source of employment and lately downward trend was being observed in this particular sector which was a cause of worry. He observed that he was surprised to see that some Members who had earlier wanted to urgently address the issues relating to Real Estate sector were today

opposing a decision on this very issue. He observed that so far, the Council had decided the issues with consensus keeping in view the overall interest of the economy of the country and exhorted that all the Members must rise above the considerations of individual States and should think of the nation and take a decision on this issue today.

4.9. Shri Shanti Kumar Dhariwal, Hon'ble Minister from Rajasthan stated that the GoM on Real Estate could not discuss the issues in detail and all members of the GoM were not present in its meeting. Hence, he did not agree with the findings of the GoM on Real Estate. He added that a meeting through video conference should only be for issues of urgent nature and this was not such an urgent issue. He further stated that States were not able to properly place their views through video conference and therefore suggested to defer this agenda item to be discussed during a physical meeting.

4.10. Shri Subodh Uniyal, Hon'ble Minister from Uttarakhand stated that he supported the recommendations of the GoM on Real Estate. He further added that his State did not have Lottery. Shri Wochamo Odyuo, Additional Commissioner, State Tax, Nagaland stated that they wanted the Agenda on Lottery to be discussed and decided today. Shri Somesh Kumar, Principal Secretary (Finance), Telangana stated that his State had a robust Real Estate sector and they wanted an early decision for this sector and it should be decided today. As regards lottery, he stated that his State did not have any lottery. Shri K.K. Sharma, Advisor to Governor (in-charge Finance), Jammu & Kashmir stated that the issue of Real Estate should be discussed on video conference as this matter was pending for the country as a whole for quite some time. He added that the GoM's recommendations were available and the pros and cons of the same could be discussed and then a final decision could be taken.

4.11. Shri V. Narayanasamy, Hon'ble Chief Minister of Puducherry stated that he had sent a letter yesterday to the Hon'ble Chairperson highlighting that the issues of Lottery and Real Estate had wide ranging ramifications and, therefore, these should be discussed in the Council meeting in the normal course and not through video conferencing. He added that the issues of lottery and real estate had been deliberated in the previous two to three Meetings of the Council and there had been lot of differences of opinion. He added that the issue of lottery was discussed during the last meeting of the Council in which he gave his views. He observed that both were larger issues and they needed to be discussed threadbare and it was not possible to do so through video conferencing. He added that these issues had far reaching implications. He further stated that any decision on the Real Estate sector not only affected revenue but there was also the issue of curbing the malpractices prevalent in the sector. For Lottery, there were different issues, namely online lottery, lottery run by States and lottery authorized by States and there were lots of ifs and buts on this issue. All these should be discussed in a physical meeting which could be convened even at a very short notice. He observed that till now, all issues had been decided in the Council by consensus and urged that on this issue too, the Hon'ble Chairperson should take a decision by consensus. He suggested that the Council meeting could be held in the next week itself.

4.12. Shri Manpreet Singh Badal, Hon'ble Minister from Punjab expressed his happiness to see the Hon'ble Chairperson back in office and wished him good health. He stated that there was a division on the issues of Real Estate and Lottery and suggested to convene a physical meeting in Delhi even at a short notice of 3 to 4 days. He suggested that he would be happy to discuss these issues in a physical meeting. He observed that the intention behind these Agenda items was noble but certain rough edges needed to be addressed.

4.13. The Hon'ble Chairperson thanked all the Members for their good wishes. He then stated that there were 4 to 5 formal Agenda items which could first be taken up and then the issue of real estate could be discussed. During the discussion, it could be ascertained as to what was the extent of the difference of opinion and the extent to which it needed to be reconciled. He added that there was an urgency to decide the issue of Real Estate as this related to every State and lakhs of flats were lying unsold due to taxation issues. He stated that faster these issues were resolved, the better it would be for the States too. He suggested that the formal Agenda items could be done first and then the extent of divide or consensus on this issue could be ascertained.

4.14. The Hon'ble Chief Minister of Puducherry stated that the issue of apportionment of IGST to Puducherry and Delhi for the last financial year (2017-2018) had still not been resolved. In the last meeting, the Hon'ble Chairperson had requested the Revenue Secretary to deal with this matter. The Revenue Secretary had met the Finance Secretaries of Delhi and Puducherry but no consensus could be reached. He stated that Rs.219 crore was legally due to them and they were not able to draw this money at a time when there was paucity of funds in their State. He stated that a technical issue should not come in the way of giving them their due. The Revenue Secretary had advised to wait for the report of the C&AG but it was not known when the report would come. He added that the Government of India transferred the IGST amount to the Consolidated Fund of India without consulting them and they should not be penalized for it. He further requested the Hon'ble Chairperson to intervene in the matter and find an amicable solution.

4.15. The Hon'ble Deputy Chief Minister of Delhi supported the views expressed by the Hon'ble Chief Minister of Puducherry. He added that this issue needed to be sorted out expeditiously whereas the report of C&AG may take time. Dr. Ajay Bhushan Pandey, the Revenue Secretary and the Secretary to the Council (hereinafter referred to as the Secretary) stated that in his meeting with the Finance Secretaries of Delhi and Puducherry, he had explained that as on 31st March 2018, Rs.1,67,000 crore of IGST was lying in the Consolidated Fund of India and as the accounting principles were not finalized, the Government of India took the opinion of the Union Ministry of Law which opined that this money was part of the Consolidated Fund of India as on 31st March 2018 and therefore it had to be devolved. Hence, this sum was devolved as per the ratio determined by the Finance Commission. He stated that subsequently, the Council decided that the unsettled amount of IGST be apportioned in the ratio of 50:50 between the Centre and the States. He added that this position as well as the circumstances of devolution was explained to the Secretaries. He added that C&AG was also looking into this issue and based on their recommendation, the Council would need to take a view. He further added that the report of C&AG needed to be examined and the accounting rules needed to be finalised before the issue could be brought before the Council to take a view. He further added that for giving money to Delhi and Puducherry, all settled accounts would need to be re-worked, and in this view, there was a need to examine the report of C&AG to work out the mechanism to deal with the issue.

4.16. The Hon'ble Deputy Chief Minister of Delhi stated that it was not a correct proposition to say that only if C&AG stated that the method of devolution was wrong, then the Government of India would act. This issue should not be dependent on the C&AG report as in principle, both Delhi and Puducherry should have got the fund and the money due to the States should have been distributed to them. The Hon'ble Chief Minister of Puducherry stated that the money lying in the Consolidated Fund of India during that time should have been distributed between the Centre and the States. He added that they were yet to get the settlement amount for the month of December, 2018 and January, 2019. He further stated that for a procedural mistake of the Union Finance Ministry, C&AG could not say much for the

money which was due to them. The mistake occurred due to transfer of the IGST amount to the Consolidated Fund of India.

4.17. The Hon'ble Chairperson stated that he would meet the Hon'ble Chief Minister of Puducherry and the Hon'ble Deputy Chief Minister of Delhi along with their officers and, if possible, the C&AG, on any convenient date, in order to explore how to address this issue. He stated that C&AG had made detailed comments on the procedure that was followed which needed to be taken into account. He added that the Central Government wanted to give the money due to the States and that he was willing to intervene on this issue.

4.18. Principal Secretary (Finance), Telangana stated that they had written to give provisional settlement of IGST up to March, 2019 towards the end of the Month so that the money came to States during the month of March itself. He added that if the money was disbursed in a later month, then it would also affect the growth rate of the States. The Hon'ble Chairperson stated that he was aware of the importance of the month of March and that the fiscal deficit of States should also be within acceptable norm. With these remarks, he invited the Secretary to take up the formal Agenda items.

Agenda Item 1: Confirmation of the Minutes of 32nd GST Council Meeting held on 10th January 2019

5. The Secretary introduced this Agenda item and stated that the Minutes of the 32nd GST Council Meeting (hereinafter referred to as 'the Minutes') were circulated in advance and no comments had been received till now. He stated that if there were any suggestions, it could be given now; otherwise the Minutes could be adopted. The Hon'ble Chairperson stated that States could also send comments by tomorrow evening if they wanted to make some corrections in the recorded version of their Ministers.

5.1. The Hon'ble Minister from Uttar Pradesh stated that during the last meeting of the Council, he had requested the Hon'ble Chairperson to consider reduction in rate of tax on *Dry Singhara* and handmade Soap. He stated that neither the rate of tax had been reduced nor his version was recorded in the Minutes. The Hon'ble Chairperson stated that this could be suitably incorporated in the Minutes and the State could send the suggested correction in writing to the GST Council Secretariat. The Council agreed to this suggestion. Subsequently, the Commissioner, State Tax, Uttar Pradesh, provided the following version of the Hon'ble Minister from Uttar Pradesh for incorporation in the Minutes as a new paragraph 36.2 of the Minutes: 'The Hon'ble Minister from Uttar Pradesh stated that *Dry Singhara* was used by *Sadhu-Sant*, *Kalpvasis* and general public during Kumbh and other religious ceremonies during fast. Hence the State of Uttar Pradesh had requested time and again to exempt *Dry Singhara* from GST. He further stated that the present tax rate of 18% on handmade soap was quite high. He added that handmade soap was manufactured by small scale industries and by labour in the unorganized sector and that it was used by poor people in rural areas. Hence handmade soap should also be exempted from GST. The Hon'ble Chairperson observed that these requests should be examined by the Fitment Committee.'

6. For **Agenda item 1**, the Council decided to adopt the Minutes of the 32nd Meeting of the GST Council with the following change:

6.1. To insert a new paragraph 36.2. in the Minutes and to incorporate the following therein: 'The Hon'ble Minister from Uttar Pradesh stated that *Dry Singhara* was used by *Sadhu-Sant*, *Kalpvasis* and general public during Kumbh and other religious ceremonies during fast. Hence the State of Uttar

Pradesh had requested time and again to exempt *Dry Singhara* from GST. He further stated that the present tax rate of 18% on handmade soap was quite high. He added that handmade soap was manufactured by small scale industries and by labour in the unorganized sector and that it was used by poor people in rural areas. Hence handmade soap should also be exempted from GST. The Hon'ble Chairperson observed that these requests should be examined by the Fitment Committee.'

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

7. The Secretary stated that Notifications, Circulars and Orders issued after 10th January, 2019 (i.e. the date of 32nd Council Meeting) and till 13th February, 2019 were required to be ratified by the Council. He further stated that during the 24th Meeting of GIC held on 12th February, 2019, certain decisions were taken for which the relevant circulars had not been issued at the time of circulation of the Agenda notes. Subsequently, three Circulars had been issued, namely, Circular No.89/08/2019-GST dated 18th February, 2019 (relating to clarification regarding mis-match of data reported in Table 3.2 of FORM GSTR-3B and in Table 7B of FORM GSTR-1); Circular No.90/09/2019-GST dated 18th February, 2019 (relating to clarification regarding compliance of Rule 46(n) of the CGST Rules, 2017 while issuing invoices in case of inter-State supplies); and Circular No.91/10/2019-GST dated 18th February, 2019 (relating to clarification regarding tax payment made for supply of warehoused goods while being deposited in a Customs bonded warehouse for the period July, 2017 to March, 2018). He stated that all these details were available in the presentation on this Agenda item which was circulated to the States in advance of the Council meeting (attached as **Annexure 5** of the Minutes) and no comments were received from the States. He proposed that the Council may ratify the Notifications, Circulars and Orders. The Council agreed to the same.

8. For **Agenda item 2**, the Council approved the deemed ratification of the following Notifications, Circulars and Orders issued by the Central Government after 10th January 2019 (the date of 32nd Council Meeting) and till date which are available on the website, www.cbic.gov.in.

Act/Rules	Type	Notification/Circular/Order Nos.
CGST Act/CGST Rules	Central Tax	1 to 8 of 2019
	Central Tax (Rate)	1 of 2019
IGST Act	Integrated Tax	1 to 3 of 2019
	Integrated Tax (Rate)	1 to 2 of 2019
UTGST Act	Union territory tax	1 of 2019
	Union territory tax (Rate)	1 of 2019
Circulars	Under the CGST Act	88 to 91 of 2019
	Under the IGST Act	4 of 2019
ROD Orders	Under the CGST Act	1 to 2 of 2019
	Under the UTGST Act	1 of 2019
Orders	Under the CGST Act	1 of 2019

8.1. The Notifications, Circulars and Orders issued by the States which are *pari materia* with above Notifications, Circulars and Orders were also deemed to have been ratified.

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

9. Introducing this Agenda item, the Secretary stated that the decisions of the GIC post the 32nd Meeting of the Council were circulated to all States and was part of this Agenda item. He further stated that the presentation on the decisions of GIC was also circulated to the States (attached as **Annexure 5** to the Minutes) in advance of the Council Meeting, and no comments had been received from any States. He stated that the decisions of the GIC were placed before the Council for information.

10. For **Agenda item 3**, the Council took note of the decisions taken by the GIC between 10th January 2019 (date of 32nd GST Council meeting) and 12th February 2019.

Agenda Item 4: Decisions/recommendations of the 4th Meeting of the IT Grievance Redressal Committee for information of the Council

11. Introducing this Agenda item, the Secretary stated that presentation relating to the decisions / recommendations of the 4th Meeting of the IT Grievance Redressal Committee (ITGRC) was circulated to the States (attached as **Annexure 5** to the Minutes). He suggested that the Council may take note of the decisions.

11.1. The Hon'ble Minister from Rajasthan stated that on 29th January 2019, they had forwarded to the Council Secretariat, 9 cases containing directions of the Hon'ble High Court of Rajasthan for inclusion in the Agenda of the ITGRC and suggested that the same should be taken up in the next meeting of the ITGRC. The Hon'ble Minister from Himachal Pradesh stated that there was one decision of the Hon'ble High Court of Himachal Pradesh which also needed to be included in the next meeting of the ITGRC. The Secretary stated that the GST Council Secretariat had requested all States to give details of the court cases where the Hon'ble High Courts had given directions to consider the cases and the inputs received from the States would be placed before the next ITGRC which would be held at the earliest possible. He suggested that the Council could take note of the decisions/recommendations of the ITGRC. The Council agreed to the same.

12. For **Agenda item 4**, the Council took note of the decisions/recommendations of the 4th Meeting of the IT Grievance Redressal Committee.

Agenda Item 5: Recommendations of the GoM for boosting Real Estate Sector under GST regime

13. The Hon'ble Chairperson invited discussion on the agenda and stated that any decision on this agenda would be taken by consensus keeping in mind the tradition of the GST Council. He further stated that so far voting had been avoided and he intended to avoid it now too. The Hon'ble Minister from West Bengal expressed his reservation to even initiating the discussion on the agenda and stated that a substantive number of States had opposed to take up this agenda on video conference in the beginning of the meeting itself and if discussion on the agenda started then it would mean taking a decision without having consensus. The Hon'ble Chairperson stated that this issue had been discussed in last 2-3 meetings and he meant to start the discussion so that members could express their views but it would not mean that decision would be taken without consensus. He advised that the discussion on this issue should not be vetoed.

13.1. The Hon'ble Deputy Chief Minister of Gujarat stated that as the GoM had submitted its recommendation before the Council, it should not be kept pending without discussion. Thus, discussion on it should be conducted so that the difficulty faced by this sector could be brought out before the Council. The Hon'ble Deputy Chief Minister of Bihar, supported the view and expressed his agreement with all the recommendations of the GoM and added that the tax rate of 3% proposed by the GoM on affordable houses may be reduced to 1%. He further drew the attention of the Council to mixed use projects i.e. projects having both residential and commercial property. He stated that the residential complexes also had some commercial activities like *Kirana* shop, vegetable shop, Parlor etc. within the same complex which catered to the needs of residents and hence 10% commercial property should be allowed in a residential complex and such mixed properties should be given the same treatment as proposed for the residential property. He also stated that Bihar supported the GoM proposal of exemption from tax to development rights like TDR etc.

13.2. The Hon'ble Minister from Punjab stated that this was a typical proposal with noble intentions but it had many rough edges. He stated that as Member of GoM, he had raised a number of issues and asked the Fitment Committee to address those issues before bringing a proposal in the Council. However, it seemed that most of the issues had not been addressed so as to bring complete clarity on the proposal. He therefore proposed that the Hon'ble Chairperson should convene a physical meeting to discuss this issue and such a physical meeting could be convened by giving 3-4 days' notice. Taking the discussion forward on the agenda, he stated that the most disturbing feature of the proposal was regarding power to tax land which was a dent in the power of the States in view of Entry No. 49 of List II in Schedule 7 of the Constitution. Though it was stated in the agenda that the power to tax land was outside the GST, but it was only partially correct since in the Agenda, only 30% of the gross value of residential apartment had been excluded towards land value. The land cost comprised a higher component *vis-à-vis* the value of residential property and in some cases, it went upto 80% and even 90% of the value of the property. The concept of abatement of 30% meant that land was being exempted to the extent of 30% of the gross value only and hence some part of land was being taxed even when it was outside the purview of GST. Further, it was not clear what would happen in a case where builder separated supplies - one of the land and another of construction. He further raised the issue that the long-term leasing beyond 30 years should also be treated as sale of land since it was subjected to Stamp Duty by the States. Hence, on such long-term lease, no Service Tax was paid in pre-GST period, as immovable property was outside the purview of Service Tax levy though some States had received notice for payment of tax on such long-term leases. He further stated that such long-term leases in some cases were further sub-leased to private enterprises and the stamp duty was also paid and these enterprises partnered with States in the economic development. He referred to the General Clauses Act and stated that the definition of land includes both land and benefits arising out of land. Thus, such transactions should be kept outside GST.

13.3. The Hon'ble Minister from Punjab raised another issue that levy of tax @18% on premium for long term lease for completed property would create an absurd situation where the GST on premium would be higher than the proposed tax of 5% on the property sold after completion. Thus, the sector would be having double taxation i.e. under the State law as well as GST law and hence long-term lease and TDR be kept out of the GST for all purposes, leaving it to States until Real Estate sector was brought under GST. He further stated that the proposed operational part did not suggest any mechanism of reversal of ITC (Input Tax Credit) in respect of completed property; valuation of unsold property; valuation of apartment after issue of completion certificate, as with the passage of time the apartment may fetch higher value. Further, introducing composition without ITC would result in huge evasion by

booking credit against projects that were taxable. He stated that in view of the aforesaid observations, and also the fact that many issues remained to be clarified in the proposal such as 80% sourcing from registered taxpayers, whether it would be done project-wise or registration-wise; how would this 80% be apportioned between commercial and residential property etc. He added that rate of tax on this sector should be discussed after having clarity on the issues he had raised. He observed that decision on these issues should not be left to Officers' Committee as this would tantamount to excessive delegation.

13.4. The Hon'ble Chief Minister of Puducherry supported the views expressed by the Hon'ble Minister from Punjab and stated that first the issues raised by Punjab, should be discussed threadbare and then decision be taken in the next meeting. He further added that a decision on this issue was attempted in the last 2-3 meetings of the Council and then finally referred to the GoM. He suggested to call a physical meeting of the Council next week to discuss this issue and then decide by consensus. The Hon'ble Minister from Rajasthan also supported the observations made by the Hon'ble Minister from Punjab and requested clarification from GoM on each point.

13.5. The Secretary informed that the issues raised by the Hon'ble Minister from Punjab had been discussed in the GoM and requested CCST, Gujarat to elaborate on the same. Dr. P.D. Vaghela, CCST, Gujarat stated that with respect to premium on long term lease, the GoM had recommended that GST should be charged only on such TDR which was attributable to residential properties sold after completion. Further, mechanism of reversal of ITC under different scenario would be discussed by the Law Committee and the Fitment Committee while the proposal from the State of Bihar to consider 10% of the commercial property to be covered as part of residential property would have compliance issue.

13.6. The Hon'ble Minister from Punjab queried that if these issues were yet to be decided, then Council could not take a decision today and a call could be taken later. The Hon'ble Deputy Chief Minister of Delhi drew attention towards the article written by Dr. Arvind Subramanian, former Chief Economic Advisor which stated that entire Real Estate Sector should be brought under GST. He stated that he still supported the proposal to bring the entire Real Estate segment under GST whereas now only some part of it was coming under GST. He cautioned that this was becoming like VAT. He further stated that under-construction projects, if brought under GST with levy of tax without ITC, it would lead to generation of black money. In fact, the Real Estate Sector wanted to be out of GST. He suggested to take a strong decision and bring the entire Real Estate sector under GST. The Hon'ble Minister from Rajasthan stated that when recommendation had not been examined by the Fitment Committee and the Law Committee, it was not correct to discuss such a proposal. Shri Priyavrat Singh, Hon'ble Minister from Madhya Pradesh also proposed a physical Council meeting for comprehensive discussions as the present proposal did not address the Real Estate Sector issue peculiar to rural and semi urban area, issues of mixed projects having larger commercial area or smaller area. Further, he stated that if tax was to be lowered to 5% on larger buildings, then how poorer people were benefitting.

13.7. Shri D. Jayakumar, Hon'ble Minister from Tamil Nadu supported the recommendation of the GoM to levy the tax @ 3% or less without ITC for affordable housing property and @ 5% on non-affordable residential property. He also stressed on the need to reduce tax on safety matches and on job work for engineering goods. Shri T. S. Singh Deo, Hon'ble Minister from Chhattisgarh, stated that he disapproved a meeting on this important subject through video conferencing and he would also like to register his disagreement with the proposal. He stated that tax @ 3% without ITC on 'Affordable Housing' would mean that houses under Pradhan Mantri Awas Yojana, MIG and LIG were being covered under this proposal and the tax burden of 3% would be passed on to the customer. He gave example from a case study in his State of a builder having total tax liability of Rs. 84,75,00,026/-. After

deduction of ITC, the liability to pay tax in cash was Rs. 10,896/- i.e. 99.87 % was adjusted from ITC. As per proposed agenda, the tax of 5% without ITC on the non-affordable houses would be payable and the cash tax liability would increase to Rs. 35,31,261/- which would be borne by the consumer. As a result, the liability of tax on the consumer would increase from Rs. 10,896/- to Rs. 35,31,261/- which would be entirely borne by the customer. In addition, he also objected to the inclusion of the land and observed that the proposed abatement of 1/3rd of total value towards land was inappropriate as land value was based on many factors like area/ places etc.

13.8. Summing up, the Hon'ble Chairperson stated that the Hon'ble Minister from West Bengal and some others had raised *ab-initio* objection and were against discussing the proposal. Some Members like Hon'ble Ministers from Puducherry, Punjab and Chhattisgarh had suggested to call a physical meeting at short notice. On the other hand, some Members had suggested to take a decision in this meeting as many flats were lying unsold. Keeping in mind all these viewpoints, he suggested that the Council meeting could be adjourned and reconvened as a physical meeting on the coming Monday (25th February 2019). The Hon'ble Deputy. Chief Minister of Delhi stated that they had assembly budget session scheduled for Monday (25th February 2019) and Tuesday (26th February 2019). The Hon'ble Minister from Punjab proposed to continue the meeting on Sunday (24th February 2019). The Hon'ble Minister from West Bengal stated the meeting could be convened on Wednesday (27th February 2019) which would give time to examine the proposal in detail by getting more data like the one highlighted by the Hon'ble Minister from Chhattisgarh. The Hon'ble Chairperson observed that data of individual builders may not be authentic as the component of cash and ITC may not be reliable; instead it was considered appropriate to analyze data obtained from NBCC which was a Government of India undertaking and they would have no cash dealing in their transactions and similarly, the States could consider obtaining data from State PWD and that data from NBCC and PWD would be realistic to evaluate cash component for payment of tax as proposed.

13.9. The Hon'ble Minister from West Bengal drew attention to the data of tax rate and the tax paid in cash on page no 173 of the agenda note where it was reflected that effective tax rate on the sector was 8.8% whereas the tax paid in cash was only 1.7 %. He stated that this limited data was also required to be examined in detail and proposed to have the meeting not before Wednesday. The Hon'ble Minister from Punjab applauded the decision of Hon'ble Chairperson to hold the meeting at a short notice and suggested to have the meeting on Sunday or Wednesday. He stated that the Fitment Committee or any other committee may come with a supplementary agenda on the issues which were raised during this meeting. The Secretary suggested that the Fitment Committee could meet on Saturday and all States could send their suggestions in writing to the Council for discussion in the Fitment Committee. The Hon'ble Minister from Maharashtra stated that they also had assembly session on Monday and therefore proposed to continue the meeting on Sunday. The Hon'ble Chairperson while acknowledging the requests from States, stated that this was a time of assembly sessions and elections and most of the Ministers were busy. Thus, it would be appropriate to hold the Council meeting on Sunday i.e. 24.02.2019 while the Fitment Committee should meet on Saturday i.e. 23.02.2019.

14. For **Agenda item 5**, the Council decided to defer the discussion and to take up the matter in a reconvened physical meeting of the Council to be held on 24th February 2019.

Agenda Item 6: Draft notifications and Removal of Difficulty order giving effect to the decisions of 32nd GST Council Meeting regarding MSME (including small traders)

15. The Secretary stated that the Draft notifications and Removal of Difficulty order arising out of the decisions of the 32nd Meeting of the Council relating to increasing the annual turnover threshold for registration and providing a Composition Scheme for services was prepared and placed before the Council for approval. He invited Shri Upender Gupta, Principal Commissioner (GST Policy Wing), CBIC to brief the Council on this Agenda item. The Principal Commissioner (GST Policy Wing), CBIC stated that the decisions of the Council for increasing the annual turnover threshold for registration and for providing a Composition Scheme for services required amendment to the GST Law. However, as the Council had taken a decision to implement these two decisions from 1st April 2019, it could only be done through a rate notification. He informed that the draft notifications were placed before a joint meeting of the Law Committee and the Fitment Committee on 15th February 2019 which had approved the same. He stated that after the approval of the Council, this would be vetted by the Union Law Ministry before issue.

15.1. The Principal Commissioner (GST Policy Wing), CBIC further stated that like other composition taxpayers, the composition taxpayers under the new scheme would also be eligible to avail the facility of filing annual return with quarterly payment which the Council had approved in its last Meeting for Composition taxpayers supplying only goods. He stated that for this, a suitable provision in Law would need to be made. In addition, there would be a need to incorporate a provision of reversal of input tax credit for those service providers who opted for the new composition scheme. He stated that these two issues would need to be discussed by the Law Committee and then brought before the GIC for approval. He requested the Council to permit GIC to approve the recommendations of the Law Committee on these two issues. The Council agreed to the same.

15.2. Shri Saswat Mishra, CST, Odisha stated that in the draft exemption notification for enhancing registration threshold to annual turnover of Rs.40 lakh, it appeared that it was a compulsory provision in law and that taxpayers could not opt for registration and pay tax if their annual turnover was less than Rs.40 lakh. He, therefore, suggested to add another clause providing that this provision would not apply to persons seeking registration under Section 25(3) of the CGST / SGST Act. The Secretary stated that the intention was always to give an option to taxpayers with annual turnover below Rs.40 lakh to take GST registration. If there was some problem with the language in conveying this position, then this would be addressed.

15.3. CST, Odisha further stated that in the Removal of Difficulty Order also, there was a confusion in the language and he would give a suggestion in writing to the Principal Commissioner (GST Policy Wing), CBIC. The Secretary suggested that the Council could approve the two notifications and the Removal of Difficulty Order placed before the Council along with suitable modification as may be proposed by the CST, Odisha, and this could be issued after due vetting by the Union Law Ministry. The Council agreed to the proposal.

16. For **Agenda item 6**, the Council approved the draft Notification relating to: (i) introduction of a composition scheme for supply of Goods and Services or both (for those taxpayers who are not eligible for the present composition scheme) up to an aggregate turnover of Rs. 50 lakh; (ii) to increase the annual turnover threshold for registration to Rs.40 lakh for the States as mentioned in the notification; and (iii) Removal of Difficulty Order relating to Composition scheme with the amendments as suggested by CST, Odisha and after vetting by the Union Law Ministry. The Council further approved

that for the new Composition scheme for services/goods suppliers, a suitable provision for filing annual return with quarterly payment and reversal of input tax credit for those opting for the new Composition scheme will be formulated by the Law Committee and would be approved by the GST Implementation Committee (GIC).

Agenda Item 7: Any other agenda item with the permission of the Chairperson

Agenda Item 7(i): Interim Report of GoM on Lottery

17. Discussion on this Agenda item was deferred and to be taken up in the physical meeting of the Council to be held on 24th February 2019.

Agenda Item 7(ii): Proposal to extend the date for filing the FORM GSTR-3B

18. The Hon'ble Advisor to Governor (I/c Finance), Jammu & Kashmir stated that FORM GSTR-3B return for the month of January 2019 was due on 20th February, 2019. However, due to the prevailing law and order situation in Jammu & Kashmir, internet services, especially on the mobile phones, had remained suspended which had caused difficulty to the taxpayers in filing their return for January, 2019. He requested that the date for filing FORM GSTR-3B Return for January, 2019 for taxpayers located in Jammu & Kashmir should be extended till 28th February 2019. The Hon'ble Chairperson suggested that the request of the State of Jammu & Kashmir could be agreed to. The Council agreed to the same.

18.1. The Hon'ble Deputy Chief Minister of Bihar stated that he had received information from many States that since the evening of 19th February 2019, difficulty was being faced in filing FORM GSTR-3B Return for January, 2019 due to technical glitches. He suggested to extend the date of filing FORM GSTR-3B Return for January, 2019 for the entire country by 1 or 2 days if the glitch was not resolved in the next one hour or so. The Secretary informed that approximately only 25,000 returns had been filed during the last one hour and he requested CEO, GSTN to further elaborate on this issue. Shri Prakash Kumar, CEO, GSTN stated that from 11.30 AM today, there had been issues relating to 'Captcha' which had slowed the process of return filing which normally at this time, should be about one lakh in an hour. He stated that his team was working to resolve the glitch. However, he recommended that the date of filing FORM GSTR-3B Return for January 2019 could be extended by 2 days for the entire country. The Hon'ble Chairperson suggested that the date for filing FORM GSTR-3B Return for the month of January, 2019 for rest of the country (excluding Jammu & Kashmir) could be extended by 2 days, i.e. to 22nd February 2019. The Council agreed to the suggestion.

18.2. For **Agenda item 7(ii),** the Council agreed to extend the date for filing FORM GSTR-3B for the month of January 2019 for the State of Jammu & Kashmir till 28th February 2019 and for the rest of the country till 22nd February 2019.

Other Issues

19. The Hon'ble Minister from Tamil Nadu stated that he would send his written speech to the GST Council Secretariat and requested that it should be taken note of in the Minutes. In the written speech, the Hon'ble Minister from Tamil Nadu drew attention to a recent letter addressed by the Hon'ble Chief Minister of Tamil Nadu to the Hon'ble Prime Minister and to the Hon'ble Union Finance Minister on the need for early settlement of the accumulated IGST due to the State. It was a cause of concern for them that if the accumulated IGST for 2017-18 had been devolved correctly, the Government of Tamil Nadu would have received Rs.6,582 crore as SGST and Rs.1,492 crore as devolved CGST. After adjusting for GST compensation of Rs.632 crore already released and estimated devolution for the

amount incorrectly devolved under Article 270 amounting to Rs.2,983 crore, the net loss to Tamil Nadu still comes to Rs.4,459 crore. Tamil Nadu was a major loser for the Constitutionally incorrect and improper dispensation adopted by the Union Ministry of Finance.

19.1. The speech also referred to the long pending request of the State of Tamil Nadu for exemption and reduction in the rates of 77 goods and 10 services including Wet Grinders, Matches, Aluminium utensils including its raw materials and job work relating to engineering works pertaining to MSME sector which provides avenues for self-employment and livelihood to crores of people.

Agenda Item 8: Date of the next meeting of the GST Council

20. The Hon'ble Chairperson stated that keeping in view the sentiments expressed by the Members of the Council, the 33rd Meeting of the GST Council was adjourned and it shall meet again in person on 24th February 2019 in Delhi to continue discussions on the issues relating to Real Estate and Lottery.

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

Minutes of the Meeting of 24th February, 2019

22. The thirty third Meeting of the Council reconvened on 24th February 2019 at Vigyan Bhawan, New Delhi under the Chairpersonship of the Hon'ble Union Finance Minister Shri Arun Jaitley (hereinafter referred as the Chairperson).

23. The following agenda items were discussed during the reconvened 33rd Meeting of the Council:

(a) **Agenda item 5:** Recommendations of the GoM for boosting Real Estate Sector under GST regime
(b) **Agenda item 7:** Any other agenda item with the permission of the Chairperson
(i) Interim report of GoM on Lottery

24. The Hon'ble Chairperson stated that the 33rd Meeting of the Council was adjourned on 20th February 2019 to meet physically on 24th February 2019 and he welcomed everyone to the reconvened 33rd Meeting of the Council. At the outset, he informed that due to the ongoing Budget sessions in different State Assemblies, alternative Ministers had been nominated by four States and he formally welcomed them and stated that the Council would be enriched by their experience. These Hon'ble Ministers are: Dr. Banwari Lal from Haryana, Shri Mahender Singh Thakur from Himachal Pradesh, Shri Thokchom Radheshyam Singh from Manipur and Ms. Santana Chakma from Tripura. Commencing the discussion, he stated that during the meeting of Council by video conference on 20th February 2019, the recommendations of the Group of Ministers (GoM) on Real Estate Sector was discussed. Subsequently the Fitment Committee further discussed the issues on 23rd February 2019. He then invited Dr. Ajay Bhushan Pandey, Revenue Secretary and Secretary to the Council (hereinafter referred to as the Secretary) to take up the discussion on the agenda items.

Agenda Item 5: Recommendations of the GoM for boosting Real Estate Sector under GST regime

25. The Secretary invited Shri Manish Kumar Sinha, Joint Secretary, TRU-II, to apprise the Council regarding the deliberations and recommendations of the Fitment Committee.

25.1. JS TRU-II stated that he had prepared a presentation (attached as **Annexure 6** to the Minutes) on the important issues that were discussed in the Fitment Committee which met till 9:00 PM on 22.02.2019 and the recommendations of the Fitment Committee related to taxation of residential housing segment in the Real Estate Sector, transition issues, definition of 'Affordable Housing' and how to maintain the credit chain integrity. The presentation had been arranged according to each of the recommendations of the GoM on the issue and the corresponding feedback of the Fitment Committee on it. He added that the Fitment Committee, during the process, had stayed within the recommendations of the GoM and tried to provide only the missing details in the proposal as was pointed out during the Council meeting held on 20.02.2019. The Fitment Committee recommendations on various issues were as under: -

(a) As regards GoM recommendations regarding an effective rate of tax of 5% without ITC for non-affordable residential property and an effective rate of tax @ 3% or less without ITC for 'Affordable Housing' properties, the Fitment Committee had to suggest the definition of the term 'Affordable Housing' and thereafter appropriate tax rate for Affordable and non-affordable housing. The Fitment Committee considered the various data such as percentage distribution of house units sold in metropolitan and other cities of different values and of

different standard sizes as per CREDAI data; existing tax pay out in cash in the real estate sector in different categories of housing and the sectoral revenue data pertaining to 7 major zones where the Real Estate Sector was concentrated so as to come out with recommendations in relation to the issue under reference. After detailed discussions, the Committee discussed that:

i. As regards the definition of 'Affordable Housing', it already existed in the Notification relating to GST rates giving references such as of low-cost house up to 60 sqm in the erstwhile scheme of JNNURM, single residential units and houses under construction under PMAY, etc. Among these, a credit linked subsidy scheme of RBI was also there which covered houses for economically weaker sections, low income group houses, MIG-I and MIG-II houses having covered area up to 30 sqm, 60 sqm, 160 sqm and 200 sqm respectively. All these four categories, *inter-alia*, were presently covered under the category of affordable houses as part of GST Rate Notifications.

ii. Thus, the definition of 'Affordable Housing', should, *interalia*, include the existing schemes of State and Central Governments covered under GST Notification No.11 of 2017-Central Tax (Rate) dated 28.06.2017 and an additional criteria of RBI priority Sector lending guidelines having financial limit of Rs.30 lakh in non-metro and Rs.45 lakhs in metro cities.

iii. The Fitment Committee had also suggested that metropolitan cities should include Bengaluru, Chennai, Delhi NCR (limited to Delhi, Noida, Greater Noida, Ghaziabad, Gurgaon and Faridabad only), Hyderabad, Mumbai (the entire Mumbai metropolitan region) and Kolkata.

iv. As regards Affordable residential houses under construction, tax rate of 3% without ITC appeared to be high. Thus, an effective rate of 1% without ITC was recommended to be considered by the Council.

(b) As regards mixed properties, the Fitment Committee had recommended that commercial development could be allowed up to 15% (on carpet area basis) as part of the residential property and it should attract GST @ 5% in case of both 'Affordable Housing' and non-affordable housing complex.

(c) Further, a mixed property which was not eligible for the new tax rate (i.e. cases where percentage of commercial property exceeded 15%), it should be taxed at the merit rate as prevailing now along with ITC facility; whereas the residential property should be taxed at new rate without ITC.

(d) Fitment Committee had suggested some safeguards relating to input supplies of builders going out of the value chain. It should be made mandatory for the residential property developer to buy 80% inputs and input services excluding cement and capital goods from registered tax payer and tax rate on resulting shortfall might be fixed at flat rate of 18% on Reverse Charge Mechanism (RCM) basis. Cement, in case procured from unregistered person, should be charged at the rate of 28% on RCM basis, even if it was within the limit of 20%, subject to other actions under the Act. Capital Goods to be procured only from registered person, and should not be used for computing the 80:20 ratio (neither in numerator nor in denominator).

(e) As regards concerns regarding the disruption of credit chain, the Fitment Committee had recommended that reporting of purchases and the method of apportionment may be made through the ITC Table of GSTR 3B to make it similar to ITC procedure of initial claim and thereafter reversal. Further, where supply had been shown to be received from a GST registered person who was found non-existent, it would be deemed that the purchase had been done from a non-registered person. RCM payment to be done on pro-rata basis, every month, with final adjustment at the end of the year. Fitment Committee was also of the view that

alternatively, the proposal might be simplified by shifting tax liability on entire unregistered purchases on the developers under RCM at the merit rate of each purchase.

(f) There would be certain details required to be worked out *vis-à-vis* transition from the old tax regime of ITC based taxation to the proposed scheme of taxation. Following principles would be adopted, while drafting the Notification: -

i. ITC would be available only to the extent (calculated on pro-rata basis) of the value of the supply made out of the total value of supply for the project till the appointed date.

ii. ITC taken less *vis-à-vis* the supply made would be quantified and could be used to adjust the future tax liability; whereas ITC taken in excess of supply made (calculated on pro-rata basis) would be recovered.

iii. The ITC with respect to work in progress and inputs lying in stock would lapse. The ITC balance lying in the ledger after paying the liability relating to supplies made prior to the date of transition would lapse.

iv. Credit pertaining to Capital Goods would be distributed between residential and commercial property on pro-rata basis by considering life cycle of capital goods as 60 months. ITC reversal on capital goods to the extent of the remaining part of life cycle after 01.04.2019 and utilized in projects to which above rate applies would be done.

(g) As regards TDR and FSI related issues, it would be exempted in respect of supplies relating to residential properties under construction by way of shifting the time of supply to the date of issue of completion certificate using powers under Section 148 so as to avoid interest liability prior to issuance of Completion Certificate. Liability to pay GST on Transfer of Development Rights (TDR), Long Term Lease Premium, Floor Space Index (FSI) with respect to residential property which was sold after issue of completion certificate would be taxable in the hands of the recipient under RCM and the value of supply and a formula with respect to computation of tax was suggested by the Fitment Committee as follows: -

GST payable on TDR, Long term lease (premium), FSI, etc. attributable to immovable property for which completion certificate (CC) has been received during the relevant return period X (Total area of residential property unsold on the date of issuance of CC ÷ Total area of the residential property in respect of which CC has been issued during the relevant return period).

(h) The apportionment of credit between residential and commercial project would be done on self-assessment basis by the developer subject to audit and intelligence-based enforcement. Guidelines to apportion the purchases between residential and commercial projects would be as under:

i. Purchases exclusively for commercial property might be apportioned to commercial projects.

ii. Purchases exclusively for residential property might be apportioned to residential projects.

iii. Purchases common to both commercial and residential construction might be apportioned in the ratio of the carpet area of residential and commercial projects under construction.

iv. 80:20 ratio would be verified for residential segment at the end of the year and at the end of the project.

v. Apportionment between immovable residential property sold "before Completion Certificate" and "after Completion Certificate" might not be required (ITC not available).

(i) The date of implementation of this scheme could be 1st April 2019.
(j) As regards whether the scheme should be optional or mandatory, the Fitment Committee felt that having multiple methods of taxation would create complication.
(k) The Fitment Committee also considered regarding any legal challenge for taxing TDR and concluded that there were none.
(l) On the question whether the Real Estate should be brought under GST, the Fitment Committee noted that it involved larger issue of taxation which would require change in the Act and also possibly the Constitution of India. The Hon'ble Chairperson stated that possibly a Committee could be constituted to consider the issue of taxation of Real Estate.

25.2. Starting the discussion on the subject, the Hon'ble Minister from Punjab stated that in the Council meeting held on 20.02.2019, he had stated that there were certain operational and procedural issues which had been missed out from the Agenda that was circulated for discussion and the proposal was sub-optimal. Further, he gave the example of British Gen. Montgomery of the Second World War period, that his success in the Second World War was due to his meticulousness for details. However, he had started overlooking small operational requirements in the subsequent years and hence subsequently failed. In GST also, the Council should watch out for such complacency. In the case of taxation of job work in textiles, which the Council considered in earlier meeting at length, a better design ultimately came out by considering it in detail. He appealed that his arguments be heard out and implemented if found acceptable. In his opinion, land was out of GST and if Government gave land to somebody on 99 years lease for developing an industrial park, a levy of 18% GST and 7% Stamp Duty would make the entire project unviable. The Hon'ble Chairperson stated that the Council would take note of this and find a solution to this issue.

25.3. The Hon'ble Minister from Punjab thereafter requested the Council to hear Shri V.K. Garg, Advisor (Financial Resources) to Chief Minister, Punjab. Advisor, Punjab thereafter raised two issues. The first issue was that the Council was considering rate reduction of under construction houses, since there was sluggishness reported in the Real Estate Sector. The buyers, due to higher tax rate on under construction house, were waiting for it to be completed and thereafter buying it after completion to save GST since sale and purchase of completed property was out of GST. He gave the example of the sale of property worth Rs.1 crore. which under the old tax rate of 12% would have been sold for Rs.1.12 crore. However, under the proposed tax rate of 5%, considering that the seller would lose the ITC of Rs.7 lakh which became his cost, the seller would fix the base price of the unit at Rs. 1.07 crore and the buyer would have to pay a tax of 5% on the base price of Rs.1.07 crore making the total price close to Rs.1.12 crore again. Hence, from the point of view of the buyer, the position would remain the same as earlier and hence even if the tax rate was reduced, it would still be advantageous for him to wait for the project to be completed where he would have to pay no GST. In the restaurant sector also, similar things happened when the restaurants raised their base price after the tax on the sector was reduced to 5% without ITC. Hence, the proper solution to the problem lay in bringing both under-construction as well as completed property on the same footing. The issue related to policy decision, but States would not be impacted by it as they would get Stamp Duty.

25.4. The second issue, he explained, was that the proposed solution should be such that tax administration should be able to implement it in a transparent manner, instead of placing different tax liability for different people in different situations leaving scope for manipulation and evasion. In the proposal, tax was leviable not only in different manner but also there were provisions for apportionment of credit, reporting and reversal of credit making the whole scheme complex. He explained further that, in the proposed solution, complications had crept in inasmuch as there were three categories of

properties, viz. purely residential property, purely commercial property and the residential property having 15% commercial property. Further, within each category, there would be two sub categories, one under-construction properties and the second, properties being sold after completion certificate. Thus, every credit that accrued in the business would have to be apportioned in these sub-categories. Ordinarily, in an industrial scenario, input output cycle lasted for two to three months within which the output supply happened. However, it was not so in construction of residential complexes where the output supply might spread out from first year to the tenth year and hence the relationship between the apportionment of input output supply would be difficult to determine as the link between input and the output might have been lost. Thereafter, he gave the example of proposed taxation on TDR stating that as per proposal, TDRs were supposed to be taxable at the rate applicable to the respective Housing scheme to which they pertained. In such a scenario, if anyone bought leasing and development rights of 100 acres of land, developed it in three or more phases, say as commercial, affordable, high end residential and mixed properties, the situation might so arise that in the first year, he might get customers to sell only commercial properties and utilize full credit in the year. Further, next year, he might be getting customers to sell all residential properties but since minimal credit would have accrued during the year in view of the services and inputs having been procured in the previous year, he would be required to reverse the minimal ITC. Thus, the entire scheme opened scope for large scale evasion and hence such a scheme where the project was implemented in phases would be difficult to implement. He further submitted that in his opinion, such a scheme would be a nightmare to implement.

25.5. The Hon'ble Deputy Chief Minister of Bihar welcomed the Chairperson's move to call a physical meeting of GST Council in Vigyan Bhawan. He stated that his State favoured tax rate of 5% for non-Affordable category housing and 1% for Affordable Housing without the benefit of ITC. He stated that he had read the statement of the Hon'ble Finance Minister of West Bengal in newspapers on the subject who had also proposed cut in tax rates for 'Affordable Houses'. Further, the inclusion of 15% commercial property being allowed in residential property development keeping in mind necessity of *kirana* shops, barber shops, repair and maintenance shops, etc. was a good suggestion. His State also supported the tax exemption on TDR, etc. However, as regards the issue as to whether the proposed tax rates should be optional or mandatory, he would favour that the option be given to buyers under old project to pay tax at old rate but for the new projects, there should be no option and the proposed tax rate should be compulsory. He further stated that most of the problems of the Real Estate sector would be resolved with solutions proposed by the Fitment Committee and the remaining unforeseen problems might be resolved as and when they arose.

25.6. The Hon'ble Deputy Chief Minister of Gujarat stated that the GoM had recommended tax rate of 5% for non-affordable category of housing whereas 3% rate or lesser for 'Affordable Housing'. Accordingly, his request was that the Council should address these two issues first, including the definition of 'Affordable Housing' and discuss the other issues subsequently. In his opinion, the whole sector had become stagnant due to the problems in construction Sector and that when the customers had come to know that tax rate might be reduced, they had stopped buying. Thus, he requested that issues relating to tax rate on non-affordable and 'Affordable Housing' and definition of metropolitan cities be resolved expeditiously by the Council and discussion on other issues could be taken up later. Shri Mahender Singh Thakur, Hon'ble Minister from Himachal Pradesh, supported the tax rate of 5% for non-affordable and 1% for the affordable category. He also supported the idea to resolve other issues as and when they arose rather than attempting to resolve all of them at one go. Shri Prakash Pant, Hon'ble Minister from Uttarakhand stated that the GoM recommendation of taxing the non-affordable

houses @ 5% would have made the costly houses cheaper whereas the recommended tax rate of 3% for the affordable category of houses would not have reduced the prices significantly. Thus, the Fitment Committee recommendations of reducing the tax rate further to 1% in Affordable category was a welcome step as it would lead to reduction of prices in this category also. He, therefore, supported the tax rate of 5% without ITC and 1% without ITC for non-Affordable and Affordable categories of residential properties respectively.

25.7. The Hon'ble Chairperson requested the Members to concentrate first on resolving the twin issues of rate applicable to the sector as well as the definition of 'Affordable Housing' and that the other issues could be dealt with later. The Hon'ble Minister from West Bengal expressed his gratefulness to the Hon'ble Chairperson for shifting the Council Meeting from Video Conference to a physical meeting. As regards the proposal, he stated that while the overall objective to address the problems in the construction sector in order to bring buoyancy in the sector was a welcome step, at the same time simplicity and equity was also desirable in taxation. As regards the tax rates, as had been pointed out by him in his letter to the Hon'ble Union Finance Minister in immediate past, mere 0.76% of the overall tax, i.e. at most 1% was paid in cash by the builders in 'Affordable Housing' segment. Thus, the proposal of the Fitment Committee to introduce 1% tax was agreeable which was also in line with his suggestion. For non-affordable category, he had written in his letter to the Hon'ble Chairperson that keeping in view the principle of equity, the GST rate for houses in the price segment from Rs.45 lakh to Rs.1 crore should be at 5% without ITC while the houses above Rs.1 crore (or maybe Rs. 1.5 crore), being rich men's purchases, be at 7% without ITC. The differential tax rates could be supported on the ground of simplicity along with equity in the economy. His suggestion to the Council was therefore, to consider two tax rates of 5% and 7% in non-affordable category as against the GoM recommendation of 5% for all houses above Rs. 45 lakh which could pass the test of simplicity but not of equity.

25.8. As regards the second issue regarding the definition of 'Affordable Housing', he stated that in the presentation of JS, TRU-II, there was a shift from earlier recommendation of GoM based on '**either** area **or** price' to a criterion which was based on '**area** and **price**'. Thus, effectively to the definition of Affordable Housing in different Notifications, an additional criterion of financial limit was being proposed. Hence, the question to be considered by the Council was should there be two criteria, i.e. area based as well as financial limit based or fulfilment of any one of the criteria would be sufficient to qualify as 'Affordable Housing'. The Hon'ble Chairperson explained that a reference to carpet area in the definition would be definitive whereas a reference to price would be open to misuse inasmuch as a Rs. 70 lakh worth property would be sold by unscrupulous elements with Rs. 40 lakh in cheque and remaining Rs.30 lakh in cash. At the same time, it was also true that area wise cost of flat in metro *vis-à-vis* non-metro cities was at huge variance with each other. Therefore, a criterion on the basis of area as well as cost left very little scope for manipulation whereas the criteria based only on cost left huge scope for manipulation. Thus, the Council needed to weigh all the options before coming to a conclusion. The Hon'ble Minister from West Bengal thereafter stated that the next issue related to tax on TDR/JDA. In this regard, he supported the views of the State of Punjab that it was a land matter and hence a State subject to which the Council should be sensitive. The proposal regarding tax on TDR was complicated not only in respect of tax rate but in respect of time of supply (after obtaining completion certificate) as well as type of project. Thus, the Council needed to have clarity on the subject before coming to any conclusion.

25.9. The Hon'ble Chairperson suggested that at the moment, the Council could decide on the two principal issues relating to the proposal, i.e. applicable tax rates on affordable and non-affordable

category of houses and definition of 'Affordable House'. As regards remaining issues, these could be decided to the extent feasible and the remaining issues could be decided later based on recommendations of a Group of Ministers or Officers who could continue to discuss these issues and resolve them in the next 4-5 months.

25.10. The Hon'ble Minister from West Bengal thereafter listed out certain complications in the proposal such as the mention of recovery from a builder where he had taken excess ITC and also the provision of mixed property having 15% commercial development under residential property. He added that such complications further gave rise to interpretation such as to who would recover the ITC and how it would be recovered, how to calculate the 15% commercial portion in the mixed property, etc. and hence the complications would benefit no one other than the persons raising the disputes. Similarly, the provision of apportionment and recovery of tax under RCM *vis-à-vis* 80-20 condition was also questionable as to why 20% should at all be allowed to be purchased from unregistered dealers. Such a provision would be grossly misused by obtaining labour, sandstone, chips, etc. from unregistered dealers which were by themselves evasion prone. Similarly, if the Capital Goods were not to be included in 80-20 calculation, the tendency would be to lease them rather than to buy them so as not to bring them into books of account. The proposal that in case the inputs were procured from a non-existent dealer, recovery would be made, was also questionable as to whether the proposal was promoting hawala and rent seeking behavior of officers which would come into picture. Similarly, the proposal regarding lapse of ITC could be circumvented by adopting the ways to utilize the ITC for other goods and services. Summing up his arguments, he urged the Council to necessarily discuss and consider the proposal (a) on rates keeping equity and simplicity in mind; (b) whether the word "and' to be introduced or not in the definition of 'Affordable Houses' and if the cap of Rs. 35 lakh to Rs. 45 lakh price was inserted in addition to the area-based definition, it would create problems.

25.11. The Hon'ble Minister from Kerala stated that he agreed with the arguments put forth by the Hon'ble Minister from West Bengal that proposals were complicating an already complex issue. As regards the rates of taxation, the data presented before the Council largely showed that effective tax to be paid in cash was rising for all and that there should be equity in the burden of tax. The analysis of data also showed that effective rate of tax was rising in the affordable category from 7.46% to 9.3% whereas in the non-affordable category, with the proposed tax rate, the tax burden was actually rising only by 2.23-2.93%. Thus, the issue of equity raised by the Hon'ble Minister from West Bengal was very important and hence the proposed tax rates needed to be tweaked further from two tier to three-tier. Thus, he proposed that for affordable houses, tax rate should be 1%, for houses priced at Rs.45 lakh to Rs.1 crore, it should be 5% and for houses of more than Rs.1 crore, it should be 7% without ITC. He stated that with a three-tier rate structure, a little bit complication would enter, but the Council would be able to arrive at a revenue neutral rate if it calculated the weighted averages. Further, as regards the definition of 'Affordable Houses', he did not support the idea to have value limits in addition to area limits. By placing such limits, the scheme would become complicated. Government determined affordable housing scheme might include flats beyond the value of Rs.35 to 40 lakh, and should still be allowed at the same rate as 'Affordable Housing'. Government Housing schemes at present were divided further into under infrastructure status or non-infrastructure status and further four more categories, viz. up to 30 sqm, 60 sqm., 160 sqm and 200 sqm. It would be advisable to leave out the flats of areas of 160 sqm and above as also transaction value concept out of the definition of 'Affordable Housing'.

25.12. The Hon'ble Chairperson raised a question whether a flat of 60 sqm in a metro vis-à-vis a tier-II city carried the same price. The Hon'ble Minister from Madhya Pradesh stated that they were different in terms of cost; a 60 sqm flat in Cuffe Parade in Mumbai would cost more than a Rs.1 crore whereas a flat of same size in Bhopal would cost around Rs.25 lakh. The Hon'ble Chairperson observed that in such a situation, without a value limit, definition of Affordable House would be incomparable from city to city and prone to misuse. The Hon'ble Minister from Kerala stated that apart from the things discussed so far, he also had a serious difference with the proposition that there should be a GoM for recommending as to whether to bring land into GST and did not support the same. In his opinion, the States were not left with any revenue generating resources after the introduction of GST and in absence of that, the States had to explore areas to generate additional revenue like increasing registration charges on motor vehicles. He thus opined that the Council should evaluate the experience of GST before bringing any new items under GST. After GST, some flexibility was required so that State could realise resources during emergency requirements. Further, as regards the condition of 80% procurement from the registered dealers and allowing 20% from non-registered dealers, the question was as to when capital goods were not to be included in the calculation, should this limit not be raised to 90%. In the proposal before the Council, the value chain was proposed to be broken in order to have a revenue neutral rate but by breaking the value chain, the capability of tax administration to collect the tax on the missing value chain would be compromised. Thus, Council should have a serious discussion on the issues which the Hon'ble Minister from West Bengal had raised.

25.13. The Hon'ble Chairperson again asked members to arrive at a definition of 'Affordable Houses' and as to how to reconcile the fact that in metro areas, the price of the same size of flat was much higher than that in non-metro areas and this needed to be discussed and resolved. The Secretary explained that this aspect came up in Officer's meeting when this issue was discussed and it was pointed out that affordability varied in non-metro and metro cities. Thus, the proposed definition of 'Affordable Housing' contained the expression "and" in order to include the value criteria as also to leave out the flats of areas of 160 sqm and above from the RBI definition for credit linked scheme to ensure that chances of misuse were reduced. If only monetary limit was kept, the provision was likely to be misused as some developers were constructing flats only under MIG Scheme, flats of areas of 160 sqm in the suburbs of Mumbai and the consensus was that they should not get the benefit of reduced tax rate. Hence value cap in addition to the area condition was required.

25.14. The Hon'ble Chief Minister of Puducherry thanked the Hon'ble Chairperson for convening a physical meeting. He stated that as per the ongoing discussion, he would confine himself to the discussion regarding rate of tax and definition of 'Affordable Housing'. As regards the houses pertaining to Below Poverty Line (BPL) i.e. houses up to 60 sqm, and those LIG houses under PMAY, RAY, JNNURM scheme, beneficiary led LIG Housing scheme, concessional rate of 1% was agreeable. If the MIG-I and MIG-II flats of areas of 160 sqm and 200 sqm respectively were included in the definition, it would be injustice to the poor and hence he proposed that MIG-I and MIG-II houses be kept at the tax rate of 3%. As regards the remaining houses under non-affordable housing, 5% tax rate needed to be discussed and debated in the Council. Further, under indirect tax, people in rural areas and tier-II cities as well as urban areas pay the same rate of tax. However, people living in metro areas got far more facilities in terms of infrastructure and governmental support, and hence the tax rate in tier-II/III cities should be lower as compared to metro areas where rate could be upto 8% to maintain an equilibrium. The transitional provisions seemed to be complicated and needed to be simplified. Further, regarding TDR, he stated that it needed to be discussed in detail since of late, States' rights were being

taken away one by one by the Centre and if the States' rights associated with the taxation on land were also taken away, they would lose revenue from registration. Therefore, he favoured constitution of GoM to discuss the transitional issues as well as issues relating to TDR/JDA, etc.

25.15. The Hon'ble Deputy Chief Minister of Delhi stated that the current meeting to address the crisis in Real Estates Sector exemplified to the general public as to how GST Council would deal with a crisis in any Sector of economy. He further stated that inventory in the Real estate Sector was rising and he felt that it should be brought under GST as this Sector absorbed a lot of black money. It was evident from the fact that the role of black money in this sector started right from the stage of mining of raw materials like sand, sandstones, etc. up to the finishing level such as tiles, electrical fittings, etc. If the entire Sector was brought under GST, then the real benefit of GST would accrue to the Sector benefitting everybody. However, because of the limitation that land was out of GST, the Council had decided GST @12% for under-construction houses. Now it was proposed to bring it further into Composition Scheme from regular tax chain. Presence of ITC chain from the point of view of taxpayers, was beneficial as he faced a single tax and from the point of view of officers, the entire value chain was exposed to them *vis-a-vis* assessment and plugging evasion whereas the introduction of Composition would stop that benefit. For this reason, he supported the view of Advisor, Punjab. He also stated that in order to evaluate the experience of tax in last one and a half year, State wise data for tax collected at the rate of 12% should be shared.

25.16. The Hon'ble Chairperson responded that to some extent, points raised by the Hon'ble Minister from Punjab were noteworthy and that in the Real estate Sector, except two to three big players who were dealing ethically, rest of the players were selling their houses absorbing a lot of black money. They had not acted ethically and did not pass the benefit of ITC to consumers creating situation similar to restaurant where there was a feeling that benefit of ITC was not being passed on. Thus, the buyers were under the impression that in case they waited for the houses to be completed, they would save 7%-8% in the cost. It was also a fact that the industry could not win the confidence of the buyers looking at the state of affairs in the NCR region. An exercise done by the Fitment Committee and also by the West Bengal independently had come to a similar conclusion that 4.7% - 4.8% was the revenue neutral rate for normal under-construction houses whereas 0.8% to 1% was the revenue neutral tax rate for the Affordable Houses. GoM had recommended a tax rate of 5% and 3% for non-affordable and affordable segments respectively whereas the Fitment Committee had recommended that 5% and 1% respectively were the appropriate revenue neutral rate. NBCC and CPWD data supported the above conclusion and in the last meeting also, it was submitted by the Hon'ble Minister from Chhattisgarh that 3% tax rate in the affordable segment would push up the prices.

25.17. The Hon'ble Minister from Chhattisgarh stated that he had submitted in the last meeting that tax rate of 3% without ITC in Affordable segment would push up prices and that 1% rate was closest to the revenue neutral rate. This seemed to be confirmed from the data as analyzed by the Fitment Committee. The Hon'ble Minister from West Bengal stated that the presented data also showed that for premium housing, the revenue neutral rate seemed 7% to 8%. The Hon'ble Deputy Chief Minister of Delhi stated that as per the prevailing situation, there were more than 5 lakh houses ready, but could not be sold and hence, there was no doubt that the Sector required a push. However, the Council was going for a long-term decision relating to demand generation in the Sector, thus, minimum grey areas should be left. The Hon'ble Chairperson expressed agreement and stated that leaving loopholes would affect revenue of both the Central and the State Governments. The Hon'ble Deputy Chief Minister of Gujarat stated that as the situation currently existed, either the GST or State taxes were levied and collected on

raw materials. If under-construction buildings having Before Use Certificate (BU Certificate) were sold, GST was payable. However, if the same building was sold after BU certificate, no GST was payable. As a result, an artificial demarcation of tax was created in the market and if Council could arrive at the same treatment for sale of building before and after BU certificate, then, no problem would arise. But the big question was whether such a solution could be arrived at within the given framework of law.

25.18. The Hon'ble Chairperson requested the views of the Council Members on the proposed agenda from the point of view of Tier-II and Tier-III cities also to arrive at a proper solution. The Hon'ble Minister from Madhya Pradesh stated that Affordable Housing in Tier-II and Tier-III cities could not be compared with houses in metro cities. In cities like Indore, Bhopal and Jabalpur, property prices were high due to high land costs and hence were comparable to metros whereas in smaller Tier-III cities, prices were not that high. Hence, he felt that there was a need to use both area as well as price restrictions to define the criteria for 'Affordable Housing'. He further stated that as per his opinion, in non-affordable housing, there should be two rates of taxes, i.e. 3% and 5% without ITC or could be 5% and 7% without ITC for low end premium houses and high-end premium houses respectively. He added that the State should not suffer by not charging tax on premium category houses. The Hon'ble Chairperson enquired as to whether there should be higher abatement for land for premium Housing since the cost of land pushed the price of premium housing high on account of it being situated in a central area with high land costs.

25.19. The Hon'ble Minister from Goa congratulated the Hon'ble Chairperson on the practical and democratic approach adopted by him and also complimented the Hon'ble Deputy Chief Minister of Gujarat for the work done by the GoM on Real Estates. He stated that tax rate of 5% without ITC for non-Affordable Housing was agreeable. Further, GoM had recommended 3% or lower GST without ITC for Affordable category which the Fitment Committee had suggested to be kept at 1%. In his opinion, in the current meeting, the Council should decide primarily on tax rates and definition of Affordable Housing. He added that the reason for such a suggestion from him was that this important industry had come to a grinding halt leading to unemployment. The medium and low segment builders were all suffering and were on the verge of closure whereas the big builders were surviving as they knew how to survive when the cash flow was low. He again pleaded that ancillary issues relating to taxation of TDR/JDA and transition issues, etc. be discussed later. Further, consideration of Agenda should not be linked to elections but should be considered as a requirement of the industry. The most important thing to be noticed by the Council Members in the proposal was that there was no interference with the taxation powers of the land and rather the Council could discuss when to bring the land under GST at a later date. In the end, he appealed that in the past also, the Council Members had varying views but these were resolved with extensive discussion in the interest of public which should be done in the present situation too.

25.20. The Hon'ble Minister from Chhattisgarh expressed his displeasure at the short time of about 15 minutes being available to read the report of the Fitment Committee which officers took one whole day to decide. He further stated that the Council Members had also taken a lot of time to discuss this complex issue. However, with these 15 minutes of reading and understanding of the proposal, he wished to bring complexities in the proposal to the knowledge of the Council in as much as GST was stated to be a 'Good and Simple Tax'. He gave the example of a 2000 sq. ft. under-construction house in Raipur and Mumbai which were different in price primarily due to land cost with data as follows:

Sl. No	Item for Comparison	Raipur	Mumbai
1	Cost	Rs.60 lakhs	Rs.180 lakhs
2	Present Tax Rate	12%	12%
3	Tax Payable	7.2 lakhs	21.6 lakhs
4	ITC available (approx.)	5.6 lakhs	8.22 lakhs
5	Net Tax Payable in Cash (3-4)	1.6 lakhs	13.8. lakhs
6	New Tax Rate	5% without ITC	5% without ITC
7	Tax Payable in cash @5%	3 lakhs	9 lakhs
8	Difference Tax Payable Increase/Decrease (3-5)	+1.4 lakhs	-4.8 lakhs
9	% Increase/Decrease	+87%	-32%

25.21. He added that with the above data, it was not clear to him as to what was the objective of the scheme. Whether it was to gain revenue or to arrive at an equitable tax rate or to encourage the rotation of properties. In his opinion and as supported by the data, the Real Estate Sector was in crisis because cash was not flowing into the economy. In fact, the data as presented by the Central Government at slide no.8 of the presentation, on further analysis of the impact of the proposed tax, reflected that in case of High Rise Buildings, on low end finish houses as well as affordable houses, net impact of new tax was higher by 2.23% and 9.3% due to proposed GST @ 5% and 3% without ITC respectively; whereas the premium houses in High Rise Buildings became cheaper and impact of GST @ 5% led to reduction of cost. Similarly, in Low rise buildings, impact of GST payment in cash on low end finish houses, was very nominal while the impact of GST on affordable houses in Low Rise Buildings (taxable @ 3%) was making cost higher by 7.6%.

25.22. He further stated that the conclusion that could be drawn from the above slide was that the above proposition of tax of 5% without ITC and 3% without ITC was not equitable. It raised a question as to who was being taxed under 'Affordable Housing'. He added that in Affordable Housing such as PMAY, RAY and other schemes, the Government was either giving money for building in the villages or giving interest subsidy and wondered whether with this 3% tax, the Council wanted to tax the Government and take the money back instead of supporting the poor. Further, in his opinion, the criteria to define the 'Affordable Housing' should take into account both area and value. As far as land was concerned, he considered it to be totally non-negotiable and taxation of land should not be touched at all.

25.23. Shri Sudhir Mungantiwar, Hon'ble Minister from Maharashtra stated that he agreed with the proposal to tax Affordable houses at 1% and non-Affordable houses at the rate of 5% without ITC. He proposed inclusion of Mumbai Metropolitan Region (MMR) on the lines of inclusion of NCR along with Delhi and also of Pune in the list of metros. He further added that in his State, old Housing societies were required to go for redevelopment as buildings had become old and dangerous to live in. Similarly, there was a slum redevelopment programme in various areas of Mumbai. He suggested that these two models should be considered by the Council for being taxed only on the construction cost rather than by including the cost of land. He appealed to the Council to decide on this matter also rather than leaving it to the next meeting.

25.24. The Hon'ble Minister from Rajasthan stated that taxation of land was a State subject and should not be considered by the Council for bringing it into GST at the moment while the definition of 'Affordable Housing' should be left for the States to decide. He added that in his opinion, reduction of

GST rate would not help the Real Estate Sector to come out of recession and hence the builder should have the option to adopt either the old rate (12% with ITC) or new tax rate (5% without ITC). He further stated that the structural reforms should be seen from the financial perspective and discipline and not from the election perspective. He further stated that he supported tax rate of 5% on non-affordable housing in non-metro cities. He also suggested that criterion for affordable housing should be housing with carpet area of 100 sqm or 120 sqm and houses with a carpet area lower than this should be exempt from tax. CCST, Andhra Pradesh supported the proposal of 5% and 1% tax rates without ITC on non-Affordable and Affordable Housing respectively.

25.25. The Hon'ble Deputy Chief Minister of Bihar stated that a lot of discussion was going on that tax on land and that associated services were not covered in GST. He pointed out that Schedule-II of Section 7 of the GST Act laid down that "*lease tenancy, easement, license to occupy land, lease or letting out the building including commercial, industrial or residential complexes for business or commerce"* were 'services' and hence could be taxed under GST. The point to be noted was that the Council was not taxing the land but taxing the services associated with land.

25.26. The Hon'ble Chairperson sought a clarification as to whether the activity of Government giving land on lease for 99 years was covered under GST to which JS, TRU-II submitted that it was covered but was exempted by Sl.No. 41 of Notification 11 of 2017. Shri V.K. Garg, Advisor, Punjab submitted that taxation of land was mainly covered under the Constitution of India, Income Tax Act and the Finance Act, 1994 (Service Tax - now superseded by GST). As per the Entry 49 of List-II of the Constitution, tax on land and associated revenue should accrue to the States which the States had been exercising for decades. Under Income Tax Act, a dispute arose as to whether long term leasing was liable to TDS deduction under Section 194 I of the Income Tax Act which was answered by judicial fora that transactions of long-term leasing was a deemed sale and hence was not liable to TDS. Thus, the Constitution as well as the Income Tax Act considered the long-term lease as a deemed sale.

25.27. He further stated that as regards the treatment of long-term lease under Service Tax, tax on leasing of vacant land or agricultural land was exempted from Service Tax. Entry 97 of the Schedule III of the Constitution under which Service Tax Act was enacted, was interpreted to provide that if anything was not liable to tax out of any Entry in the List-II, then tax could be levied under Service Tax. The Judicial fora had upheld that for certain aspects regarding land, could be treated as land while some other aspects could be treated as service and hence taxation under Service Tax got legitimized. However, strictly speaking, land being in List-II, tax should not have been levied on the services associated with the land. It was settled that if additional tax was imposed on any sector, the capacity to exploit the Sector got reduced. When this issue was discussed in the Council, the prime question before the Council was as to whether the activity associated with the land was goods or service. It was certainly not 'goods'. Entry in the GST law defining the same as "services" was made but the question arose as to whether it was in consonance with other taxation laws and the Constitution. He added that in his view, under GST law, everything that was out of GST had either been excluded or was specifically exempted. For example, alcohol and petroleum were excluded out of GST while electricity was exempted. The question was that when GST Council refrained from taxing the subjects such as sale of land, alcohol etc. which fell in the jurisdiction of States, should it tax the services associated with it. The sale of land was kept out of GST whereas for building under construction where the service under works contract had been rendered, it was made taxable. However, in case of lease of land, since these were in the nature of deemed sale, taxation should be avoided and also for the reason that 18% service tax and 7% Stamp Duty would come to 25% tax on leasing which was avoidable.

25.28. CCST, Gujarat explained that in Navi Mumbai Vs. Government of India case, the Bombay High Court held that lease should be treated as "service" and accordingly while introducing GST, Article 246A was amended to contain a non-obstante clause to provide powers to tax benefits arising out of land. Thus, right to tax such benefits under GST was always there and the only question was as to whether tax should be levied there or not. The Hon'ble Chairperson observed that the point that the Hon'ble Minister from Punjab had put forward was that one needed to avoid over-burdening of a Sector with taxes and if not so done, the larger objective of the Government to boost the economy would not be satisfied. JS TRU-II explained that at the moment, since taxation on Real Estate Sector and land was not being dealt with holistically, the Fitment Committee had tried to address the problem of taxation of rights associated with land in a limited manner by way of exempting TDR/JDA, etc. as long as it was supplied as input to residential houses under construction. Further, when completed house was sold after issue of competition certificate, these rights would become taxable with the upper ceiling of tax limited to the tax applicable to that segment of housing. Thus, the situation of multiple taxation of the transactions during the construction of house got resolved to the extent it was before the Fitment Committee. The Secretary further explained that as far as taxation of commercial lease was concerned, the same was not being affected by the current proposal inasmuch as the leasing of land for construction of residential houses was getting taxed in both situations, i.e. prior to as well as after this proposal. The only difference that had come was that ITC was not available in the current proposal.

25.29. Shri Himanta Biswa Sarma, Hon'ble Minister from Assam stated that it was correct that the Council had approved to tax under-construction properties at the rate of 12% and 8% for non-affordable and 'Affordable Houses' respectively. Thus, the issue whether the land was a State subject or not should have been discussed at the time when the proposal of taxation was introduced. Currently, the Council was considering the proposal to bring the tax rate down from 12% with ITC to 5% without ITC and 8% with ITC to 1% without ITC. If the consumer got benefitted from this reduction, then it should be done, and if not, the Council could consider lowering the rates further. Thus, discussion on GST *vis-à-vis* land was not the subject for consideration and if it had to be discussed academically for bringing land under GST, a Committee or GoM might be formed to discuss the same. The Hon'ble Minister from Goa stated that the only contentious issue before them was the proposed tax rate of 3% for Affordable Houses as pointed out by the Hon'ble Minister from West Bengal and other States which the Fitment Committee after analysis, had recommended to be brought down to 1% and which was also agreeable to most of the Members. Thus, currently, there was no dispute left to be discussed. The Hon'ble Minister from Chhattisgarh stated that the issue of houses under PMAY becoming taxable was worth considering and discussing.

25.30. The Hon'ble Chairperson summarizing the discussion stated that so far, the discussion did not reflect wide disparity of opinion *vis-à-vis* tax rate. It was also noted from the views expressed that the criteria for the metro residential house and non-metro residential house under affordable category should not be same in the definition of 'Affordable Houses'. Thus, the definition of 'Affordable Housing' had to be evolved in such a manner which covered even residential properties in upcoming Tier-II and Tier-III cities of the States with a consideration for metro cities like Delhi and Mumbai also as comparing the Tier-II cities with metros might not be a fair proposition. Thus, the larger consensus seemed to be that in the definition for 'Affordable Houses', the criteria needed to be evolved by including both size and value parameters. The Hon'ble Minister from West Bengal stated that keeping in view the discussions, he agreed with the view that MIG-I and MIG-II houses of area of 160 sqm and 200 sqm respectively were big and hence, could be excluded from the category of Affordable Housing.

The Hon'ble Chairperson continued that for metro-cities, the definition of Affordable Housing could be houses of covered area up to 60 sqm which would be approximately 800 sq ft whereas in non-metro areas, the covered area requirement could be up to 90 sqm which would be around 900 sq ft and could be 3-bedroom or a 2-bedroom house. In both cases, value limit could be either Rs.40 lakh or Rs. 50 lakh as it would take care of future inflation also.

25.31. The Hon'ble Minister from Chhattisgarh stated that tax on Housing under Prime Minister Awas Yojana should be completely exempted or some threshold limit should be worked out below which exemption should be available. Secretary explained that PMAY covered the houses up to 160 to 200 sqm which were proposed to be left out of the definition of 'Affordable Housing'. He further stated that in some 'Affordable Houses', both individual and the Government contributed, while in some cases, the whole house itself was constructed by the Government and in such cases, there should not be any tax. The Hon'ble Chairperson explained that the Hon'ble Minister from Chhattisgarh had proposed a tax rate of zero whereas in a situation where zero per cent tax rate was kept, the benefit of Input Tax Credit would not be available. The Hon'ble Minister from Chhattisgarh replied that in the current proposal of taxation, the benefit of Input Tax Credit was being denied altogether. The Hon'ble Chairperson explained that keeping the tax rate of 1% would make a difference because zero tax rate would lead to a situation where due to absence of returns in that sector, issues of traceability of raw materials, misuse of schemes, etc. would arise. Thus, the tax rate of 1% had been suggested to rule out such a possibility.

25.32. The Hon'ble Chief Minister of Puducherry suggested that as regards the tax rate, Hon'ble Chairperson might consider keeping 1% tax rate up to 60 sqm whereas for remaining houses up to 200 sqm, a tax rate of 3% might be considered. The Hon'ble Chairperson explained that as per data for affordable houses, the effective tax came to 1% and 3% tax rate would not be a revenue neutral rate in any case. In the case of non-Affordable category, it came to 5% or at higher range of 7% - 7.5%. By introducing the concept of value in the definition, the Council was trying to benefit the upcoming cities in various States where the prices had gone up and quality housing was otherwise not available. In these cities which were fast developing and upcoming, a house up to 90 sqm would be considered decent for living and not as a luxury. The Hon'ble Minister from Goa asked to consider area limit upto 100 sqm as builders often included the area of the staircase and other common areas. The Hon'ble Minister from Punjab stated that data from NBCC seemed to be outdated when majority of the inputs were taxable at the rate of 28% which had since been brought down to 18%. Secretary replied that the data was the latest one and was obtained last week and it was made available item-wise and flat area-wise.

25.33. The Hon'ble Chairperson explained that apart from NBCC and CPWD, he obtained the information from certain reputed builders of Delhi and Mumbai who were operating in a structured transparent manner. They had also submitted that their Input Tax Credit came to 7% - 8% and therefore, tax rate of 5% and 3% were verified by them which seemed to corroborate the figures except the fact that the 3% on 'Affordable Housing' segment seemed to be higher. It was confirmed by not only the Fitment Committee but by the Hon'ble Minister from Chhattisgarh and other independent enquiries from the persons involved in the sector. Thus, the tax rate of 5% and 1% without ITC would be revenue neutral in the current situation. The Hon'ble Minister from Tamil Nadu stated that their State agreed to the resolution of the Council on the taxation of Affordable and non-Affordable houses.

25.34. The Hon'ble Chairperson enquired whether it could be taken that there was broad consensus in the Council for tax rate of 5% without ITC for non-Affordable Housing and 1% without ITC for

Affordable Housing for residential houses under construction and whether value limit could be taken as Rs. 60 lakh in metro areas and include Mumbai Metropolitan Area and Delhi NCR in the definition. The Hon'ble Minister from Chhattisgarh requested that he would still request that there should be some Housing schemes which should be exempted from GST altogether such as houses up to the value of 30 lakh. The Hon'ble Chairperson stated that the Members in Council had often discussed the issues at length and come to a conclusion by stepping back from their stated official position to arrive at a consensus in the interest of common people. He suggested to observe how the decision panned out and stated that the issue raised by the Hon'ble Minister from Chhattisgarh regarding a threshold below which there should be no tax for under construction property could be revisited at a later date, if so required.

25.35. The Hon'ble Chairperson further stated that apart from tax rates, 2-3 more issues remained to be decided like when computation of 80-20 to be done and also the date from which new tax rate should be made applicable. He further stated that if the Council Members agreed, the date of implementation of the scheme could be announced as 1st March 2019 and the Council could delegate the responsibility to the Fitment Committee to draft the required Notifications to make the scheme operational. He requested all the State Governments to nominate their concerned experienced officers to the Fitment Committee meetings in order to work out the notification required to put the scheme into operation within the next 10 days taking into account the points raised by the Members during the discussion. The Hon'ble Ministers from Kerala, West Bengal and Bihar stated that the new tax rates should be made applicable from 1st April 2019. The Council agreed to this suggestion.

25.36. The Hon'ble Minister from West Bengal again raised the issue that the consensus on the definition of 'Affordable Housing' seemed to have not been achieved. The Hon'ble Chairperson suggested that the area for Affordable Housing be fixed as up to 60 sqm for metro and houses up to 90 sqm for non-metro areas to be eligible under Affordable Housing scheme and the cost ceiling for the Affordable houses should be Rs.40 lakh or Rs. 50 lakh as proposed by the Council Members. The Hon'ble Ministers from Madhya Pradesh, West Bengal and Uttar Pradesh proposed a cost ceiling of Rs. 40 lakh whereas Hon'ble Minister from Goa proposed it to be Rs. 50 lakh to avoid flow of black money into the Sector. The Hon'ble Minister from Chhattisgarh suggested a limit of Rs. 45 lakh keeping in mind the financial limit of Rs.45 lakh in the incentive scheme of the Reserve Bank of India. The Council agreed to this suggestion and also that this value limit would apply universally to metro and non-metro areas. The Hon'ble Ministers from Gujarat and West Bengal proposed that the area ceiling should be based on carpet area. The Council agreed to this proposal.

25.37. The Hon'ble Chairperson asked JS TRU-II to explain the proposal on TDR once again. JS TRU-II explained that the proposal on TDR was that it was to remain exempt during the sale of houses under construction, i.e. houses which were sold before completion. After the completion certificate was issued, the tax on TDR would be payable on the sale of flat and the tax rate would be applicable to the same class of houses, i.e. non-affordable or affordable to which it belonged. The Hon'ble Chairperson suggested that since most of the members would be busy with elections and there were some procedural issues to be sorted out relating to TDR, apportionment and reversal of credit, Council might mandate the Fitment Committee and the Law Committee to meet jointly and prepare the Notifications and Circulars covering all aspects. States, who were not members of the Fitment Committee or the Law Committee might send their representative officers to join the meeting. By around 10th of March 2019, the Fitment and the Law Committee should prepare draft notifications and circulars detailing all the guidelines. The Hon'ble Chairperson also directed that the point raised by the Hon'ble Minister from

Chhattisgarh be noted in the minutes regarding revisiting the tax rates on houses for poor/below poverty line houses in order to examine them whenever a review of the taxation of the Real Estate Sector was taken up.

25.38 The Hon'ble Minister from Kerala stated that the circulars and notifications drafted by the Fitment Committee and the Law Committee should be considered by the GoM on Real Estate before issuing the same. The Hon'ble Chairperson suggested that instead, GST Council might meet through video conference. The Hon'ble Minister from West Bengal supported the idea of meeting through video conference to discuss this issue. The Hon'ble Minister from Jharkhand stated that the houses for weaker sections such as below poverty line should not suffer any tax. He further stated that building a house was very important and one had to make effort multiple times with all his might to build a house. Decision on the issue was necessary as the Government had promised to citizens to provide house for all by 2022. CCST, Gujarat requested Chairperson that officers from Punjab should attend the meetings of Fitment Committee and Law Committee.

26. For **Agenda item 5**, the Council approved the following:

a. GST to be levied at effective GST rate of 5% without ITC on residential properties outside affordable segment;
b. GST to be levied at effective GST rate of 1% without ITC on affordable housing properties.
c. The new rate to become applicable from 1st of April, 2019.
d. Definition of affordable housing shall be: -
    i. A residential house/flat of carpet area of upto 90 sqm in non-metropolitan cities/towns and 60 sqm in metropolitan cities having value upto Rs. 45 lakh (both for metropolitan and nonmetropolitan cities).
    ii. Cities covered under the definition of metropolitan cities shall be Bengaluru, Chennai, Delhi NCR (limited to Delhi, Noida, Greater Noida, Ghaziabad, Gurgaon, Faridabad), Hyderabad, Kolkata and Mumbai (whole of MMR).
e. Tax on TDR/ JDA, long term lease (premium), FSI, to be exempted for such residential property on which GST was payable. For properties sold after obtaining the completion certificate, tax on TDR/ JDA/ long term lease (premium)/ FSI etc. shall be payable at the rate applicable to that segment i.e. affordable or other than affordable category.
f. The Fitment Committee and the Law Committee to meet jointly and prepare the Notifications and Circulars covering all aspects including the abatement, apportionment and reversal of Input Tax Credit, Transitional provisions, taxation of development rights etc., which should then be approved by the GST Council.

Agenda Item 7: Any other agenda item with the permission of the Chairperson

(i) Interim report of GoM on Lottery

27. The Hon'ble Chairperson invited Members to commence discussion on this Agenda item. The Hon'ble Minister from Kerala, starting the discussion, questioned as to why this issue needed to be taken up now. He observed that the outcome of discussion in Real Estate sector was much better in this meeting as compared to Video Conferencing due to the constructive participation of the Members. The question was why there should be a tearing hurry to take a decision on this issue as national economy was not getting affected due to lack of decision on this issue for a careful consideration. He added that the Report of GoM on Lottery was an interim report. As a member, neither he nor the Hon'ble Minister

from Punjab could attend the last meeting of the GoM. He suggested that the issue should be referred back to the GoM which should deliberate on this issue in greater detail.

27.1. The Hon'ble Minister from Kerala further stated that more bilateral level discussions were also needed on this issue. He stated that the State of Punjab was running lottery indirectly through middle men but the State was now considering to run the lottery directly. He was also in discussion with the State of Maharashtra as to how to run lottery directly. He had also discussed the matter with the States of the North-Eastern region and keeping in view that a meagre revenue of Rs.10–15 crore was involved, the State of Kerala was willing to become an agent to the North Eastern States and pay this amount. He added that lottery was not a question of revenue alone but also a law and order problem that is created by the agents in Kerala. He added that presently the rate of tax on lottery was 28% and wondered what was the rationale to reduce it and who would derive benefit from such reduction. He added that the beneficiaries of such rate reduction would not be the States but the middlemen. He fervently appealed to the Hon'ble Chairperson that this issue should not be pushed in a hurry and further discussion should be allowed in the GoM. He assured that the State of Kerala would participate in the discussion in the GoM and that the GoM would come back to the Council with its recommendation. He stated that the present situation was that there was no recommendation of the GoM and, if it was to be discussed, then he would have no choice but to demand a division on introduction of this item in the agenda itself. He observed that he had ideological reservations on GST but he had always participated constructively in the deliberations of the Council and he would not like to be an initiator of a formal vote in the House. He recalled that the former Hon'ble Minister from Jammu & Kashmir, Dr. Haseeb Drabu used to often talk about the spirit of this federal body and reminded that in the last meeting, the Hon'ble Chairperson had also assured that he would stick to the norm of consensus in this body.

27.2. The Hon'ble Minister from Goa expressed his concern on the issue of Lottery and stated that he was a member of the GoM and though the issues were elaborately discussed there, he felt that a little more time was needed to discuss the issues further. He observed that even though the revenues could get affected, so far, the decisions in the Council had been taken in the spirit of federalism and he would not like to see the Hon'ble Minister from Kerala unhappy on account of the decision on this issue. He added that the Council was only discussing the issue with a view of rationalizing tax rate on Lottery to one particular rate. He observed that timing perhaps might not be right to take a decision on this issue. He further stated that he would agree to defer the issue provided other similar issues like on-line gambling, casinos, etc. which were relevant for States like Goa and Sikkim also became part of the terms of reference of the GoM on Lottery as these too involved issues of multiple taxation. These should also be discussed in the GoM and then brought before the Council.

27.3. The Hon'ble Minister from Punjab stated that he could not attend the last meeting of the GoM due to his commitments regarding the Budget presentation in the State Assembly. He stated that there was an anomaly in the scheme of taxation of Lottery, namely, exemption from tax for inter-State supplies by a lottery distributor to a sub-distributor of another State and this anomaly needed to be corrected as it broke the destination principle. He added that this issue needed to be discussed in the GoM.

27.4. The Hon'ble Chief Minister of Puducherry stated that he agreed with the views expressed by the Hon'ble Minister from Kerala. He added that the issue of Lottery had been discussed in several meetings of the Council and some States were running it through agencies and some were also running

it on-line. There was a serious issue of illegal lottery and States were unable to control it due to technological issues. He added that some distributors from the adjoining States were running lottery in their State as well and no action could be taken against them. He further stated that the Hon'ble Minister from Punjab was not able to attend the last meeting of the GoM and also the Hon'ble Minister from Goa had highlighted the need for further discussion in GoM which had till now only given an interim report. Hence, the GoM should be allowed to give its final report before it was discussed in the Council.

27.5. The Hon'ble Minister from West Bengal stated that he also could not attend the last meeting of the GoM due to some other commitments. He supported the proposal of the Hon'ble Ministers from Kerala and Goa. He suggested that the GoM should meet again as in the last meeting, four members of the GoM were not present. The Hon'ble Minister from Goa stated that there was a need to arrive at some consensus soon as due to high rate of tax on Lottery, unethical practices like *Matka*, *Satta*, etc. were picking up. He added that the issue should be discussed holistically and remedies arrived at. The Hon'ble Deputy Chief Minister of Delhi stated that few major States namely Punjab and Kerala could not attend the last meeting of the GoM and it was clear that more dynamic discussion was needed in the GoM before its recommendation could be brought back to the Council.

27.6. The Hon'ble Minister from Assam stated that this issue had been alive from the very first days of GST and the State of Kerala wanted to tax Lottery at the rate of 28%. He questioned as to why there should be a discriminatory tax rate regime on Lottery and as to why Lottery of Kerala (State-organized) should be taxed at the rate of 12% whereas lottery of North-Eastern States (State-authorised) should be taxed at the rate of 28% when it was run as per the prescribed guidelines by the Union Ministry of Home Affairs. He stated that any type of discriminatory tax rate should be removed. He further stated that even if the matter was deferred today, eventually there was a need to arrive at a just solution on this issue and the rate of tax would need to be made uniform, be it 12%, 18% or 28%. He added that discriminatory rate of tax should not be persisted with. He reiterated that the Union Home Ministry had allowed lottery to be run through authorized representatives and they were running the lottery as per those guidelines.

27.7. The Hon'ble Chairperson enquired whether inter-State sale of lottery could be prohibited. The Hon'ble Minister from Kerala stated that prior to GST regime, in his State there was a tax on paper lottery under the Paper Lotteries Act and they had made stringent law by legislation under the Gambling Act because of which, for eight years, no outside lottery could be run in the State of Kerala.

27.8. The Hon'ble Minister from Assam stated that legally a State which was running its own lottery could not ban Lottery from other States and that market access would need to be allowed to the Lottery of other States as well. The Hon'ble Minister from Kerala stated that on this account they had taken recourse to Section 4 of the Gambling Act to stop the outside lotteries. The Hon'ble Chairperson enquired that if Kerala had a State monopoly over lottery and there was no outside lottery running, then what was the issue regarding the rate of tax on lottery of other States like Mizoram, Assam etc. The Hon'ble Minister from Kerala stated that their position on this had been that such State authorized Lottery distributors violated provisions of Section 4 of the Gambling Act. He informed that court cases were going on this issue and there was also a C&AG report on it and subsequently, Central Government banned such lotteries in the State of Kerala. He added that such lotteries (State-authorised) could run in their State now when GST was implemented, and the tax as per Paper Lotteries Act had become in-

operational and the only control left was the differential tax rate of 12% and 28% and hence the differential rates should be maintained.

27.9. The Hon'ble Minister from Assam stated that they were not demanding to lower the rate of tax on lottery. He questioned the rationale of taxing Lottery at the rate of 12% when so many goods of common use were getting taxed at the rate of 18%. He stated that he was not requesting to apply tax rate of 12% on Lottery for North-Eastern States; rather they were requesting a uniform tax rate of 28% for all Lotteries. He stated that this issue should not be looked at from any political or election perspective. The Hon'ble Minister from West Bengal reiterated that meeting of the GoM had taken place without four members who should also participate in the deliberations and the Hon'ble Minister from Goa had also wanted to discuss some more issues in the GoM. The Hon'ble Chairperson enquired whether the State of West Bengal was running its own lottery directly. The Hon'ble Minister from West Bengal clarified that they ran a Paper lottery. He also informed that the Kolkata High Court had upheld the two GST rate model for Lottery.

27.10. Summing up, the Hon'ble Chairperson observed that there were two competing viewpoints on the issue of rate of tax on Lottery. One viewpoint was represented by the State of Kerala which wanted to continue with the differential rate of tax for Lottery run by State and Lottery authorized by State. The other competing view was of the North-Eastern States which had stated that because of lack of governmental infrastructure to run lottery across the country, they had authorized agents to run the lottery and the 16% difference in the two rates was affecting sale of their lotteries.

27.11. The Hon'ble Minister from West Bengal stated that their State had only paper Lottery which was taxed at the rate of 12% and even though the sale of West Bengal run Lottery had grown, the revenue was miniscule as compared to revenue from the Lottery run by other States. The Hon'ble Chairperson observed that it appeared from the page number 9 of the Agenda note that the revenue of West Bengal would go up if rate of tax for all Lotteries was made 28%. He wondered why the GST revenue of the North-Eastern States from Lottery was so little when their Lottery was selling so much. In this context, he stated that the data needed to be reverified and it could also be discussed in the GoM.

27.12. The Hon'ble Chief Minister of Meghalaya stated that the spirit behind GST was one nation, one tax but on one item, namely, Lottery, there were two tax rates which was against the spirit of GST. He questioned why extra benefit should be given to the State-run Lotteries. The Hon'ble Chairperson observed that the North-Eastern States had to keep agents as they did not have enough governmental infrastructure to run lottery. The Hon'ble Deputy Chief Minister of Gujarat observed that in the context of one nation, one tax, there was a need to look at keeping one rate of tax on lottery and there was no need to fix the tax rate on the basis as to who ran the lottery. The Hon'ble Chairperson wondered whether State run Lotteries of Kerala and West Bengal were sold outside their State. The Hon'ble Minister from Kerala and West Bengal stated that their State did not sell lottery in other States. The Hon'ble Minister from Kerala stated that his objection to continuing the discussion on the issues was mainly due to the fact that report of the GoM did not reflect the opinions of all the members of the GoM.

27.13. The Hon'ble Minister from Assam stated that if the Hon'ble Minister from Kerala wanted a division, then he would also press for a counter division on this issue. The Hon'ble Minister from Goa stated that this issue was very important and presence of only two members of the GoM during the previous deliberation of GoM would not do justice to the subject. He recalled that during the initial

period, when the rate of tax on lottery was being worked out in the Council, the Hon'ble Minister from Kerala had even threatened to walk out and that the Hon'ble Chairperson, with his sagacity, had worked out a consensus. He appealed that the Council could presently live with this consensus and the matter could be considered further by the GoM.

27.14. The Hon'ble Chairperson stated that if a State was entitled to disallow other States to run lottery, then the question was how such a power could be created. Once this was done, then other States would not be impacted. The Hon'ble Minister from Kerala stated that the Central Government brought in Lottery (Regulation) Act to ensure that the revenue from Lottery accrued to the Government. He stated that gambling, lottery, etc. was allowed, even though it was a sin activity, because the revenue accrued from it went for public use. However, there were provisions in the law to ensure that it should not become an addiction. He added that if a State sub-contracted lottery to profit making middlemen who sometimes circumvented provisions of law, then it took away the benefit of revenue from lottery. He stated that earlier, they had several times appealed to the Central Government to frame laws under the Gambling Act to prevent outsiders from running the lottery. Shri H. Rajesh Prasad, Commissioner, State Tax, Delhi stated that the Hon'ble Supreme Court had given a judgement that banning Lottery in a State which was itself running Lottery would be a violation of Article 301 of the Constitution relating to freedom of trade and commerce.

27.15. The Hon'ble Minister from Assam reiterated that it was not tenable to fix the rate of lottery on the basis of who was running the Lottery. He stated that it was insulting for the North-Eastern States when there was reference to middlemen, etc. as they were running the lottery as per the law and after the scrutiny of the Courts of Law. He stated that what was being referred to as middlemen were actually the dealers and agents of the State and States should not be discriminated on the basis of the manner of running the Lottery. He also argued that if differential rate of tax for Lottery was to be kept, then the GoM should also consider keeping differential rate of tax for cement, paper, petroleum, etc. produced by a government run factory and those produced by privately run factories. He recalled that earlier too, when the decision regarding two rates of tax on Lottery was taken, he had protested against it, but had agreed to it to break the deadlock. He emphasized that any person appointed by a State to run the lottery should not be dubbed as a middleman. The Hon'ble Chief Minister of Puducherry reiterated that as some members could not participate in the earlier deliberation of the GoM, the matter should be further discussed in the GoM. The Hon'ble Deputy Chief Minister of Gujarat stated that keeping in view the fact that the Hon'ble Minister from Kerala could not attend the earlier meeting of the GoM due to hospitalization, one more meeting of the GoM could be held.

27.16. The Hon'ble Chief Minister of Puducherry reiterated that GoM should be allowed to further deliberate and recommend on this matter. He stated that his Union Territory was also suffering because their manufactured goods were going outside the UT and as a result revenue was not accruing to the UT, but because of it, he could not say that they would walk out of GST. He observed that presently his UT was surviving due to 14% compensation. He added that they were providing land, infrastructure, etc. to the units in their Union Territory but the revenue was going to other States and he would also like to suggest that 50% of revenue arising out of such goods supplied to other States should be retained in the manufacturing State.

27.17. The Hon'ble Minister from Kerala stated that the two-rate structure on lottery had been upheld by the Hon'ble Kolkata High Court and now this was again proposed to be re-considered. He stated that

there were issues like revenue of North-Eastern States. He clarified that he did not use the word middlemen for the State Ministers, but his concern was that the State was authorizing to run the Lottery which was run with a motive of profit maximization. He stated that there were several excerpts in the report of C&AG regarding corruption by private people running Lottery. He clarified that he was not against the States who authorized to run Lottery but he was against those who actually ran those Lotteries.

27.18. The Hon'ble Minister from Jharkhand enquired as to in which of the States lottery was being run. The Hon'ble Chairperson stated that this was indicated in paragraph 9 of the Agenda note on this subject. The Hon'ble Chairperson requested the Hon'ble Deputy Chief Minister of Gujarat and the Hon'ble Minister from Punjab to suggest a further roadmap on this issue.

27.19. The Hon'ble Minister from Punjab suggested that the issue could be referred back to the GoM or a reference could be made to the Attorney General of India or the decisions of the Hon'ble High Court of Kolkata could be taken up to Hon'ble Supreme Court for review. The Hon'ble Chairperson stated that in his view, the issue was not about the legality rather the North-Eastern States appointed agents due to lack of Governmental infrastructure to sell lottery across the country and the Hon'ble Minister from Kerala held a view that differential rate of tax was justified as one was earned by the State whereas the other was earned by the private parties. The Hon'ble Deputy Chief Minister of Gujarat suggested that the issue could be kept pending. He observed that the revenue came to the State in whatever manner the Lottery was organized.

27.20. The Hon'ble Chairperson suggested that the GoM could meet again and find a solution. The Council agreed to this suggestion. The Hon'ble Chairperson further stated that the meeting of GoM should be fixed after ascertaining the convenience of the Hon'ble members of the GoM, particularly those who held opposite view points.

28. **For Agenda item 7(i)**, the Council agreed that the issue be considered further by the GoM on Lottery and its recommendations be brought before the Council.

Other Issues

29. The Hon'ble Chief Minister of Puducherry raised the issue of IGST apportionment for 2017-18 in respect of Delhi and Puducherry which was still unresolved and money belonging to them instead had gone to the Consolidated Fund of India. He stated that the money was rightfully due to the States and hence they had to make provision in the budget. The Hon'ble Chairperson stated that since the matter could not be resolved at official level, he would be ready for a meeting with the Ministers from both the UTs Delhi and Puducherry at their convenience to resolve the issues. The Hon'ble Chief Minister of Puducherry further stated that the share of IGST for December 2018 and January 2019 had not been received so far. The Hon'ble Minister from Punjab also raised the issue of GST arrears which were pending to be released from Centre.

29.1. The Hon'ble Minister from Tamil Nadu circulated a written speech in the meeting where he reiterated request of Tamil Nadu seeking intervention of the Hon'ble Chairperson for early settlement of the outstanding IGST amount to the State for 2017-2018 as it would help them in tiding over the financial constraints. He stated that that the net loss to Tamil Nadu from the incorrect dispensation adopted by the Ministry of Finance was estimated at Rs. 4459 crore. It was also mentioned in the written

speech that his State had sent a number of proposals relating to reduction/exemption of taxes for consideration of the Fitment Committee and placing before the Council for a decision such as reduction and exemption of tax on 77 goods and services, the proposal relating to job works and reduction in rate of tax on safety matches, etc.

29.2. The Hon'ble Minister from West Bengal raised the issue of inverted tax structure in the railway Sector which needed to be addressed as there was a lot of accumulated credit while the refund of credit was blocked. Similarly, the petro chemical sector was also suffering from the similar problem.

Agenda Item 8: Date of the next meeting of the GST Council

30. The Hon'ble Chairperson stated that the next meeting of the Council could be held through video conference to consider the recommendations of the Fitment Committee and the Law Committee on the various outstanding issues relating to Real Estate. He said that tentatively it could be held on 15th or 17th March 2019 for which intimation would be sent in due course.

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

Annexure 1

List of Hon'ble Ministers who attended the 33rd GST Council Meeting on 20th February 2019			
Sl No	**State/Centre**	**Name of Hon'ble Minister**	**Charge**
1	Govt of India	Shri Arun Jaitley	Union Finance Minister
2	Govt of India	Shri S.P. Shukla	Minister of State (Finance)
3	Arunachal Pradesh	Shri Jarkar Gamlin	Minister (Tax & Excise)
4	Bihar	Shri Sushil Kumar Modi	Deputy Chief Minister
5	Chattisgarh	Shri T.S. Singh Deo	Minister for Commercial Taxes
6	Delhi	Shri Manish Sisodia	Deputy Chief Minister
7	Goa	Shri Mauvin Godinho	Minister for Panchayat
8	Gujarat	Shri Nitinbhai Patel	Deputy Chief Minister
9	Haryana	Capt. Abhimanyu	Excise & Taxation Minister
10	Himachal Pradesh	Shri Suresh Bhardwaj	Minister (Education)
11	Jammu & Kashmir*	Shri K K Sharma	Advisor to Governor (I/c Finance)
12	Jharkhand	Shri C.P. Singh	Minister - Department of Urban Development, Housing and Transport
13	Kerala	Dr. Thomas T M Isaac	Finance Minister
14	Madhya Pradesh	Shri Priyavrat Singh	Minister (Energy)
15	Maharashtra	Dr. Ranjit Patil	MoS Home (Urban), Urban Development, Skill Development and Entrepreneurship, Law & Judiciary, Parliamentary affairs
16	Meghalaya	Shri Conrad K. Sangma	Chief Minister
17	Puducherry	Shri V. Narayanasamy	Chief Minister
18	Punjab	Shri Manpreet Singh Badal	Finance Minister
19	Rajasthan	Shri Shanti Kumar Dhariwal	Minister for Local Self Government, Urban Development and Housing, Law and Legal affairs, Parliamentary affairs
20	Tamil Nadu	Shri D. Jayakumar	Minister for Fisheries and Personnel & Administrative Reforms
21	Uttarakhand	Shri Subodh Uniyal	Minister (Agriculture)
22	Uttar Pradesh	Shri Rajesh Agarwal	Finance Minister
23	West Bengal	Dr. Amit Mitra	Finance Minister
** Note - The Union Ministry of Law & Justice has opined that in a State where there is President's/Governor's rule, the person so authorised by the Governor of the State can be conferred membership of the GST Council to represent the State for the purpose of Article 279A of the Constitution in the capacity of Minister. Accordingly, the name of the Advisor to Hon'ble Governor (I/c Finance) of Jammu & Kashmir is included in the Annexure which contains the list of Ministers (Council Members) who attended the GST Council Meeting.*			

Annexure 2

List of Hon'ble Ministers who attended the 33rd GST Council Meeting on 24th February 2019			
Sl No	**State/Centre**	**Name of Hon'ble Minister**	**Charge**
1	Govt of India	Shri Arun Jaitley	Union Finance Minister
2	Assam	Dr. Himanta Biswa Sarma	Finance Minister
3	Bihar	Shri Sushil Kumar Modi	Deputy Chief Minister
4	Chattisgarh	Shri T.S. Singh Deo	Minister for Commercial Taxes
5	Delhi	Shri Manish Sisodia	Deputy Chief Minister
6	Goa	Shri Mauvin Godinho	Minister for Panchayat
7	Gujarat	Shri Nitinbhai Patel	Deputy Chief Minister
8	Haryana	Dr. Banwari Lal	MoS Public Health Engineering Deptt.
9	Himachal Pradesh	Shri Mahender Singh Thakur	Minister for Irrigation and Public Health, Horticulture & Sainik Welfare
10	Jammu & Kashmir	Shri K. K. Sharma	Advisor to Governor (I/c Finance)
11	Jharkhand	Shri C.P. Singh	Minister - Department of Urban Development, Housing and Transport
12	Kerala	Dr. Thomas T M Isaac	Finance Minister
13	Madhya Pradesh	Shri Priyavrat Singh	Minister for Energy
14	Maharashtra	Shri Sudhir Mungantiwar	Finance Minister
15	Manipur	Shri Thokchom Radheshyam Singh	Minister for Education and Labour Employment
16	Meghalaya	Shri Conrad K. Sangma	Chief Minister
17	Puducherry	Shri V. Narayanasamy	Chief Minister
18	Punjab	Shri Manpreet Singh Badal	Finance Minister
19	Rajasthan	Shri Shanti Kumar Dhariwal	Minister for Local Self Government, Urban Development and Housing, Law and Legal affairs, Parliamentary affairs
20	Tamil Nadu	Shri D. Jayakumar	Minister for Fisheries and Personnel & Administrative Reforms
21	Tripura	Ms. Santana Chakma	Minister for Social Welfare & Social Education and Animal Resource Development Department
22	Uttar Pradesh	Shri Rajesh Agarwal	Finance Minister
23	Uttarakhand	Shri Prakash Pant	Finance Minister
24	West Bengal	Dr. Amit Mitra	Finance Minister

Annexure 3

List of Officials who attended the 33rd GST Council Meeting on 20th February 2019			
Sl No	**State/Centre**	**Name of the Officer**	**Charge**
1	Govt. of India	Dr. A. B. Pandey	Revenue Secretary
2	Govt. of India	Dr. Krishnamurthy Subramanian	Chief Economic Adviser
3	Govt. of India	Shri Pranab Kumar Das	Chairman, CBIC
4	Govt. of India	Dr. John Joseph	Member (Budget), CBIC
5	Govt. of India	Dr. Rajeev Ranjan	Special Secretary, GST Council
6	Govt. of India	Shri J. P. S. Chawla	Pr. CCA
7	Govt. of India	Shri P.K. Mohanty	Adviser (GST), CBIC
8	Govt. of India	Shri Sandeep M. Bhatnagar	Member, CBIC
9	Govt. of India	Shri Upender Gupta	Pr. Commissioner (GST), CBIC
10	Govt. of India	Shri Yogendra Garg	Pr. ADG, GST, CBIC
11	Govt. of India	Shri G. D. Lohani	Joint Secretary, TRU I, DoR
12	Govt. of India	Shri Manish Kumar Sinha	Joint Secretary, TRU II, DoR
13	Govt. of India	Shri S. K. Rehman	ADG, GST, CBIC
14	Govt. of India	Shri D. S. Malik	DG (M&C)
15	Govt. of India	Shri Rajesh Malhotra	ADG (M&C)
16	Govt. of India	Shri N. Gandhi Kumar	Deputy Secretary, DoR
17	Govt. of India	Shri Pramod Kumar	Deputy Secretary, TRU-II, DoR
18	Govt. of India	Shri Amaresh Kumar	Joint Comm., GST Policy Wing, CBIC
19	Govt. of India	Shri Ravneet Khurana	Joint Comm., GST Policy Wing, CBIC
20	Govt. of India	Shri Darpan Amrawanshi	Dy. Comm., GST Policy Wing, CBIC
21	Govt. of India	Shri Harsh Singh	Technical Officer, TRU-II, DoR
22	Govt. of India	Shri Kumar Asim Anand	Asst. Comm., GST Policy Wing, CBIC
23	Govt. of India	Shri Harish Y. N	OSD, TRU-II, DoR
24	Govt. of India	Shri Paras Sankhla	OSD to Union Minister
25	Govt. of India	Shri Nikhil Varma	OSD to MoS (Finance)
26	Govt. of India	Shri Mahesh Tiwari	PS to MoS
27	Govt. of India	Dr. Vikash Shukla	Media Advisor to RS
28	Govt. of India	Shri Nagendra Goel	Adviser, CBIC
29	GST Council	Shri Shashank Priya	Joint Secretary
30	GST Council	Shri Dheeraj Rastogi	Joint Secretary
31	GST Council	Shri Rajesh Agarwal	Director
32	GST Council	Shri G. S. Sinha	Director
33	GST Council	Shri Jagmohan	Director
34	GST Council	Shri Arjun Meena	Under Secretary
35	GST Council	Shri Rakesh Agarwal	Under Secretary
36	GST Council	Shri Rahul Raja	Under Secretary
37	GST Council	Shri Mahesh Singarapu	Under Secretary

38	GST Council	Shri Debashish Dutta	Under Secretary
39	GST Council	Shri Sandeep Bhutani	Superintendent
40	GST Council	Shri Sandeep Bhutani	Superintendent
41	GST Council	Shri Vipul Sharma	Superintendent
42	GST Council	Shri Amit Soni	Superintendent
43	GST Council	Shri Anis Alam	Superintendent
44	GST Council	Shri Dipendra Kumar Singh	Superintendent
45	GST Council	Shri Sunil Kumar	Superintendent
46	GSTN	Shri Prakash Kumar	CEO
47	GSTN	Ms Kajal Singh	EVP (Services)
48	Govt. of India	Shri Kishori Lal	Pr. Commissioner, Chandigarh Zone, CBIC
49	Govt. of India	Shri Pramod Kumar	Pr. Commissioner, Delhi Zone, CBIC
50	Govt of India	Shri Yogesh Agrawal	Commissioner, Meerut Zone, CBIC
51	Govt of India	Shri Neerav Kumar Mallick	Commissioner, Bhopal Zone, CBIC
52	Govt of India	Shri M. Subramanyam	Commissioner, Bengaluru Zone, CBIC
53	Govt. of India	Shri S. Kannan	Pr. Commissioner, Chennai Zone, CBIC
54	Govt. of India	Shri Javed Akhtar Khan	Commissioner, Ahmedabad Zone, CBIC
55	Govt. of India	Shri Sanjay Mahendru	Commissioner, Mumbai Zone, CBIC
56	Govt. of India	Shri Viney Kumar Paul	Commissioner, Guwahati Zone, CBIC
57	Govt. of India	Shri Srinivas Mandalika	Pr. Commissioner, Hyderabad Zone, CBIC
58	Govt. of India	Shri M Srihari Rao	Commissioner, Vishakhapatnam Zone, CBIC
59	Govt. of India	Shri Ranjeet Kumar	Commissioner, Ranchi Zone, CBIC
60	Andhra Pradesh	Dr D.Sambasiva Rao	Special Chief Secretary, Revenue
61	Andhra Pradesh	Shri J. Syamala Rao	Chief Commissioner, State Tax
62	Andhra Pradesh	Shri T. Ramesh Babu	Commissioner, State Tax
63	Andhra Pradesh	Shri D. Venkateswara Rao	OSD to Spcl Chief Secretary, Revenue
64	Arunachal Pradesh	Shri Anirudh S Singh	Commissioner (Tax & Excise)
65	Arunachal Pradesh	Shri Tapas Dutta	SNO
66	Assam	Shri Anurag Goel	Commissioner, State Tax
67	Bihar	Dr. Pratima	Commissioner cum Secretary, State Tax
68	Bihar	Shri Arun Kumar Mishra	Additional Secretary, State Tax
69	Bihar	Shri Sanjay Kumar Mawandia	Special Commissioner, State Tax
70	Bihar	Shri Rajesh Kumar	Additional Commissioner, State Tax
71	Bihar	Ms Sima Bharti	Joint Commissioner, State Tax
72	Bihar	Shri Ajitabh Mishra	Joint Commissioner, State Tax
73	Chhattisgarh	Ms. Reena B. Kangale	Secretary cum Commissioner, State Tax
74	Chhattisgarh	Ms. Nimisha Jha	Joint Commissioner, State Tax
75	Chhattisgarh	Shri Deepak Giri	Dy. Commissioner, State Tax
76	Chhattisgarh	Shri Manish Mishra	Dy. Commissioner, State Tax

77	Chhattisgarh	Shri Narendra Verma	Dy. Commissioner, State Tax
78	Delhi	Ms. Renu Sharma	Pr. Secretary, Finance
79	Delhi	Shri H. Rajesh Prasad	Commissioner, State Tax
80	Delhi	Shri Rajesh Goyal	Addl. Commissioner (Policy), State Tax
81	Delhi	Shri A K Singh	Deputy Secretary, Finance
82	Delhi	Shri L S Yadav	Asst. Commissioner (Policy), State Tax
83	Goa	Shri Dipak Bandekar	Commissioner, State Tax
84	Gujarat	Shri Arvind Agarwal	ACS, Finance
85	Gujarat	Dr. P.D. Vaghela	Chief Commissioner, State Tax
86	Gujarat	Shri Sanjeev Kumar	Secretary (Economic Affairs) Finance Department
87	Gujarat	Shri Ajay Kumar	Special Commissioner, State Tax
88	Haryana	Shri Sanjeev Kaushal	Addl Chief Secretary, E & T Dept
89	Haryana	Shri Vijay Singh	Addl Commissioner, State Tax
90	Himachal Pradesh	Shri Jagadish Chander Sharma	Principal Secretary (Excise & Taxation)
91	Himachal Pradesh	Shri Rajeev Sharma	Commissioner, State Tax and Excise
92	Himachal Pradesh	Shri Rakesh Sharma	Joint Commissioner, State Tax & Excise
93	Jammu & Kashmir	Shri P K Bhatt	Commissioner, State Tax
94	Jharkhand	Shri Prashant Kumar	Secretary cum Commissioner, State Tax
95	Jharkhand	Shri Ajay Kumar Sinha	Addl. Commissioner, State Tax
96	Jharkhand	Shri Brajesh Kumar	State Tax officer
97	Karnataka	Shri Srikar M.S.	Commissioner, State Tax
98	Kerala	Ms. Tinku Biswal	Commissioner, State Tax
99	Madhya Pradesh	Shri Manu Shrivastava	Pr. Secretary, State Tax
100	Madhya Pradesh	Shri D. P Ahuja	Commissioner, State Tax
101	Madhya Pradesh	Shri Sudip Gupta	Jt. Commissioner, State Tax
102	Maharashtra	Shri Rajiv Jalota	Commissioner, State Tax
103	Manipur	Shri Rakesh Ranjan	Pr. Secretary, Finance
104	Manipur	Ms Mercina R. Panmei	Commissioner, State Tax
105	Manipur	Shri Y. Indrakumar Singh	Asst. Commissioner, State Tax
106	Meghalaya	Shri Abhishek Bhagotia	Commissioner, State Tax
107	Meghalaya	Shri L Khongsit	Jt. Commissioner, State Tax
108	Meghalaya	Shri G G Marbaniang	Asst. Commissioner, State Tax
109	Meghalaya	Shri K War	Asst. Commissioner, State Tax
110	Meghalaya	Shri B Wallang	Asst. Commissioner, State Tax
111	Mizoram	Shri Vanlal Chhuanga	Commissioner & Secretary, Taxation Department
112	Mizoram	Shri H K Lalhawngliana	Jt. Commissioner, State Tax

113	Mizoram	Shri Hrangthanmawia	Assistant Commissioner, State Tax
114	Nagaland	Shri Wochamo Odyuo	Addl. Commr, State Tax
115	Nagaland	Shri Kilannaro	Joint Commissioner, State Tax
116	Nagaland	Shri Imtilemla Lkr.	Joint Commissioner, State Tax
117	Nagaland	Shri Lima Imsong	Deputy Commissioner, State Tax
118	Odisha	Shri K K Meena	Pr. Secretary, Finance
119	Odisha	Shri Saswat Mishra	Commissioner, State Tax
120	Puducherry	Shri D. V. Candavelou	Secretary, Finance
121	Puducherry	Shri L Kumar	Commissioner, State Tax
122	Punjab	Shri M. P Singh	ACS-cum-Financial Commissioner (Taxation)
123	Punjab	Shri V. K. Garg	Advisor (Financial Resources) to CM
124	Punjab	Shri Vivek Pratap Singh	Excise & Taxation Commissioner
125	Punjab	Shri Pawan Garg	Dy. Excise & Taxation Commissioner
126	Rajasthan	Dr. Prithvi Raj	Secretary Finance (Revenue)
127	Rajasthan	Shri Preetam b. Yaswant	Commissioner, State Tax
128	Rajasthan	Ms Meenal Bhosle	OSD, Finance
129	Rajasthan	Shri Ketan Sharma	Addl. Commissioner, GST, State Tax Dept
130	Rajasthan	Shri Arvind Mehta	Joint Commissioner, State Tax
131	Sikkim	Smt. Dipa Basnet	Secretary-cum-Commissioner, State Tax
132	Tamil Nadu	Shri Ka. Balachandran	Pr. Secretary, CT and Registration Deptt.
133	Tamil Nadu	Dr. T.V Somanathan	ACS/Commissioner, State Tax
134	Tamil Nadu	Shri K Gnanasekaran	Additional Commissioner, State Tax
135	Tamil Nadu	Shri C. Palani	Jt. Commissioner, State Tax
136	Telangana	Shri Somesh Kumar	Principal Secretary (Finance)
137	Telangana	Shri Anil Kumar	Commissioner of State Tax
138	Telangana	Shri Laxminarayan Jannu	Addl. Commissioner, State Tax
139	Telangana	Shri U Srinivasulu	Addl. Commissioner, State Tax
140	Tripura	Shri Nagesh Kumar B	Chief Commissioner, State Tax
141	Tripura	Shri Ashin Barman	Superintendent, State Tax
142	Uttar Pradesh	Shri Alok Sinha	ACS, State Tax
143	Uttar Pradesh	Ms Amrita Soni	Commissioner, State Tax
144	Uttar Pradesh	Shri Vivek Kumar	Addl. Commissioner, State Tax
145	Uttar Pradesh	Shri C P Mishra	Joint Commissioner, State Tax
146	Uttar Pradesh	Shri D K Sachan	Joint Commissioner, State Tax
147	Uttar Pradesh	Shri Sanjay Kumar Pathak	Joint Commissioner, State Tax
148	Uttar Pradesh	Shri Brijesh Mishra	Joint Commissioner, State Tax
149	Uttarakhand	Shri Piyush Kumar	Addl. Commissioner, State Tax
150	Uttarakhand	Shri Vipin Chand	Addl. Commissioner, State Tax
151	Uttarakhand	Shri Rakesh Verma	Jt Commissioner, State Tax
152	West Bengal	Shri H K Dwivedi	ACS, Finance
153	West Bengal	Ms. Smaraki Mahapatra	Commissioner, State Tax
154	West Bengal	Shri Khalid A Anwar	Senior Joint Commissioner, State Tax

Annexure 4

List of Officials who attended the 33rd GST Council Meeting on 24th February 2019			
Sl No	**State/Centre**	**Name of the Officer**	**Charge**
1	Govt. of India	Dr. A. B. Pandey	Revenue Secretary
2	Govt. of India	Shri Pranab Kumar Das	Chairman, CBIC
3	Govt. of India	Dr. John Joseph	Member (Budget), CBIC
4	Govt. of India	Dr. Rajeev Ranjan	Special Secretary, GST Council
5	Govt. of India	Shri Sandeep M. Bhatnagar	Member, CBIC
6	Govt. of India	Shri J. P. S. Chawla	Pr. CCA, CBIC
7	Govt. of India	Shri P.K. Mohanty	Adviser (GST), CBIC
8	Govt. of India	Shri Upender Gupta	Pr. Commissioner (GST), CBIC
9	Govt. of India	Shri Ritvik Pandey	Joint Secretary, DoR
10	Govt. of India	Shri Manish Kumar Sinha	Joint Secretary, TRU II, DoR
11	Govt. of India	Shri Yogendra Garg	Pr. ADG, GST, CBIC
12	Govt. of India	Shri S. K. Rehman	ADG, GST, CBIC
13	Govt. of India	Shri D. S. Malik	DG (M&C)
14	Govt. of India	Shri Rajesh Malhotra	ADG (M&C)
15	Govt. of India	Shri Kush Mohan Nahar	MCCO, PIB
16	Govt. of India	Shri N. Gandhi Kumar	Deputy Secretary, DoR
17	Govt. of India	Shri Pramod Kumar	Deputy Secretary, TRU-II, DoR
18	Govt. of India	Shri Parmod Kumar	OSD, TRU-II, DoR
19	Govt. of India	Shri Amaresh Kumar	Joint Comm., GST Policy Wing, CBIC
20	Govt. of India	Shri Ravneet Khurana	Joint Comm., GST Policy Wing, CBIC
21	Govt. of India	Shri Kumar Asim Anand	Asst. Comm., GST Policy Wing, CBIC
22	Govt. of India	Shri Harsh Singh	Technical Officer, TRU-II, DoR
23	Govt. of India	Shri Harish Y. N	OSD, TRU-II, DoR
24	Govt. of India	Shri Paras Sankhla	OSD to Union Minister
25	Govt. of India	Shri Debashis Chakraborty	OSD to Revenue Secretary
26	Govt. of India	Shri Abhishek Gupta	OSD to Chairman, CBIC
27	Govt. of India	Dr. Vikash Shukla	Media Advisor to RS
28	Govt. of India	Shri Nagendra Goel	Adviser, CBIC

29	GST Council	Shri Shashank Priya	Joint Secretary
30	GST Council	Shri Dheeraj Rastogi	Joint Secretary
31	GST Council	Shri Rajesh Agarwal	Director
32	GST Council	Shri G. S. Sinha	Director
33	GST Council	Shri Jagmohan	Director
34	GST Council	Shri Arjun Meena	Under Secretary
35	GST Council	Shri Rakesh Agarwal	Under Secretary
36	GST Council	Shri Rahul Raja	Under Secretary
37	GST Council	Shri Mahesh Singarapu	Under Secretary
38	GST Council	Shri Debashish Dutta	Under Secretary
39	GST Council	Shri Umed Singh Rawat	Superintendent
40	GST Council	Shri Sandeep Bhutani	Superintendent
41	GST Council	Shri Mukesh Gaur	Superintendent
42	GST Council	Shri Vipul Sharma	Superintendent
43	GST Council	Shri Amit Soni	Superintendent
44	GST Council	Shri Anis Alam	Superintendent
45	GST Council	Shri Dipendra Kumar Singh	Superintendent
46	GSTN	Ms Kajal Singh	EVP (Services)
47	GSTN	Shri Sarthak Saxena	OSD to CEO
48	Govt of India	Shri R C Sankhla	Commissioner, Lucknow Zone, CBIC
49	Govt. of India	Shri Vijay Mohan Jain	Commissioner, Panchkula Zone, CBIC
50	Govt. of India	Shri Pramod Kumar	Pr. Commissioner, Delhi Zone, CBIC
51	Govt of India	Shri Yogesh Agrawal	Commissioner, Meerut Zone, CBIC
52	Govt of India	Shri M. Subramanyam	Commissioner, Bengaluru Zone, CBIC
53	Govt. of India	Dr. Tejpal Singh	Pr. Commissioner, Ahmedabad Zone
54	Govt. of India	Shri Sanjay Mahendru	Commissioner, Mumbai Zone, CBIC
55	Govt. of India	Shri Viney Kumar Paul	Commissioner, Guwahati Zone, CBIC
56	Govt. of India	Shri Srinivas Mandalika	Pr. Commissioner, Hyderabad Zone, CBIC
57	Govt. of India	Shri M Srihari Rao	Commissioner, Vishakhapatnam Zone, CBIC
58	Govt. of India	Shri Nitin Anand	Commissioner, Ranchi Zone, CBIC
59	Andhra Pradesh	Shri J. Syamala Rao	Chief Commissioner, State Tax

60	Andhra Pradesh	Shri T. Ramesh Babu	Commissioner, State Tax
61	Assam	Shri Anurag Goel	Commissioner, State Tax
62	Assam	Shri Shakeel Saadullah	Joint Commissioner, State Tax
63	Bihar	Shri Arun Kumar Mishra	Additional Secretary, State Tax
64	Chandigarh (UT)	Shri Rakesh Kumar Popli	Addl. Comm. Cum Collector, E&T
65	Chandigarh (UT)	Shri R K Choudhary	Asst. Comm., E & T
66	Chhattisgarh	Ms. Reena B. Kangale	Secretary cum Commissioner, State Tax
67	Chhattisgarh	Shri S. L. Agarwal	Special Commissioner, State Tax
68	Delhi	Ms. Renu Sharma	Pr. Secretary, Finance
69	Delhi	Shri H. Rajesh Prasad	Commissioner, State Tax
70	Delhi	Shri Rajesh Goyal	Addl. Commissioner (Policy), State Tax
71	Goa	Shri Dipak Bandekar	Commissioner, State Tax
72	Gujarat	Shri Arvind Agarwal	ACS, Finance
73	Gujarat	Dr. P.D. Vaghela	Chief Commissioner, State Tax
74	Gujarat	Shri Ridhidesh Rawal	Dy. Commissioner, State Tax
75	Haryana	Shri Sanjeev Kaushal	Addl Chief Secretary, E & T Dept
76	Haryana	Shri Vijay Kumar Singh	Addl Commissioner, State Tax
77	Himachal Pradesh	Shri Rajeev Sharma	Commissioner, State Tax and Excise
78	Himachal Pradesh	Shri Rakesh Sharma	Joint Commissioner, State Tax & Excise
79	Jammu & Kashmir	Shri P K Bhatt	Commissioner, State Tax
80	Jharkhand	Shri Ajay Kumar Sinha	Addl. Commissioner, State Tax
81	Jharkhand	Shri Brajesh Kumar	State Tax officer
82	Karnataka	Shri Srikar M.S.	Commissioner, State Tax
83	Kerala	Ms. Tinku Biswal	Commissioner, State Tax
84	Madhya Pradesh	Shri Manu Shrivastava	Pr. Secretary, State Tax
85	Madhya Pradesh	Shri D. P Ahuja	Commissioner, State Tax
86	Madhya Pradesh	Shri Sudip Gupta	Jt. Commissioner, State Tax
87	Manipur	Shri Y. Indrakumar Singh	Asst. Commissioner, State Tax
88	Meghalaya	Shri L Khongsit	Jt. Commissioner, State Tax
89	Mizoram	Shri L. H. Rosanga	Commissioner, State Tax
90	Mizoram	Shri R. Zosamliana	Joint Commissioner, State Tax

91	Odisha	Shri Saswat Mishra	Commissioner, State Tax
92	Odisha	Shri Nidhi Kumar Rautray	Addl. Secretary, Finance
93	Puducherry	Shri K. Sridhar	Deputy Commissioner, State Tax
94	Punjab	Shri V. K. Garg	Advisor (Financial Resources) to CM
95	Punjab	Shri Vivek Pratap Singh	Excise & Taxation Commissioner
96	Rajasthan	Dr. Prithvi Raj	Secretary Finance (Revenue)
97	Rajasthan	Shri Preetam b. Yaswant	Commissioner, State Tax
98	Rajasthan	Shri Ketan Sharma	Addl. Commissioner, GST, State Tax
99	Tamil Nadu	Shri Ka. Balachandran	Pr. Secretary, CT and Registration Deptt.
100	Tamil Nadu	Shri C. Palani	Jt. Commissioner, State Tax
101	Telangana	Shri Anil Kumar	Commissioner of State Tax
102	Telangana	Shri Laxminarayan Jannu	Addl. Commissioner, State Tax
103	Tripura	Shri Ashin Barman	Superintendent, State Tax
104	Uttar Pradesh	Shri Alok Sinha	ACS, State Tax
105	Uttar Pradesh	Shri C P Mishra	Joint Commissioner, State Tax
106	Uttar Pradesh	Shri Sanjay Kumar Pathak	Joint Commissioner, State Tax
107	Uttarakhand	Shri Piyush Kumar	Addl. Commissioner, State Tax
108	Uttarakhand	Shri Rakesh Verma	Joint Commissioner, State Tax
109	West Bengal	Shri Khalid A Anwar	Senior Joint Commissioner, State Tax

Annexure 5

33rd Meeting of GST Council



Deemed ratification & Issues for consideration

Agenda

- **Agenda No. 2** - Deemed Ratification of Notification / Circulars issued post 32nd Meeting of GST Council
- **Agenda No. 3 -** Decisions taken by the GIC post 32nd Meeting of GST Council
- **Agenda No. 4 -** Decisions / recommendations of the IT Grievance Redressal Committee for information of the GST Council

2

Agenda No. 2
Deemed Ratification (1/2)

- **Ratification of following notifications, circulars & orders issued post 32nd meeting (dated 10th January, 2019) of GST Council:**

Act/Rules	Type	Notification / Circular / Order Nos.
CGST Act/CGST Rules	Central Tax	1 to 8 of 2019
	Central Tax (Rate)	1 of 2019
IGST Act	Integrated Tax	1 to 3 of 2019
	Integrated Tax (Rate)	1 to 2 of 2019
UTGST Act	Union territory tax	1 of 2019
	Union territory tax (Rate)	1 of 2019

3

Agenda No. 2
Deemed Ratification (2/2)

- **Ratification of following notifications, circulars & orders issued post 32nd meeting (dated 10th January, 2019) of GST Council:**

Act/Rules	Type	Notification / Circular / Order Nos.
Circulars	Under the CGST Act	88 to 91 of 2019
	Under the IGST Act	4 of 2019
ROD Orders	Under the CGST Act	1 to 2 of 2019
	Under the UTGST Act	1 of 2019
Orders	Under the CGST Act	1 of 2019

4

Agenda No. 3
GIC decisions post 32nd GST Council Meeting (1/5)

Decision by Circulation (30.01.2019)

- Extension of last date for filing **FORM GSTR-7** for the months of October, 2018 to December, 2018 till 28.02.2019
  - ✓Notification No. 07/2019 – CT dated 31st January, 2019 issued
- Extension of time limit for submitting the declaration in **FORM GST TRAN-1** under rule 117(1A) of the CGST Rules in certain cases till 31.03.2019
  - ✓Order No. 01/2019-GST dated 31st January, 2019 issued

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Agenda No. 3
GIC decisions post 32nd GST Council Meeting (2/5)

Decision by Circulation (01.02.2019)

- Extension of last date for filing **FORM GSTR-8** for the months of October, 2018 to December, 2018 till 07.02.2019
  - ✓RoD Order No. 02/2019-CT dated 1st February, 2019 issued
- Relaxation of the condition from requirement to furnish Bank Guarantee for import of aircrafts for participation in Aero Show organised by the Central Government
  - ✓Notification No. 4/2019-Customs dated 7th February, 2019 issued
- Approval of the New Return System
  - ✓ Final documents shared with GSTN on 6th February, 2019

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Agenda No. 3
GIC decisions post 32nd GST Council Meeting (3/5)

Decision by Circulation (06.02.2019)

- Extension of last date for filing **FORM GSTR-7** for the month of January, 2019 till 28.02.2019
  - ✓Notification No. 08/2019 – CT dated 8th February, 2019 issued

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Agenda No. 3
GIC decisions post 32nd GST Council Meeting (4/5)

Decision of 24th GIC (12.02.2019)

- Examination as prescribed in sub-rule (1) of rule 83 of CGST Rules
  - ✓Notification yet to be issued
- Clarification regarding mis-match of data reported in Table 3.2 of **FORM GSTR-3B** & in Table 7B of **FORM GSTR-1**
  - ✓Circular 89/08/2019-GST dated 18th February, 2019 issued
- Clarification regarding compliance of rule 46(n) of the CGST Rules while issuing invoices in case of inter- State supply
  - ✓Circular 90/09/2019-GST dated 18th February, 2019 issued

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Agenda No. 3
GIC decisions post 32nd GST Council Meeting (5/5)

Decision of 24th GIC (12.02.2019)

- Clarification regarding tax payment made for supply of warehoused goods while being deposited in a customs bonded warehouse for the period July, 2017 to March, 2018
  - ✓Circular 91/10/2019-GST dated 18th February, 2019 issued
- Amendment to question No. 61 of the SOP on TDS
  - ✓ Amended SOP issued on 18th February, 2019
- Approval of the amended AOA (Articles of Association) and MOA (Memorandum of Association) of GSTN
  - ✓ Amended AOA (Articles of Association) and MOA (Memorandum of Association) of GSTN approved

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Agenda No. 4
Decisions/recommendations of the ITGRC (1/3)

IT grievance redressal process

- Circular No. 39/13/2013 dated 03.04.18 prescribing the procedure for taxpayers for lodging their grievance due to technical glitch in the GST system was issued
- GIC to act as IT Grievance Redressal Committee (IT-GRC) for resolving problems of the taxpayers who have not been able to file their documents such as TRAN-1, GSTR-3B / GSTR-1 or Registration/ migration etc. due to technical glitches at Common Portal
- Taxpayers are required to submit their grievance application of technical glitch to the designated field nodal officer of State /Center along with evidence

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Agenda No. 4
Decisions/recommendations of the ITGRC (2/3)

- Field nodal officers to examine the taxpayers application and the supporting evidence and if it is prima facie found to be a case of technical glitch then send the issues after collating with their remarks/ recommendation to the GSTN Nodal officer by email
- GSTN issued a SOP on 12.04.18 which is to be followed by the Nodal officers of the States / Center while referring the technical glitches to GSTN

IT Grievance Redressal Committee (IT-GRC) meetings

- Four meetings of IT-GRC have been held till now
- Three meetings were held on 22.06.18, 21.08.18 & 26.10.18
- **Fourth IT-GRC** meeting was held on 12.02.19 and after examination and deliberation on 461 TRAN-1 cases, IT-GRC decided to allow 165 cases

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Agenda No. 4
Decisions/recommendations of the ITGRC (3/3)

- Total 1239 TRAN-1 cases (including cases where writ petitions have been filed in various High Courts) were presented to IT-GRC out of which a total of 570 cases have been approved
- Total 258 TRAN-2 cases have also been approved

Implementation of the Decisions of ITGRC

- TRAN 1 filing has been enabled for the approved taxpayers in the system
- E-mails have been sent by GSTN to the taxpayers asking them to file TRAN 1
- A total of 1307 cases of TRAN-1 have been received from the nodal officers till 17.12.18 by GSTN
- Another lot of around 600 cases of TRAN-1 have been examined by GSTN and will be presented to the IT-GRC for decision shortly
- Rest of the cases are under investigation and checking of logs in the system

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Annexure 6

REAL ESTATE

Agenda Item 5
33rd GST Council Meeting
24th February, 2019

1

Scheme of Presentation

1. **Introduction**
2. **GST Rate Structure**
3. **Affordable Housing**
4. **Eligibility Criteria for Affordable Housing**
5. **Safeguard Measure – RCM on purchase below 80%**
6. **TDR/FSI Related Issues**
7. **Credit Apportionment**
8. **Principles for Transition**
9. **Option or Mandatory**
10. **Other Issues**

2

Recommendation of GoM on Real Estate

- Effective GST @ **5% without ITC** for **non-affordable residential properties**, and

- Effective GST @ **3% or less without ITC** for **affordable residential properties** may be levied.

Recommendation of GoM on Affordable Housing

- Definition of affordable housing may be revised which inter alia include –
  - The existing schemes of State and Central Government covered under GST notification No. 11/2017-Central Tax (Rate) dated 28th June, 2017.

    And

  - An additional criteria of RBI's priority sector lending guidelines having financial limit of Rs. 30 lacs in non-Metro and Rs. 45 lacs in metro cities.

Percentage of house units sold in Metropolitan and other Cities for different values:-

Value \ Cities	Other Cities	Metropolitan
Below 25 lakhs	67	34
25-50 lakhs	20	
50-75 lakhs	11	31
75-100 lakhs		15
100-150 lakhs	2	13
Above 150 lakhs		8
Weighted average unit value (Rs Lakh)	29.8	88

- Metropolitan Cities: Bengaluru, Chennai, Delhi NCR, Hyderabad, Kolkata, Mumbai MR
- Other Cities: Data from 12 cities: Ahmednagar, Bhiwadi, Bhopal, Indore, Jaipur, Kanpur, Lucknow, Ludhiana, Nashik, Panipat, Pune, Raipur

5

Standard size as per CREDAI

- **1 BHK: 450 sq ft**
- **2 BHK: 675 – 700 sq ft**
- **3 BHK: 900 - 960 sq ft**

The size is in "RERA carpet area"

Super area varies between 1.35 to 1.5 of the RERA carpet area

6

Revenue Data

Sl. No.	CGST Zone	Effective Tax Rate (in %)	Tax paid in cash (in %)	Range (in %)
(1)	(2)	(3)	(4)	(5)
1	Meerut (Noida)	6.9	0.4	0 - 2.8
2	Bengaluru	9.3	1.0	0.1 - 2.0
3	Kolkata	10.3	1.4	0 - 4.7
4	Chennai	11.6	4.8	0 - 11.7
5	Hyderabad	9.3	0.5	0 - 4.9
6	Bhubaneswar	9.9	2.0	0 - 9.0
7	Mumbai	10.8	2.1	0 - 6.2
Summary		8.8	1.7	0 - 11.7

7

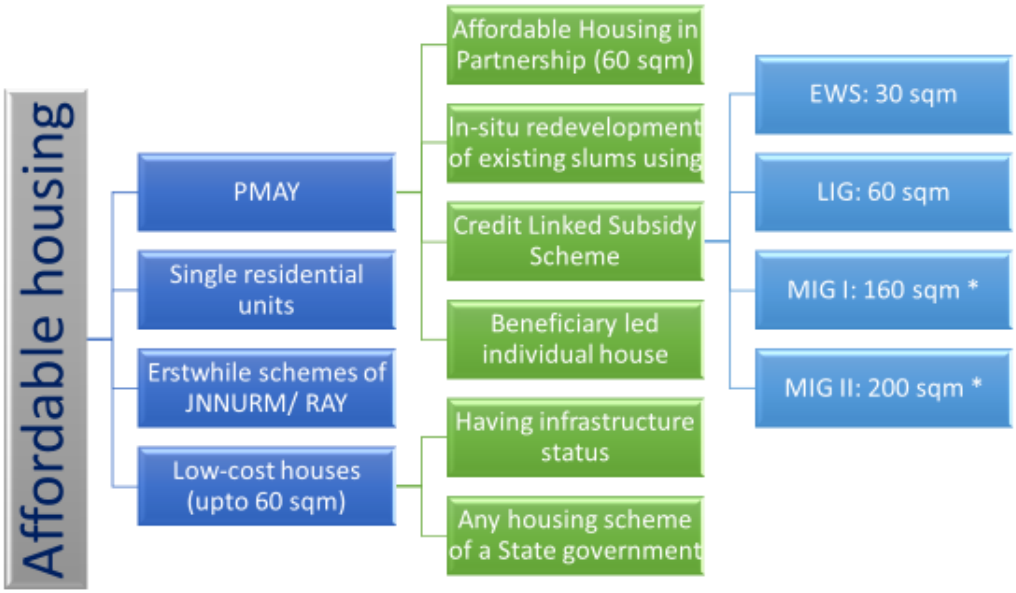
Existing tax payout in the Real Estate Sector

Calculation of GST payable as per present rate structure						
Sl. No.	Category of Housing Unit	High Rise Building			Low Rise Building	
		Low end finish	Premium Quality	Affordable	Low end finish	Affordable
1	Cost of property (per sq. ft.)	4000	10000	3000	3000	2500
2	Cost of construction	1700	3000	1500	1400	1100
3	Input tax credit	280.5	495	247	231	181
4	GST payable (cash + credit)	480	1200	240	360	200
5	Net GST payable	199.5	705	0	129	19
6	Percentage GST Payable	4.99%	7.05%	0.00%	4.30%	0.76%

Source: NBCC

8

Current scope of "affordable housing"



9

GST Rate Structure

- Effective GST @ **5% without ITC** for **non-affordable residential properties**, and

- Effective GST @ **3% or less without ITC** for **affordable residential properties** may be levied.

- FITCOM's View: Regarding affordable residential properties many officers felt that rate of 3% appears to be higher and **effective rate of 1% without ITC** would be appropriate.

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Affordable Housing

- Definition of affordable housing may be revised which inter alia include –
  - The existing schemes of State and Central Government covered under GST notification No. 11/2017-Central Tax (Rate) dated 28th June, 2017.

    And

  - An additional criteria of RBI's priority sector lending guidelines having financial limit of Rs. 30 lacs in non-Metro and Rs. 45 lacs in metro cities.
- FITCOM's View: Metropolitan Cities should include only **Bengaluru, Chennai, Delhi NCR (limited to Delhi, Noida, Greater Noida, Ghaziabad, Gurgaon, Faridabad), Hyderabad, Kolkata, Mumbai (entire MMR).**

11

Eligibility Criteria for Mixed Properties

FITCOM's View:

- In mixed properties commercial portion to be allowed upto 15% (on carpet area basis).
- The commercial property in such mixed properties shall attract GST @ 5% in case of both affordable housing and non affordable housing complex.
- The mixed property which is not eligible for the new tax rate (i.e cases where percentage of commercial property exceeds 15%), shall be taxed as follows:
  - Commercial property shall be taxed at the merit rate as operational now along with ITC facility.
  - Residential property shall be taxed at new rate without ITC.

12

Safeguard Measure: 80% mandatory sourcing

Fitment Committee's suggestion:

- Tax rate on such shortfall may be fixed at flat rate of 18% with Cement as exception.
- Cement, in case procured from unregistered person, shall be charged at 28% on RCM basis, even if it is within the limit of 20% subject to other action under the Act.
- Capital goods to be procured only from registered person, and shall not be used for computing the 80:20 ratio (neither in numerator nor in denominator)

13

Maintaining Credit Chain Integrity

Fitment Committee Recommendations:

- The method of apportionment may be made through GSTR 3B to make it similar to ITC procedure.
- Further, where supply has been shown to be received from a GST registered person who is non-existent, it shall be deemed that the purchase has been made from a non-registered person.
- RCM payment to be done on pro-rata basis, every month, to be adjusted at the end of the year.
- (Fitment Committee was of the view that the proposal may be simplified by shifting tax liability on all purchases from unregistered persons on the developers under RCM at the merit rate of each purchase.)

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Principles for Transition

- ITC shall be available only to the extent (calculated on pro-rata basis) of the value of the supply made out of the total value of supply for the project till the date of transition.
- ITC taken less vis-à-vis the supply made shall be quantified and can be used to adjust the future tax liability.
- ITC taken in excess of supply made (calculated on pro-rata basis) shall be recovered.

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Principles for Transition contd..

- The ITC with respect to work in progress and inputs lying in stock shall lapse. The ITC balance lying in the ledger after paying the liability relating to supplies made prior to the date of transition shall lapse.
- Credit pertaining to Capital Goods shall be distributed between residential and commercial property on pro-rata basis. Life cycle of capital goods shall be considered 60 months. ITC reversal on capital goods to the extent of the remaining part of life cycle after 01.04.2019 and utilized in projects to which above rate applies shall be done.

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TDR/FSI Related Issues

Fitment Committee's Recommendations:

- It is proposed that the withdrawal of exemption on TDR, Long Term lease (premium) etc. attributable to property remaining unsold on completion may be done as per the following formula:
- *GST payable on TDR, Long term lease (premium), FSI etc. attributable to immovable property for which completion certificate(CC) has been received during the relevant return period* **X** *(Total area of residential property unsold on the date of issuance of CC ÷ Total area of the residential property in respect of which CC has been issued during the relevant return period).*
- Liability to pay GST on development rights, long term lease of land (premium), FSI etc. shall be shifted to the date of issuance of completion certificate under section 148, so that the interest liability starts after issuance of completion certificate and not from the time of supply.

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TDR/FSI Related Issues: Example

Facts and Assumptions

- Value of TDR = Rs 1 Cr @ Tax Rate=18%
- Units in the residential complex = 10 (1000 sqft each)
- Total area of residential property = 10,000 sqft
- Total area of residential property unsold = 6,000 sqft
- Value of property sold nearest to completion = Rs 20 lacs
- No of units transferred to land owner upon barter = 5
- Value of TDR in case of barter = (No. of units transferred to land owner upon barter) **x** (Value of property sold nearest to completion) = 5 x Rs 20 lacs = **Rs 1 Cr**

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TDR/FSI Related Issues: Example

- TDR etc supplied against money
  - Tax Amount = Rs 1 Cr x 18% = Rs 18 lacs
  - Exemption withdrawal = Rs 18 lacs x (6000/10000) = **Rs 10.8 lacs**

- TDR etc supplied in barter of property
  - Tax Amount = Rs 1 Cr x 18% = Rs 18 lacs
  - Exemption withdrawal = Rs 18 lacs x (6000/10000) = **Rs 10.8 lacs**

- Cap on the exemption withdrawal
  - 5% of value of unsold property = 5% x (Rs 20 lacs x 6) = Rs 6 lacs
  - Therefore, the withdrawal of exemption shall be done of **Rs 6 lacs** in both the cases and not Rs 10.8 lacs.

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TDR/FSI Related Issues…

- Liability to pay GST on TDR etc may be placed on the recipient under RCM.

- Further the withdrawal may be limited to 5% (1% in case of affordable) of value of unsold property.

- Value of supply of service by way of transfer of development rights in case of barter is equal to value of similar dwelling or commercial units charged by the builder/developer

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Credit Apportionment

- Apportionment between residential and commercial project
- It shall be done on self assessment basis by the developer.
- The same shall be subject to audit and intelligence based enforcement. Guidelines to apportion the purchases between residential and commercial projects are as under:
  - Purchases exclusively for commercial property may be apportioned to commercial projects.
  - Purchases exclusively for residential property may be apportioned to residential projects.

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Credit Apportionment

- Purchases common to both commercial and residential construction may be apportioned in the ratio of the carpet area of residential and commercial projects under construction.

- 80:20 ratio shall be verified for residential segment at the end of the year and at the end of the project.

- Apportionment between immovable property sold "before Completion certificate" and "after Completion certificate": This shall not be required as ITC will not be available in both the cases.

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Other Issues…

- **Issue 1:** The date of implementation of the proposed scheme should be 1st April 2019.
- **Fitment Committee Comments:** The compliance burden shall be reduced if the scheme is implemented from new financial year. Further it shall give time to the industry to make transition to the new tax structure.

- **Issue 2**: Whether the scheme is to be made optional or mandatory?
- **Fitment Committee Comments:** The scheme may be made optional for the ongoing projects as it shall ease the compliance burden and avoid the ordeal of transition provision compliance.

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Other Issues…

- **Issue 3**: To keep long term lease and TDR outside the GST for all purposes and leave them exclusively for States until real estate is fully brought in GST. Definition of immovable property under General Clauses Act defines it to include both land as well as the benefits arising out of land
- **FITCOM's View: There is no legal challenge to levy of GST on supply of development rights or long term lease of land.**

- **Issue 4:** To bring real estate into GST
- **FITCOM's View:** It involves larger issue of taxation of land and would require changes in the Act. A committee may be constituted to work out the details.

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

In the 22nd meeting of the GST Council held at New Delhi on 06th October, 2017, it was decided that the Notifications, Circulars, and Orders which are being issued by the Central Government with the approval of the competent authority shall be forwarded to the GST Council Secretariat, through email, for information and deemed ratification by the GST Council. Accordingly, in the 33rd meeting held on 20th & 24th February, 2019, the GST Council had ratified all the Notifications, Circulars, and Orders issued before the 20th February, 2019.

2. In this respect, the following Notifications, Circulars and Orders issued after 20th February, 2019 (date of the 33rd GST Council Meeting), till 12th March, 2019, under the GST laws by the Central Government, as available on www.cbic.gov.in, are placed before the Council for information and ratification: -

Act/Rules	Type	Notification/Circular/Order Nos.
CGST Act/CGST Rules	Central Tax	9 to 14 of 2019
	Central Tax (Rate)	2 of 2019
UTGST Act	Union territory tax	2 of 2019
	Union territory tax (Rate)	2 of 2019
Circulars	Under the CGST Act	92 to 93 of 2019
ROD Orders	Under the CGST Act	3 of 2019
	Under the UTGST Act	2 of 2019

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

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

GST Implementation Committee (GIC) took certain decisions between 24th January 2019 (when the 33rd GST Council Meeting was concluded) and 12th March 2019 (before the 34th GST Council Meeting scheduled on 19th March 2019). Due to the urgency involved, some decisions were taken after obtaining approval by circulation amongst the GIC Members. The details of the decisions taken is given below:

25th GIC Meeting – 5th March 2019

2. The 25th Meeting of the GIC was held on 5th March 2019. The following agenda items were discussed and decided:

Agenda item 1: Proposal for amendment in CGST Rules, 2017

3. Shri Upender Gupta, Pr. Commissioner, GST Policy Wing, CBIC introduced the agenda and stated that as per the provisions of sub-rule (5) of rule 142 of the CGST Rules, the **FORM GST DRC-07** is mandated for issuance of summary of order under section 73, 74, 75, 76, 125, 129 and 130. It was proposed to issue the summary of order in **FORM GST DRC-07** issued under section 52, 62, 63, 64, 122, 123, 124 and 127 also. Further, as per the provisions of sub-rule (1)(a) of rule 142 of the CGST Rules, the **FORM GST DRC-01** is mandated for issuance of notice under section 73, 74 and 76. It is proposed to issue the notice in **FORM GST DRC-01** issued under section 52, 122, 123, 124, 125, 127, 129 and 130 also.

3.1. He informed that the Law Committee had recommended changes in Rule 100 and 142 along with amendments in related FORMS i.e. **FORM DRC-01, FORM DRC-02, FORM DRC-07, FORM DRC-08, FORM ASMT-13, FORM ASMT-15, FORM ASMT-16, FORM CPD-02** as indicated in the agenda note placed before the GIC. He requested GIC to approve the detailed amendments proposed in the CGST Rules, 2017. He also proposed that *pari materia* changes would also be required to be carried out in the respective SGST Rules and the notification carrying out the said amendments shall be issued after due vetting by the Union Law Ministry.

3.2. Dr. P.D. Vaghela, Chief Commissioner, State Tax (CCST), Gujarat suggested to add a line in **FORM GST CPD-02** to clarify that the amount would be deposited under minor head 'Other'. GIC agreed with the suggestion.

3.3. The GIC approved the amendments proposed in the CGST Rules, 2017 along with the change suggested at paragraph 3.2. above. It also approved that notification carrying out the said amendments shall be issued after due vetting by the Union Law Ministry and similar notification would be issued under the respective SGST Rules also. The implementing notification is yet to be issued.

Agenda item 2: Clarification on various doubts related to treatment of sales promotion schemes under GST

4. Pr. Commissioner, GST Policy Wing, CBIC stated that the agenda note was in respect of various issues that have been raised with respect to tax treatment of sales promotion schemes under GST. Various doubts have been raised with respect to taxability, valuation and availability of Input Tax Credit in case of supplies in conjunction with promotional schemes like:

i. Free Samples and gifts
ii. Buy one get one free offer
iii. Buy more, save more offers
iv. Secondary Discounts

4.1. He stated that the Law Committee had recommended to clarify the provisions of law by way of a Circular to ensure uniformity in the implementation of the law across the field formations. He requested GIC to approve the draft Circular. He also stated that the States may also require to issue a similar Circular.

4.2. The GIC approved the draft circular clarifying various doubts related to treatment of sales promotion schemes under GST. It also approved that similar Circular would be issued by the States also. Accordingly, the implementing Circular No. 92/11/2019-GST dated 7th March 2019 was issued.

Agenda item 3: Levy of GST on Tax Collected at Source under Section 206 (C) of Income Tax Act, 1961

5. Pr. Commissioner, GST Policy Wing, CBIC introduced the agenda and stated that various representations have been received in light of circular No. 76/50/2018 - GST which was issued on 31st December, 2018 wherein the correct valuation methodology for ascertainment of GST on Tax collected at source (TCS) under the provisions of the Income Tax Act, 1961 was clarified. In the said circular, the valuation methodology for ascertainment of GST on TCS under the provisions of the Income Tax Act, 1961 has been clarified that as per Section 15(2) of the CGST Act, 2017, the taxable value for the purposes of GST shall include the TCS amount collected under the provisions of the Income Tax Act since the value to be paid to the supplier by the buyer is inclusive of the said TCS. The FAQ from Central Board of Direct Taxes has clarified that as per Section 206(C) (1), every person, being a seller shall, at the time of debiting of the amount from the said buyer in cash or by the issue of a cheque or draft or by any other mode, whichever is earlier, collect from the buyer. Hence, amount debited to the account of buyer or payment shall be received by seller inclusive of VAT/excise/GST. TCS to be collected inclusive of GST.

5.1. He added that in view of incongruence between the clarifications on the levy of GST on TCS under Section 206(C) of the Income Tax Act, 1961, an OM dated 29th January, 2019 was sent to the Central Board of Direct Taxes on the said issue requesting to give their comments for the purpose of re-examination of the matter. In response, a letter *vide* F. No. 275/59/2012-IT (Budget) dated 1st February 2019 was received from the Central Board of Direct Taxes. The queries raised by GST Policy Wing, CBIC and the response of CBDT are tabulated below:

S. No	Queries raised by GSTPW	Response from CBDT
A	Whether tax collected at source under section 206C of the Income Tax Act, 1961 has the character of tax under the said Act	Tax collection at source (TCS) is not a tax on goods but an interim levy on the possible "income" arising from the sale of goods by the buyer and to be adjusted against the final income- tax liability of the buyer. It is neither a tax on the goods itself nor a final levy but only a mechanism to pre-empt non-reporting or under- reporting of the transaction by the buyer. The **TCS is a contribution towards final**

		income-tax liability of the buyer and it is not a complete or final or exact tax or duty or cess in itself.
B	Whether TCS is considered part of the consideration of supplies made from seller to buyer	TCS is calculated on the 'amount payable' by the buyer for purchasing specified goods which comprises of basic price plus applicable taxes. Since TCS is not a levy of tax on the goods itself and the buyer gets credit of TCS to be adjusted against his final income-tax liability, **it is not considered a part of the sale consideration.** Accordingly, TCS does not form part of either seller's turnover or buyer's purchase price.
C	Whether TCS is required to be collected on value of supply including GST or otherwise	TCS is required to be collected on the 'amount payable' by the buyer to the seller and, therefore, **any amount of GST would get included in the base amount over which TCS will be calculated.**

5.2. He stated that the response from CBDT has clearly stated that TCS under Section 206(C) of the Income Tax, 1961 does not carry character of tax since it is a mere interim levy towards final income tax liability. **Therefore, the correct valuation methodology for ascertainment of TCS would be to include any amount of GST in the base amount over which TCS under Section 206(C) of the Income Tax, 1961 will be calculated.** So, for the purpose of determination of value of supply under GST, **TCS would not be includible** because TCS does not have the character of tax and therefore it cannot be included in the value of supply as per Section 15(2) of the CGST Act, 2017.

5.3. He requested GIC to approve the draft Corrigendum to Circular No. 76/50/2018-GST. He stated that the States may also require to issue similar Corrigendum to the Circular.

5.3. The GIC approved the draft Corrigendum to Circular No. 76/50/2018-GST to clarify the levy of GST on TCS under Section 206(C) of Income Tax Act, 1961. It also approved that similar Circular (Corrigendum to Circular No. 76/50/2018-GST) would be issued by the States also. Accordingly, Corrigendum to Circular No. 76/50/2018-GST dated 7th March 2019 was issued.

Agenda item 4: Due date for furnishing FORM GSTR-3B and FORM GSTR-1 for the period April, 2019 to June, 2019

6. Pr. Commissioner, GST Policy Wing, CBIC introduced the agenda and stated that the GST Council in its 31st Meeting held on 22nd December, 2018 decided that the new return system shall be introduced on a trial basis from 1st April, 2019 and will be notified with effect from 1st July, 2019. In this regard, he invited reference to the notification No. 34/2018 – Central Tax dated the 10th August, 2018 regarding filing of the returns in **FORM GSTR-3B** for the months from July, 2018 to March, 2019. He stated that as per the said notification, the due date for furnishing the returns in **FORM GSTR-3B** for each of the months from July, 2018 to March, 2019 has been specified as the twentieth day of the month succeeding such month.

6.1. He added that vide various notifications issued from time to time, the last being notification No. 43/2018 – Central Tax dated the 10th September, 2018, a specific class of registered person (having aggregate turnover of up to Rs. 1.5 crore in the preceding financial year or the current financial year) has been allowed to furnish the details of outward supplies under sub-section (1) of section 37 (**FORM**

GSTR-1) on a quarterly basis; the last date for furnishing **FORM GSTR-1** for the quarter January-March'19 being 30th April, 2019. It has been further specified in notification Nos. 43/2018 – Central Tax and 44/2018 – Central Tax, both dated the 10th September, 2018 that the time limit for furnishing the details or return, under sub-Section (2) of Section 38 (**FORM GSTR-2**) and sub-Section (1) of Section 39 (**FORM GSTR-3**) for the months of July, 2017 to March, 2019 shall be subsequently notified in the Official Gazette.

6.2. He added that sub-rule (5) of rule 61 states that "*Where the time limit for furnishing of details in **FORM GSTR-1** under section 37 and in **FORM GSTR-2** under section 38 has been extended and the circumstances so warrant, the Commissioner may, by notification, [specify the manner and conditions subject to which the] return shall be furnished in **FORM GSTR-3B** electronically through the common portal, either directly or through a Facilitation Centre notified by the Commissioner*". He stated that since, there is a period of three months when the new return system will be run on a trial basis, the present system of filing return on monthly basis in **FORM GSTR-3B** and monthly / quarterly furnishing of **FORM GSTR-1** for specific classes of registered person as discussed above are required to be extended for the period April, 2019 to June, 2019.

6.3. He stated that the Law Committee recommended to specify, by notification, the following:

i. **FORM GSTR-3B** may continue to be filed monthly by all tax payers for the months of April, 2019 to June, 2019 on or before the 20th of the next month;
ii. the class of registered persons (having aggregate turnover of more than 1.5 crore rupees in the preceding financial year or the current financial year) may be allowed to furnish the details of outward supply in **FORM GSTR-1** for the months of April, 2019 to June, 2019, till the eleventh day of the succeeding month;
iii. the class of registered person (having aggregate turnover of up to 1.5 crore rupees in the preceding financial year or the current financial year) may be allowed to furnish the details of outward supply in **FORM GSTR-1** for the quarter April, 2019 to June, 2019, till the 31st July, 2019; and
iv. the time limit for furnishing the details or return, under subsection (2) of section 38 (**FORM GSTR-2**) and sub-section (1) of section 39 (**FORM GSTR-3**) for the months of July, 2017 to June, 2019 shall be subsequently notified in the Official Gazette.

6.4. Accordingly, he requested GIC to approve the draft notifications in respect of furnishing of **FORM GSTR-1** and **FORM GSTR-3B.** He added that similar notifications in respect of extending the due dates of **FORM GSTR-1** and for submission of **FORM GSTR-3B** for the months of April, 2019 to June, 2019 would be required to be issued under the respective SGST Acts also.

6.5. The GIC approved the draft notifications in respect of furnishing of **FORM GSTR-1** and **FORM GSTR-3B** for the months of April, 2019 to June, 2019 and that similar notifications in respect of extending the due dates of **FORM GSTR-1** would be required to be issued by the States under the respective SGST Acts. Accordingly, the implementing Notification Nos. 11/2019 – Central Tax, 12/2019 – Central Tax and 13/2019 – Central Tax, all dated 7th March 2019 were issued.

Agenda item 5: Clarification on the nature of supply of priority sector lending certificate i.e. intra-State or inter-State

7. Shri Manish Kumar Sinha, Joint Secretary, TRU II introduced the agenda and stated the agenda pertains (i) to clarify the nature of supply of PSLC traded between banks on the e-Kuber portal of RBI; and (ii) to remove difficulties on payment of GST on supply of PSLC if central tax/state tax or central tax/union territory tax is wrongfully paid by seller bank instead of integrated tax.

7.1. He stated that request was made by RBI to levy GST on PSLC trading under reverse charge on the ground that the trading of PSLC is done anonymously on e-Kuber portal of the RBI. The details of the buying and selling banks are not known and the invoice cannot be issued containing the GST number of the selling banks without compromising the anonymous nature of the PSLC trading, due to which, the buying banks cannot avail the ITC. RBI was also of the view that compromising on the anonymous nature of PSLC trading may result in diluting the end objective of the instrument. Subsequently, Notification No. 11/2018-Central Tax (Rate) dated 28th May, 2018 has been issued levying GST on PSLC under reverse charge basis. Further, Circular No. 62/36/2018-GST dated 12.09.2018 was issued clarifying that GST on PSLCs for the period 1.7.2017 to 27.05.2018 will be paid by the seller bank on forward charge basis and PSLC is treated as goods, classifiable under heading 4907 and attract 12% GST [Circular No. 46/20/2018-GST, dated 06.06.2018].

7.2. He informed that proposal to clarify the nature of supply of PSLC between banks as a supply of goods in the course of inter-State trade or commerce was approved by GIC and placed before the GST Council in its 31st meeting held on 22.12.2018[para 24 of Agenda Item 3]. The implementing circular is yet to be issued.

7.3. He stated that the data from Indian Banking Association (IBA) indicated that many banks have paid Central tax/State tax instead of Integrated tax. In order to inform that no IGST is payable if CGST/SGST is already paid by banks, a draft Removal of Difficulty order along with the draft circular was sent to Law Committee for approval. The Law Committee decided on the matter as below: -

> *The above proposal may be clarified through a circular. RBI may be requested to develop the required system for identifying the Place of supply in such cases by 31st March, 2019.*

7.4. In view of the above, he proposed to issue a Circular to clarify that a registered person supplying Priority Sector Lending Certificate (PSLC), who has paid the Central tax and State tax or, as the case may be, the Central tax and the Union territory tax on a transaction considered by him to be an intra-State supply, but which is subsequently held to be an inter-State supply, shall not be liable to pay integrated tax and no IGST is payable if already CGST/SGST or UTGST is already paid by banks. Accordingly, he requested GIC to approve the draft Circular. He further stated that the States may issue similar Circular.

7.5. CCST, Gujarat suggested that RBI could be requested to develop a software to identify Place of Supply. Joint Secretary, TRU II stated that a request in this regard has already been made to RBI. Ms. Smaraki Mahapatra, Commissioner, State Tax (CST), West Bengal stated that since the recipient would be paying the tax under reverse charge, there could be problems in adjustment among the States. Joint Secretary, TRU II stated that the matter would be examined separately. GIC took note of it.

7.6. The GIC approved the draft Circular clarifying the nature of supply of priority sector lending certificate i.e. intra-State or inter-State as proposed. It also approved that similar Circular would be

issued by the States also. GIC also took note of the suggestion made at paragraph 7.5 above. Accordingly, the implementing Circular No. 93/12/2019-GST dated 8th March 2019 was issued.

Agenda item 6: Deferring e-Wallet scheme and extending duty exemptions for exporters

8. Shri Sanjay Bansal, ADG, DG Export Promotion introduced the agenda and stated that the GST Council in its 22nd Meeting held on 06th October 2017 approved proposals to prevent cash blockage of exporters due to upfront payment of GST on imported/procured inputs, raw materials etc. One component of the solution was to exempt upto 31st March 2018 the IGST and Compensation Cess payable on the imports made by the holders of Advance Authorizations (AA)/Export Promotion Capital Goods (EPCG) licenses and 100% EOUs. It was also decided that the long-term permanent solution was to implement an 'e-Wallet' scheme, so that exporters could pay the GST by using the 'amounts' in their e-Wallets. An 'e-Wallet Group' chaired by Chairman, GSTN and including officers of the Central and State Governments was constituted on 16th December 2017 to recommend an e-Wallet scheme. While work was going on the proposed e-Wallet scheme, the aforementioned exemptions were extended from time to time and are presently available upto 31.03.2019.

8.1. He informed that the e-Wallet Group has identified various issues relating to the e-Wallet scheme that have a dependency on the new GST Returns, which need to be addressed. The new Returns shall be introduced on a trial basis from 01st April 2019 and on mandatory basis from 01st July 2019. Once implemented, the Returns may take time to stabilize. Thus, the proposed e-Wallet scheme would need to be deferred till then. At the same time, the aforementioned tax exemptions are expiring shortly i.e. on 31.03.2019, which is causing uncertainty to exporters.

8.2. He stated that, in this background, it was proposed that the GIC may approve the following proposals:

a. Extension of the time to finalize the e-Wallet scheme upto 31st March 2020, and

b. Extension of the present exemptions from IGST and Cess on the imports made under the AA/EPCG /EOU schemes upto 31st March 2020.

8.3. CST, West Bengal enquired whether the proposal should first be discussed and approved by the Committee on Export. Shri Sandeep M Bhatnagar, Member, CBIC stated that the GIC could approve the proposal as many members of the two Committees were common and this proposal has approval of the Union Revenue Secretary who is also the Convenor of the Committee on Exports.

8.4. CCST, Gujarat suggested that if e-Wallet scheme could be finalized at an earlier date then the same could be rolled out even before 31st March 2020. Shri S. M. Bhatnagar, Member, CBIC agreed with the suggestion and added that it would also depend upon smooth rollout of new return system.

8.5. The GIC approved the proposal of extension of time to finalize the e-Wallet scheme and extension of the present exemptions from IGST and Cess on the imports made under the AA/EPCG/EOU schemes upto 31st March 2020. However, it also decided that if the new return system is rolled out smoothly and the e-Wallet scheme is ready at an earlier date, then the e-Wallet scheme could be rolled out before 31st March 2020. The implementing Notification is yet to be issued.

Decisions by Circulation – 06th March 2019

Agenda item: Proposal to settle an additional IGST amount of Rs. 20,000 crore on an *ad hoc* basis

9. A proposal for approval of the GIC was received from Pr. Commissioner, GST Policy Wing, CBIC relating to proposal to settle an additional IGST amount of Rs. 20, 000 crore on *ad hoc* basis.

9.1. It was stated that depending on the amount of IGST remaining un-apportioned, provisional settlement is being done from time to time on an *ad hoc* basis. Accordingly, Rs. 35,000 crore was apportioned in February, 2018, Rs. 50,000 crore was apportioned in June, 2018, Rs.12000 crore in August, 2018, Rs. 30,000 crore was apportioned in October, 2018 and Rs. 18,000 crore was apportioned in December,2018. These amounts were settled in a ratio of 50:50 to Centre and States and the amount apportioned to States was divided in the ratio of subsumed/ protected revenue.

9.2. Further, based on the collection of IGST during the year, net of refunds and the settlement of IGST during the period, both regular and provisional, it is proposed to do provisional settlement of another Rs. 20,000 crore, 50% to Centre and 50% to States. It was also mentioned that this would reduce the revenue gap of States and therefore, the compensation required.

9.3. The GIC approved the proposal to settle an additional IGST amount of Rs. 20, 000 crore, 50% to the Centre and 50% to the States, on *ad hoc* basis. Accordingly, the implementing Order No. F.No. S-34011/21/2018-ST-1 DoR dated 6th March 2019 was issued.

10. The decisions of the GIC is placed for information of the Council.

Agenda Item 4: Decisions/recommendations of the 5th IT Grievance Redressal Committee for information of the Council

The fifth Meeting of the IT Grievance Redressal Committee (ITGRC) was held on 05th March 2019 (Minutes of the Meeting attached as **Annexure A** of this agenda Item).

2. The EVP (Services), GSTN apprised that around 1850 cases of TRAN 1 had been received in GSTN till last week of February 2019 and in the past, four ITGRC meetings were held in which total 1239 cases were taken up, out of which 570 cases were considered and approved.

2.1. In the 5th ITGRC meeting, total 224 cases of TRAN-1 had been examined and presented before ITGRC by GSTN. The GSTN had categorized these cases broadly reason-wise in two major categories as 'A' and 'B'. **Ccategory 'A'** included cases in which the taxpayer could not apparently file TRAN 1 because of technical glitches and **category 'B'** included cases where no technical issues were found from the system logs in filing TRAN 1.

2.2. After detailed discussion, the 5th ITGRC decided and recommend as under: -

a. **To allow** filing of TRAN-1 in total 80 cases as per following details on account of technical/system issues.

Sub Category	Sub Category Description	Cases received from Nodal Officers	Writ Petition Cases
A-1	Processed with Error	**75** (S. No 01 to 75 of Annexure 1 of minutes)	**05** (S. No 01 to 05 of Annexure 2 of minutes)

b. **Not to allow** filing of TRAN-1 in total 144 cases as per following details in absence of any evidence of technical/system errors.

Sub Category	Sub Category Description	Cases received from Nodal Officers	Writ Petition Cases
A-4	Migration user got Registration post TRAN-1 end date	**0**1 (S. No 76 of Annexure 1 of minutes)	NIL
B-1	As per GST system log, there are no evidences of error or submission/filing of TRAN 1.	**78** (S. No 77 to 154 of Annexure 1 of minutes)	**03** (S.No 06 to 08 of Annexure 2 of minutes)
B-2	TRAN-1 filing attempted for first time or revision and No error /No valid error reported.	**08** (S. No 155 to 162 of Annexure 1 of minutes)	**04** (S.No 09 to 12 of Annexure 2 of minutes)
B-3	Successfully Filed as Per Logs with No Valid Error reported	**19** (S. No 163 to 181 of Annexure 1 of minutes)	**06** (S.No 13 to 18 of Annexure 2 of minutes)
B-4	Incorrect declaration of stock by taxpayer in TRAN 1 therefore problem in filing TRAN-2.	**16** (S. No 182 to 197 of Annexure 1 of minutes)	**02** (S.No 19 to 20 of Annexure 2 of minutes)
B-5	TRAN-1 filed once but credit not received.	**02** (S. No 198 to 199 of Annexure 1 of minutes)	NIL
B-6	TRAN1 Filed once and revised thereafter but credit not received	**03** (S. No 200 to 202 of Annexure 1 of minutes)	NIL

B-7	Taxpayer's Registration stands cancel/Inactive in current date	**01** (S. No 203 of Annexure 1 of minutes)	**01** (S.No 21 of Annexure 2 of minutes)

3. The decisions/recommendations as per attached Minutes of the 5th ITGRC are placed for information of the GST Council.

Annexure A

Minutes of the 5th meeting of IT Grievance Redressal Committee (ITGRC) held on 05th March 2019 at Kalpavriksha, North Block, New Delhi

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The fifth meeting of the IT Grievance Redressal Committee (ITGRC) was held in Kalpavriksha in North Block, New Delhi on 05th March 2019. The list of officers who attended the meeting is attached as **Annexure-3**.

2. Ms. Kajal Singh, EVP (Services), GSTN apprised the background that a total of around 1850 cases of TRAN 1 had been received from Nodal Officers/Writ Petitions till last week of February 2019 with details of previous meetings as follows:

Table 1: Details of TRAN 1 cases presented before ITGRC

S. No.	Meeting Reference	No. of TRAN-1 Cases			Cases Considered and approved	Cases Considered and not approved
		Nodal Officer	Court Cases	Total		
1	2	3	4	5 (3+4)	6	7
1	1st IT-GRC on 22.06.2018	161	9	170	122	48
2	2nd IT-GRC on 21.08.2018	262	78	340	213	127
3	3rd IT-GRC on 26.10.2018	252	16	268	70	198
4	4th IT-GRC on 12.02.2019	408	53	461	165	296
5	5th IT-GRC on 05.03.2019	203	21	224	To be discussed	
6	Sub Total			1463		
7	Total TRAN-1 cases Received till last week of February 2019			1850		

3. EVP (Services) explained that in previous four ITGRC Meetings, total 1239 TRAN-1 cases including cases where Writ Petitions were filed in various High Courts were presented to ITGRC and out of this a total of 570 cases were approved. Now, another 224 cases in total were presented before fifth ITGRC. Out of these 203 cases were sent by Nodal officers of the Centre/States while 21 cases were of Writ Petitions filed before various High Courts. GSTN had examined all the above cases and analyzed the system logs of all cases and categorized them into '**Category A'** which had technical issues and '**Category B'** which did not have technical issues. The list of cases received from Nodal officers was at **Annexure 1** of the agenda and the list of Court/Writ Petition Cases was at **Annexure 2** of the agenda.

4. EVP (Services) also appraised ITGRC about the status of various Writ Petitions on TRAN 1 issue which had been received by GSTN. She informed that a total of 227 Writ Petitions had been received by GSTN pertaining to TRAN-1 as on 28.02.2019. Cumulatively in the past four meetings of ITGRC, 171 Writ Petition cases had been presented and in the 5th ITGRC, 21 Writ Petition cases were presented.

4.1. She informed the Committee that for further examination of the Writ Petition cases falling in category B, email was sent to the taxpayers requesting for the following: -

i. Exact technical glitch faced while filing TRAN-1
ii. Nature of error noticed
iii. Screen-shots of technical error/emails sent to help-desk along with ticket numbers.

Only few taxpayers responded to the mail. The detailed response received by each Petitioner had been mentioned in **Annexure-2 of the agenda**. Further she explained details in a few significant Court cases and orders issued therein by the Hon'ble Court for the information of Committee as follow: -

4.1.1. One contempt Petition titled **Contempt Case 21/2019- Smartuff Glass Ltd** was filed before the Hon'ble Kerala High Court had been disposed of with no adverse orders. The court had recorded compliance of its order.

4.1.2. One new contempt petition had been filed before Hon'ble Punjab and Haryana High Court titled **COCP 4845/2018- Universal Motors**: - The issue of the Petitioner was received by GSTN Nodal Officer on 27.4.2018. The matter was deliberated in the 2nd IT Grievance Redressal Committee (ITGRC) meeting held on 21st August 2018, and was not approved for filing of TRAN-1 as no technical glitch was found. The Petitioner's case fell in the category B suggesting no evidences of error or submission/filing of TRAN-1 prior to due date. Information regarding filing of this Contempt Petition was provided to GSTN by GST Council Secretariat vide their email dated 28.2.2019 and the abovementioned status of the case was provided by GSTN to GST Council Secretariat on 28.2.2019.

4.1.3**. SCA 18433 OF 2017- Filco Trade Centre Pvt. Ltd. v. UOI & Ors.** The Hon'ble Gujarat High Court had held Clause (iv) of subsection (3) of section 140 of CGST Act unconstitutional. Based upon this judgment the Petitioner was requesting that the GST Portal be re-opened. GSTN had not received the copy of the Writ Petition.

4.1.4**. Writ Petition No. 18879W of 2018 Optival Health Solutions Pvt. ltd. & Anr. vs. Ors.** Hon'ble Kolkata High Court in this matter had allowed for revision of TRAN-2. GSTN vide its email dated 21.2.2019 informed the Kolkata North Commissionerate that GST System was designed in accordance with CGST/SGST Act. The Act does not provide for revision of TRAN-2. Accordingly, the said facility to revise TRAN-2 was not available on the GST Portal. Further, in Paragraph 14 and 15 of the Writ Petition, the Petitioner had admitted that while submitting FORM GST TRAN-2 for the Month of July, 2017 the petitioner company missed incorporating figure of sale of stock held as on June 30, 2017 in Table 5 of TRAN-2 Form. No technical glitch had been alleged by the Petitioner in this matter. This fact had also been recorded in the order dated 7.2.2019.

5. EVP (Services) thereafter explained that, after analysis of system logs by the technical team of GSTN and examination, total 224 TRAN-1 cases were being placed before ITGRC in the 5th Meeting for consideration. Out of these 224 cases, 203 cases had been forwarded by Nodal Officers of the Centre/State and 21 cases pertained to Writ Petitions filed by taxpayers in various High Courts. Further, the detailed list of 203 cases received from Nodal Officers was at **Annexure 1** of Agenda and list of 21 cases pertaining to Writ Petitions was at **Annexure 2** of Agenda.

6. EVP, GSTN further explained that all above cases had been examined by the GSTN team and were categorized broadly reason-wise and then further grouped into two major categories as **Category 'A' and Category 'B'**. **Category 'A'** included cases in which the taxpayer could not apparently file TRAN 1 because of technical glitches whereas Category 'B' included cases where detailed analysis at GSTN revealed that no technical issues were there in filing TRAN 1 as per the system logs.

7. EVP, GSTN thereafter elaborated the nature of technical issues experienced by the taxpayers in filing TRAN-1 along with reasons, under **category 'A'**, which consisted of following 02 sub-categories out of the different sub-categories reported in earlier ITGRC with same serial numbers as reported earlier and numbers pertaining to each sub-category were as per **column 3 and 4 of Table 2** below: -

a. **Sub Category A1: Cases where the taxpayer received the error "Processed with Error" -** The taxpayer could not claim transitional credit as the line items requiring declarations of earlier existing law registration numbers were processed with error since the taxpayer had not added them in his registration details.
b. **Sub Category A4: Case of Migration User got New Registration post TRAN-1 end date** - The taxpayer was a migrated taxpayer and had taken registration on 29th September 2018 with effective date of registration as 1st July 2017.

Table-2: Cases reported as having Technical Glitch

Sub Category	Sub Category Description	Cases received from Nodal Officers	Writ Petition Cases
1	**2**	**3**	**4**
A-1	Processed with Error	75 (S. No 01 to 75 of Annexure 1)	05 (S. No 01 to 05 of Annexure 2)
A-4	Migration user got Registration post TRAN-1 end date	01 (S. No 76 of Annexure 1)	NIL
	Sub Total	**76**	**05**

8. **Category 'B'** had cases where no technical issues had been observed in TRAN 1 filing. EVP, GSTN further elaborated the cases under the Category 'B', where no technical issues were found on the basis of GST system logs, as explained below in 07 sub-categories and number of cases pertaining to each sub-category had been mentioned in **column 3 and 4 of Table 3** below: -

a. **Sub-Category B-1: Cases in which as per GST system log, there was no evidences of error or submission/filing of TRAN-1.** As per GST system log, there were no evidences of error or submission/filing of TRAN1.
b. **Sub-Category B-2: Cases in which TRAN-1 filing attempted for first time or revision was attempted but no error/no valid error reported.** As per GST System Logs the taxpayer has tried for saving/submitting for the first time or revision of TRAN-1 and there were no evidences of system error in logs.
c. **Sub-Category B-3: Cases in which TRAN-1 was successfully filed as per logs with no valid error reported.** The taxpayer had successfully filed TRAN-1 and no technical errors had been found in the examined technical logs.
d. **Sub-Category B-4: Incorrect declaration of stock by taxpayer in TRAN-1 therefore problem in filing TRAN-2.** Incorrect declaration was made by taxpayer in TRAN-1 of Stock not evidencing payment of taxes and duty.
e. **Sub-Category B-5: Cases in which TRAN-1 was filed once but credit was not received**: The taxpayer had filed TRAN-1 once successfully but no credit had been posted in ledger and no errors had been observed in system logs.
f. **Sub-Category B-6: Cases in which TRAN-1 was filed once and revised thereafter but credit was not received.** No error had been seen in system logs.

g. **Sub-Category B-7: Cases in which the taxpayer's registration stands cancel/inactive in current date.** As per GST System Logs, the taxpayer had neither tried for Saving / Submitting or Filing TRAN 1 and their registrations stands cancelled as on date.

The details of cases covered under these Sub-Categories is reflected in the **Annexure 1** and **Annexure 2** of the instant Minutes with details as in Table 3 below.

Table-3: Cases Not having Technical Glitch

Sub Category	Sub Category Description	Cases received from Nodal Officers	Writ Petition Cases
1	2	3	4
B-1	**As per GST system log, there are no evidences of error or submission/filing of TRAN-1.**	78 (S. No 77 to 154 of Annexure 1)	03 (S.No 06 to 08 of Annexure 2)
B-2	**TRAN-1 filing attempted for first time or revision and No error /No valid error reported.**	08 (S. No 155 to 162 of Annexure 1)	04 (S.No 09 to 12 of Annexure 2)
B-3	**Successfully Filed as Per Logs with No Valid Error reported**	19 (S. No 163 to 181 of Annexure 1)	06 (S.No 13 to 18 of Annexure 2)
B-4	**Incorrect declaration of stock by taxpayer in TRAN 1 therefore problem in filing TRAN-2.**	16 (S. No 182 to 197 of Annexure 1)	02 (S.No 19 to 20 of Annexure 2)
B-5	**TRAN-1 filed once but credit not received.**	02 (S. No 198 to 199 of Annexure 1)	NIL
B-6	**TRAN-1 Filed once and revised thereafter but credit not received**	03 (S. No 200 to 202 of Annexure 1)	NIL
B-7	**Taxpayer's Registration stands cancel/Inactive in current date**	01 (S. No 203 of Annexure 1)	01 (S.No 21 of Annexure 2)
	Sub Total	**127**	**16**

9. Considering the above submissions, Committee discussed the cases of technical glitch of Category 'A' and after further elaboration and discussion, 80 cases pertaining to technical glitch categories (Only A-1 Subcategory) as per Table 2 above were considered for allowing filing of TRAN-1 in accordance with the Law Committee recommendations regarding consequential benefits related to filing of TRAN-1 and TRAN-2. In Table 2, the case of Sub-Category A-4 was the case of migration where user got new registration post TRAN-1 end date i.e. 27.12.2017. The taxpayer was a migrated taxpayer and had taken registration on 29th September 2018 with effective date of registration as 1st July 2017. As the taxpayer was allowed to migrate subsequently in the extended period allowed by the GST Council after completion of initial dates, in such scenario, committee decided not to allow filing of TRAN-1 as the migration/enrolment was not hampered due to technical reasons. This case is distinct from a case allowed in 1st ITGRC of a migrated taxpayer where migration did not happen due to technical reasons. Initially, the cases of migration/enrolment were approved subject to following the process as set out in the circular of 03.04.2018 of the ITGRC. However, later it was decided that migration would be permitted for persons who did not face any technical issues and date was extended for migration.

10. EVP (Services) GSTN informed that the Nodal officers of a number of States were forwarding the cases to GSTN Nodal without any preliminary examination and cases where the tax payers were

themselves admitting that due to ignorance or mistake on their part, they had committed errors were being sent. Further, the email of GSTN Nodal had also been circulated by the tax authorities to the taxpayers though it was meant only for communication with Nodal officers and this had led to the mailbox getting flooded with all kinds of issues including policy matters even though alternative mechanism for individual grievance redressal exists. It was therefore requested that preliminary screening of the cases be done at a senior level by tax authorities in terms of the process of ITGRC as set out in circular of 03.04.2018 before the same are sent to GSTN Nodal.

Decision:

11. After detailed discussion and considering the above facts, the ITGRC decided to allow filing of TRAN-1 in total 80 cases of Category 'A' (Only A-1 Subcategory) as per Annexures indicated in column No. 3 and 4 of Table-2 on account of technical/system issues as explained at para 7 above, in accordance with the Law Committee recommendations regarding consequential benefits related to filing of TRAN 1. The case of Sub-Category A-4 in Table 2 above was the case of migration where the taxpayer got registration in the extended period and hence, the Committee decided not to allow filing of TRAN-1 in that case as it was not due to any technical reason as explained in para 9 above. Further, the ITGRC also decided not to allow remaining 143 cases of Category 'B' as per Annexures indicated in column No. 3 and 4 of Table-3 in absence of any evidence of technical/system errors in these cases as explained at para 8 above, as was decided in similar cases in past four ITGRC meetings.

Annexure 1

Cases received from Nodal officers of State/ Central Government

S.NO.	Category	Detailed Description	Count of Taxpayer
A1	Processed with error.	As per GST system logs the taxpayer has attempted to submit fresh or revised TRAN1 but could not file because of errors in the system.	**75**
A 4	Migration User - Got New Registration post TRAN-1 end date	The taxpayer is a migrated taxpayer and has taken registration on 29th September 2018 with effective date of registration as 1st July 2017.	**1**
B1	As per GST system log, there are no evidences of error or submission/filing of TRAN1.	As per GST System Logs there is no evidence that the taxpayer has tried for Saving / Submitting / Filing TRAN1 before due date.	**78**
B2	TRAN-1 Fresh/Revision Attempted with No error/ No valid error reported	As per GST System Logs, the taxpayer has tried for Saving / Submitting /Revision and there are no evidences of system errors in the log.	**8**
B3	Successfully Filed as Per Logs with No Valid Error reported	The taxpayer has successfully filed TRAN1 and no technical error has been found.	**19**
B4	Incorrect declaration of stock by taxpayer in TRAN 1 therefore problem in filing TRAN-2.	There are no technical issues in saving/submitting or filing of TRAN1. The taxpayer is facing issues in filing TRAN-2 due to incorrect declaration made by them in the tables of TRAN 1.	**16**
B5	TRAN-1 filed once but credit not received.	Cases where the taxpayer has filed TRAN1 once but no credit has been posted. No technical issue has been observed in the logs.	**2**
B6	TRAN1 Filed once and revised thereafter but credit not received	Cases where the taxpayer has filed TRAN1 and revised it but no credit has been posted. No technical issue has been observed in the logs.	**3**
B7	Invalid Provisional Id	GSTIN has wrongly been reported by the jurisdictional nodal officer.	**1**
	Total		**203**

Category A1: Cases where the taxpayer received the error 'Processed with error.' As per GST system logs the taxpayer has attempted to submit fresh or revise TRAN1 but could not file because of errors.

S. No.	GSTIN/ Provisional Id	Legal Name (Name reported by the Nodal Officer is in brackets)	State	Constitution of business	Nodal Officer / Jurisdiction Name	Nodal officers' Govt.	E-Mail ID
1.	22AHCPB9665R1ZW	GURVINDERSINGH TIRATHSINGH BAL	Chhattisgarh	Proprietorship	Sumit Kumar Agrawal, Assistant Commr, CGST & Central Excise Raipur	Center	cgstrpr2@gmail.com
2.	07AASFR8553K1ZC	R D METALS	Delhi	Partnership	Prashant Kumar Prasad, Nodal Officer-II, Trade & Taxes Department, Govt. of NCT of Delhi	State	pk.prasad70@gov.in
3.	07AAFFC1581K1ZE	C S BUILDWELL PRIVATE LIMITED	Delhi	Private Limited Company	Sidharth Goyal, Assistant Commr, CGST Delhi-South	Center	ccu-cexdel@nic.in
4.	07AAEPJ1018P1ZP	SAURABH JAIN / M/s AADINATH INDUSTRIES	Delhi	Proprietorship	Ravindra Singh, Assistant Commr, CGST Delhi West	Center	ccu-cexdel@nic.in
5.	24AACFP2077N1Z1	PANCHRATNA STEEL ROLLING MILL	Gujarat	Partnership	S. M. Saxena, Joint Commr of State Tax, Ahmedabad	State	jcegov-ct@gujarat.gov.in
6.	24AADCS3580K1Z7	SAHIBA LIMITED	Gujarat	Public Limited Company	S. M. Saxena, Joint Commr	State	jcegov-ct@gujarat.gov.in
7.	24AADCS3578D1ZG	SUKHDEV EXPLOSI	Gujarat	Private Limited Company	Ku. D. D. Sodha, Deputy Commr State Tax, Surat	State	dc17-sur2-gstn@gujarat.gov.in

		VES PVT LTD					
8.	24AAUPV7759F1ZU	KUVERBEN HARJIBHAI VELANI	Gujarat	Proprietorship	Shri S. K. Barot, Deputy Commr, State Tax, Vadodara	State	dc10-ct@gujarat.gov.in
9.	24AAICA6860F1ZQ	ARHAM SHARE CONSULTANTS PRIVATE LIMITED	Gujarat	Private Limited Company	Shri J.H. DESAI, Deputy Commr State Tax	State	dc15-sur1-gstn@gujarat.gov.in
10.	24AACCG9529M1Z7	G K CASTING PRIVATE LIMITED	Gujarat	Private Limited Company	Smt S. V. Vora, Deputy Commissioner of State Tax, Range-18, Valsad	State	dc18-sur2-gstn@gujarat.gov.in
11.	24AAKCS2825A1ZR	SUN-ELECTRO GRAVURES PRIVATE LIMITED	Gujarat	Private Limited Company	J. A. Khan, Principal Commr	Center	commr-cexamd3@nic.in
12.	24AABCS5531J1ZG	SHREE VYANKATESWAR ENGINEERING PRIVATE LIMITED	Gujarat	Private Limited Company	J. A. Khan, Principal Commr	Center	commr-cexamd3@nic.in
13	24AAACR7468N1ZU	REGULUS MARKETING PVT LTD	Gujarat	Private Limited Company	Sunil Kumar Singh, Commr, CGST & C.Ex, Gandhinagar	Center	commr-cexamd3@nic.in
14	24AAACJ7034Q1ZA	JNS INSTRUMENTS LTD.	Gujarat	Public Limited Company	Sunil Kumar Singh, Commr	Center	commr-cexamd3@nic.in
15	24AAGCA6478F1ZM	AHMEDABAD JANMARG LIMITED	Gujarat	Public Limited Company	Sunil Kumar Singh, Commr	Center	commr-cexamd3@nic.in
16	24AADFU9173B1Z9	UJAVAL ALLOYS	Gujarat	Partnership	Sunil Kumar Singh, Commr	Center	commr-cexamd3@nic.in
17	06AANCS6375E1Z1	M/S SIACSKH INDIA CABS	Haryana	Private Limited Company	Mr. Dharmbir Dahiya, Dy Commr Excise & Taxation,	State	gsttihry@gmail.com

		MANUFACTURING PVT. LTD.			State Government		
18	06AAGCR3376R1ZN	RENEW SOLAR ENERGY PRIVATE LIMITED)	Haryana	Private Limited Company	Mahesh Yadav, Supdt, CGST Commissionerate, Gurugram	Center	Mahesh.Yadav@icegate.gov.in
19	02AAACH6517J1ZU	HIMACHAL TEREPENE PRODUCTS PRIVATE LIMITED	Himachal Pradesh	Private Limited Company	Sh. H. B. Negi, Commr, CGST Shimla	Center	hb.negi64@gov.in
20	02AACCB3897K1ZJ	BIOGENETIC DRUGS PVT. LTD.	Himachal Pradesh	Private Limited Company	Sh. H. B. Negi, Commr	Center	hb.negi64@gov.in
21	02AACCS8785M1ZT	SECURE METERS LIMITED	Himachal Pradesh	Public Limited Company	Sh. H. B. Negi, Commr, CGST	Center	hb.negi64@gov.in
22	20AACCT0051D2Z9	THE REPUBLIC PRIVATE LIMITED	Jharkhand	Private Limited Company	Sheo Sahai Singh, Joint Commr State Tax, Ranchi	State	gst-comtax@jharkhandmail.gov.in
23	29AAECB2580K1ZF	BHALKESHWAR SUGARS LIMITED	Karnataka	Public Limited Company	Gosu Ramesh, Asst Commr, CGST Belagavi	Center	commr-cexblgm@nic.in
24	29AABFT9788K1Z6	TECHNO SYSTEMS	Karnataka	Partnership	Gosu Ramesh, Asst Commr, CGST	Center	commr-cexblgm@nic.in
25	29AAACN9844Q1ZI	MILLENNIUM CHEMI PHARMA MYSORE PRIVATE LIMITED	Karnataka	Private Limited Company	G. V. Krishna Rao, Principal Commr, CGST Mysore,	Center	techhqrs-cexmys@gov.in
26	29AAACV5485H2ZV	VIJAY HALOCOILS PVT LTD	Karnataka	Private Limited Company	G. V. Krishna Rao, Principal Commr	Center	techhqrs-cexmys@gov.in
27	29AAACV5486E1Z1	VIJAY PRECISION DIES PVT LTD	Karnataka	Private Limited Company	G. V. Krishna Rao, Principal Commr	Center	techhqrs-cexmys@gov.in

28	29AAECA7856M1ZZ	ALPH-ELSEC DEFENCE & AEROSPACE SYSTEMS PRIVATE LIMITED	Karnataka	Private Limited Company	R. Sriram, Commr, CGST Bengaluru East	Center	supdtpro2.st2blr-ka@gov.in
29	29AAFCM4455P1ZR	MATTS CORNER INDIA PRIVATE LIMITED	Karnataka	Private Limited Company	K. S. Basavaraj, Joint Commr Commercial Taxes, Bengaluru,	State	ctdgstit.grievance@ka.gov.in
30	23ADDPB2968G1ZW	SUBHASH BUDHRAJA	Madhya Pradesh	Proprietorship	Neeraj Choubey Jt Commr CGST Jabalpur	Center	commr-cexjblpr@nic.in
31	27AAACZ0336M1Z5	ZARHAK STEELS PVT.LTD.	Maharashtra	Private Limited Company	Kalyaneshwari Patil, Dy Commr State Tax, Mumbai,	State	gstit.state@mahagst.gov.in
32	27AARFP5698L1Z3	PURVESH PRECICOM INDUSTRIES	Maharashtra	Partnership	Kalyaneshwari Patil, Dy Commr	State	gstit.state@mahagst.gov.in
33	27AABCP9376J1ZU	Pioneer Distilleries Limited	Maharashtra	Public Limited Company	Kalyaneshwari Patil, Deputy Commr	State	gstit.state@mahagst.gov.in
34	27AARFP5010A1ZK	PRATIK POLYFOAM & MATTRESSES	Maharashtra	Partnership	Kalyaneshwari Patil Deputy Commissioner,	State	gstit.state@mahagst.gov.in
35	27AAACH6788H1Z6	HIMALAYA TERPENES PRIVATE LIMITED	Maharashtra	Private Limited Company	Merrita Suni, Supdt, CGST Commissionerate, Mumbai East	Center	mumbaieastgstnissues@gmail.com
36	27AANFG6002D1ZP	GLOBAL REALTY AND AVIATION LLP	Maharashtra	Limited Liability Partnership	Merrita Suni, Superintendent, CGST Mumbai East	Center	mumbaieastgstnissues@gmail.com
37	27AAACM4987H1Z4	MAHINDRA STEEL SERVICE CENTER LTD	Maharashtra	Public Limited Company	Shri Milind Gawai, Commr, Central Tax, Pune- I	Center	santosh.vatsa@nic.in

38	27AAACE0940Q1ZG	ELMACH PACKAGES [I] PVT LTD	Maharashtra	Private Limited Company	Merrita Suni, Superintendent, Mumbai East	Center	mumbaieastgstnissues@gmail.com
39	27AABCM2681H1ZG	MITCON CONSULTANCY & ENGINEERING SERVICES LTD	Maharashtra	Public Limited Company	Vandana K Jain, Commr, CGST Pune II	Center	santosh.vatsa@nic.in
40	27BSOPK1129B1ZZ	Shiv Udyog (RITESH SUNIL KATYAL)	Maharashtra	Proprietorship	Smt. Kiran Verma, Commissioner, CGST & CX. Navi Mumbai,	Center	archna1.nayak@icegate.gov.in
41	27AAACV1501G1ZT	SEQUENT SCIENTIFIC LIMITED	Maharashtra	Public Limited Company	Sruti Vijaykumar, Asst Commr, CGST Thane,	Center	sruti.vijayakumar@gov.in
42	21AADFO0034F1Z3	ORISSA EXPLOSIVES	Odisha	Partnership	Vishnu Kumar, Jt Commr, CGST, Bhubaneswar	Center	vishnukumar.irs@nic.in
43	03AAACB1943Q1ZO	BRIGHT POWER PROJECTS INDIA PRIVATE LIMITED	Punjab	Private Limited Company	Sunil Singh Katiyar, Commr, CGST, Jalandhar	Center	eoffice@nic.in
44	03AAFFA1399B1ZZ	A.V. FORGINGS	Punjab	Partnership	Shivani Gupta, State Tax Officer, State Government, Mohali	State	etoward7mohali@gmail.com
45	08AACCV0751A1ZT	VEENU DEVELPERS PRIVATE LIMITED	Rajasthan	Private Limited Company	Anjani Sharma, Joint Commissioner (IT) of State Tax, Jaipur	State	dc-it@rajasthan.gov.in
46	08AABCP4075C1ZN	POLLUTION CONTROL CONSULTANTS INDIA PRIVATE LIMITED	Rajasthan	Private Limited Company	Anjani Sharma, Joint Commissioner (IT) of State Tax, Jaipur	State	dc-it@rajasthan.gov.in
47	08AACCA5283A1Z1	ASIA PACK LIMITED	Rajasthan	Public Limited Company	Sh. Shakti Singh Ratore, Asst Commr, State	State	dc-it@rajasthan.gov.in

					Government, Rajsamand,		
48	33AADCP7827J2Z6	PARRY INFRASTRUCTURE COMPANY PRIVATE LIMITED	Tamil Nadu	Private Limited Company	S. Ramasamy, Joint Commissioner of State Tax, Tamil Nadu	State	jccs@ctd.tn.gov.in
49	33AAMCS8435J1ZX	SREENIVASA BALAJI PAPERS PRIVATE LIMITED	Tamil Nadu	Private Limited Company	S. Ramasamy, Joint Commr State Tax,	State	jccs@ctd.tn.gov.in
50	33AADCB1921F1ZB	SINTEX-BAPL LIMITED	Tamil Nadu	Public Limited Company	S. Ramasamy, Joint Commr State Tax,	State	jccs@ctd.tn.gov.in
51	33AACCS7101B1Z3	VEDANTA LIMITED	Tamil Nadu	Public Limited Company	S. Ramasamy, Joint Commr State Tax,	State	jccs@ctd.tn.gov.in
52	33AABCM9798H1ZZ	FUSO GLASS INDIA PRIVATE LIMITED	Tamil Nadu	Private Limited Company	S. Ramasamy, Joint Commr of State Tax,	State	jccs@ctd.tn.gov.in
53	33AABCT9860D1ZD	NEEL AUTO PRIVATE LIMITED	Tamil Nadu	Private Limited Company	Shri S. Kannan, Commr, CGST Chennai North	Center	comp.chennainorth@gov.in
54	33AADCS0159C1ZW	SABU TRADE PRIVATE LIMITED	Tamil Nadu	Private Limited Company	Shri S. Kannan, Commissioner, CGST	Center	comp.chennainorth@gov.in
55	33AAACS8777P1ZK	SIVARAMAKRISHNA FORGINGS PVT LTD	Tamil Nadu	Private Limited Company	R. Savithri, Assistant Commissioner CGST Chennai Outer	Center	Ramasamy.Savithri@icegate.gov.in
56	33AACCI5295A1ZW	INDO TEXNOLOGY PRIVATE LIMITED	Tamil Nadu	Private Limited Company	Shri G. Sreenivasa Rao, Commr, CGST Coimbatore	Center	centralexcisepolicy@gmail.com
57	33AAECS3411L1ZJ	SALZER ELECTRONICS LTD	Tamil Nadu	Public Limited Company	Shri. G. Sreenivasa Rao, Commissioner, CGST, Coimbatore	Center	centralexcisepolicy@gmail.com

58	36BCKPM2318C1ZW	ASIFUDDIN MOHD	Telangana	Proprietorship	Radha Sindhiya Asst Commr, GST, Hyderabad	State	ac_gstn@tgct.gov.in
59	09AAVFM7105P1ZE	M M AGRO TECH AND DEVELOPERS	Uttar Pradesh	Partnership	Sayan Deb Barma, Asst Commr, CGST Varanasi	Center	cexstvns@yahoo.co.in
60	09AQGPS6748F3Z9	SUNIL KUMAR SHARMA	Uttar Pradesh	Prop. ship	Joint Commissioner (I.T.), Commercial Taxes, Head Quarter, Lucknow	State	ctithqlu-up@nic.in
61	09AAACK5948C1ZJ	KISAAN STEELS PRIVATE LIMITED	Uttar Pradesh	Private Limited Company	Joint Commr (I.T.), Commercial Taxes	State	ctithqlu-up@nic.in
62	09AAACI3492H1ZG	INTERNATIONAL TOBACCO CO.LTD	Uttar Pradesh	Public Limited Company	Joint Commissioner (I.T.) Commercial Taxes	State	ctithqlu-up@nic.in
63	09AADFK0421E1ZW	KAUSHAL INDUSTRIES	Uttar Pradesh	Partnership	Vivek Kumar Jain, Joint Commr, CGST Lucknow	Center	ccu-cexlko@nic.in
64	09AACCP2929G1ZD	POOJA GLASS WORKS PVT LTD	Uttar Pradesh	Private Limited Company	Vivek Kumar Jain, Joint Commr, CGST Lucknow	Center	ccu-cexlko@nic.in
65	05AABCM5674J1ZA	M/S McNROE Consumer Products Pvt. Ltd	Uttarakhand	Private Limited Company	Anurag Mishra,Nodal Officer, IT Glitches, State Taxes,	State	anuragmishra75@gmail.com
66	05AARFP1938R1ZE	PMS SUNPU LIGHTING CO LLP	Uttarakhand	Limited Liability Partnership	Anurag Mishra, Nodal Officer, IT Glitches, State Taxes,	State	anuragmishra75@gmail.com
67	19AAGCA0909B1Z5	A B POLYPACKS PRIVATE LIMITED	West Bengal	Private Limited Company	Atanu Majumdar Addl Commr	State	majumder.ctax@wbcomtax.gov.in

68	19AADCS5359J1ZV	SHREE DARSHAN PACKAGERS P VT LTD	West Bengal	Private Limited Company	Atanu Majumdar, Addl Commr	State	majumder.ctax@wbcomtax.gov.in
69	19AABCI9428C1ZK	BHUVEE STENOVATE PRIVATE LIMITED	West Bengal	Private Limited Company	Atanu Majumdar Addl Commr	State	majumder.ctax@wbcomtax.gov.in
70	19AABCR2517D1ZP	RABIRUN VINIMAY PVT LTD	West Bengal	Private Limited Company	Tarun Majumder, Asst Commr, Central GST Kolkata,	Centre	kolkatanorth.gst@gov.in
71	19AACCI5343K1ZC	INTEGERATED ENGINEERING SOLUTION PRIVATE LIMITED	West Bengal	Private Limited Company	Tarun Majumder, Asst Commissioner, Central GST	Center	kolkatanorth.gst@gov.in
72	19AAEFK2197G1Z5	KWALITY STEEL PROCESSORS	West Bengal	Partnership	Tarun Majumder, Asst Commr, Central GST	Center	kolkatanorth.gst@gov.in
73	19AANFS0164Q1ZG	SREE BISHANDAS IRON WORKS	West Bengal	Partnership	Tarun Majumder, Asst Commr, Central GST	Center	kolkatanorth.gst@gov.in
74	19AABCE0666L1ZF	EVEREST LAMINATORS PRIVATE LIMITED	West Bengal	Private Limited Company	Tarun Majumder, Asst Commr, Central GST	Center	kolkatanorth.gst@gov.in
75	19AABCC0703C1ZE	DIC INDIA LIMITED	West Bengal	Public Limited Company	Shri Rajeev Gupta, Commissioner, Central Government, Kolkata, West Bengal	Center	kolsouth.gst@gov.in

Category A 4: Cases where the taxpayer received the error Migration User - Got New Registration post TRAN-1 end date'.

S. No.	GSTIN/ Provisional Id	Legal Name (Name reported by the Nodal Officer is in brackets)	State	Constitution of business	Nodal Officer / Jurisdiction Name	Nodal officers' Govt.	E-Mail ID
76	24AAFCM5077R1ZT	HUBTOWN BUS TERMINAL (ADAJAN) PRIVATE LIMITED	Gujarat	Private Limited Company	S. M. Saxena, Joint Commissioner of State Tax	State	jcegov-ct@gujarat.gov.in

Category B1: Cases in which as per GST system log, there are no evidences of error or submission/filing of TRAN1. As per GST system log, there are no evidences of error or submission/filing of TRAN1

S. No.	GSTIN/ Provisional Id	Legal Name (Name reported by the Nodal Officer is in brackets)	State	Constitution of business	Nodal Officer / Jurisdiction Name	Nodal officers' Govt.	E-Mail ID
77	18ABDFA9266G1Z8	ABHILASH MOTOCORP LLP	Assam	Partnership	Subrata Gogoi, Suptd of Taxes, Principal nodal officer, State govt,	State	sugogoi@gmail.com
78	24ABIPP7597A1ZG	AMRUTLAL ISHWERLAL PATEL	Gujarat	Prop. ship	Smt. Stela Christian, Dy Commr of State Tax, Gandhinagar	State	dc7-gnr-gstn@gujarat.gov.in
79	24AAACC6346E1Z1	CAROL ZIRCOLITE PRIVATE LIMITED(Proprietorship)	Gujarat	Private Limited Company	Smt. Stela Christian, Dy Commr of State Tax, Gandhinagar	State	dc7-gnr-gstn@gujarat.gov.in
80	24AALCA5165G1ZP	MEDIVAC SURGICAL	Gujarat	Private Limited Company	Bhupendra M. Shrimali, Dy Commr	State	dc25-rjt2-gstn@gujarat.gov.in

		PRIVATE LIMITED			of State Tax, Gandhidham		
81	24AAECA9439L1ZC	A S R MULTIMETALS PRIVATE LIMITED	Gujarat	Private Limited Company	Bhupendra M. Shrimali, Deputy Commissioner	State	dc25-rjt2-gstn@gujarat.gov.in
82	24AJFPS4598B1Z2	MANISHBHAI BABULAL SHAH	Gujarat	Prop. ship	S. M. Saxena, Joint Commissioner of State Tax, Ahmedabad	State	jcegov-ct@gujarat.gov.in
83	24AANFP1676L1ZR	PLASMA INDUCTION	Gujarat	Partnership	S. M. Saxena, Joint Commissioner	State	jcegov-ct@gujarat.gov.in
84	24AVWPP8395A1ZZ	YAGNESH KUMAR RAMANLAL PANCHAL	Gujarat	Prop. ship	S. M. Saxena, Joint Commissioner	State	jcegov-ct@gujarat.gov.in
85	32ACCPG7719G1ZW	NANDILATH G. MART (GOPU NANDILATH GOPALAKRISHNAN)	Kerala	Prop. ship	Biju Thomas, Deputy Commr, CGST Kochi, Kerala	Center	bijuthomasvk@gmail.com
86	27AAACL3725E1ZT	LASER TELESYSTEMS PRIVATE LIMITED	Maharashtra	Private Limited Company	Merrita Suni, Suptd, CGST Mumbai East	Center	mumbaieastgstnissues@gmail.com
87	33AADCC2912P1ZO	CET POWER SOLUTIONS INDIA PRIVATE LIMITED	Tamil Nadu	Private Limited Company	R. Savithri, Asst Commr, CGST & Central Excise, Chennai	Center	Ramasamy.Savithri@icegate.gov.in
88	33AAACH5156K1ZM	HOGANAS INDIA PRIVATE LIMITED	Tamil Nadu	Private Limited Company	S. Ramasamy, Joint Commissioner of State Tax,	State	jccs@ctd.tn.gov.in
89	33AAHCA4026C1ZC	ACME COMMODITIES	Tamil Nadu	Private Limited Company	S. Ramasamy, Joint	State	jccs@ctd.tn.gov.in

		PRIVATE LIMITED			Commissioner		
90	09AABCB2658K1ZH	BASANT ISPAT UDYOG PVT LTD	Uttar Pradesh	Private Limited Company	Vivek Kumar Jain, Joint Commr, CGST & Central Lucknow	Center	ccu-cexlko@nic.in
91	05AAMFG0380K1ZC	GANPATI INDUSTRIES	Uttarakhand	Partnership	Anurag Mishra, Deputy Commissioner of State Taxes,	State	anuragmishra75@gmail.com
92	05CZYPS4199B2ZN	M/S SHIV SHAKTI CONSTRUTION COMPANY (ANIL SHARMA)	Uttarakhand	Prop. ship	Anurag Mishra, Nodal Officer, IT Glitches	State	anuragmishra75@gmail.com
93	05ABTPG4714B1ZZ	VIKASH KUMAR GARG	Uttarakhand	Prop. ship	Anurag Mishra, Nodal Officer, IT Glitches	State	anuragmishra75@gmail.com
94	05AHXPB7039C1ZE	SANDEEP BANSAL	Uttarakhand	Prop. ship	Anurag Mishra, Nodal Officer, IT Glitches	State	anuragmishra75@gmail.com
95	05AJPPS5940P2ZA	PRAMOD KUMAR SHARMA	Uttarakhand	Prop. ship	Anurag Mishra, Nodal Officer, IT Glitches,	State	anuragmishra75@gmail.com
96	19AAJCS6111J2Z4	SECURITY PRINTING AND MINTING CORPORATION OF INDIA LIMITED	West Bengal	Public Limited Company	Atanu Majumdar Additional Commissioner Commercial Taxes West Bengal	State	majumder.ctax@wbcomtax.gov.in
97	29AAGPN1579F1ZG	NAMADEVADINARAYANASETTY	Karnataka	Proprietorship	K. S. Basavaraj, Joint Commissioner of Commercial	State	basavaraj.sagar@ka.gov.in

					Taxes, Bengaluru		
98	29ABYPR5269B1ZX	BEENA JAYARAM RAI	Karnataka	Proprietorship	K. S. Basavaraj, Joint Commissioner	State	basavaraj.sagar@ka.gov.in
99	29AAJCS4808G1Z3	SURYA ELEVATORS PRIVATE LIMITED	Karnataka	Private Limited Company	K. S. Basavaraj, Joint Commissioner	State	basavaraj.sagar@ka.gov.in
100	29AAKCA0576C1ZR	ASTRAPIA UPVC TECH PRIVATE LIMITED	Karnataka	Private Limited Company	K. S. Basavaraj, Joint Commissioner	State	basavaraj.sagar@ka.gov.in
101	29AAGHP9462B1ZX	PUSHPARAJ	Karnataka	Hindu Undivided Family	K. S. Basavaraj, Joint Commissioner	State	basavaraj.sagar@ka.gov.in
102	29AHYPK0714G1Z2	MANISH KUMAR	Karnataka	Proprietorship	K. S. Basavaraj, Joint Commissioner	State	basavaraj.sagar@ka.gov.in
103	29AZZPK8950F1ZG	KONKI BALA KRISHNA	Karnataka	Proprietorship	K. S. Basavaraj, Joint Commissioner	State	basavaraj.sagar@ka.gov.in
104	29AADHA1625A1Z0	ARIVNDBHAI DHAYABHAI PATEL	Karnataka	Hindu Undivided Family	K. S. Basavaraj, Joint Commissioner	State	basavaraj.sagar@ka.gov.in
105	29AAFPY4132J1ZA	MAKKINI YOGAMURTHY	Karnataka	Proprietorship	K. S. Basavaraj, Joint Commissioner	State	basavaraj.sagar@ka.gov.in
106	29ABDPJ1666M1ZA	SHANTILAL HANJARIMAL JAIN	Karnataka	Proprietorship	K. S. Basavaraj, Joint Commissioner	State	basavaraj.sagar@ka.gov.in
107	29ACVPN0388B1Z8	KOTIPI NAGIREDDY	Karnataka	Proprietorship	K. S. Basavaraj, Joint Commissioner	State	basavaraj.sagar@ka.gov.in

108	29AASPJ8325R1ZL	DORAISWAMY ANANDA JOTHI	Karnataka	Proprietorship	K. S. Basavaraj, Joint Commissioner	State	basavaraj.sagar@ka.gov.in
109	29AJJPP7413N1ZI	VINODKUMAR PRABHUDAS PATEL	Karnataka	Proprietorship	K. S. Basavaraj, Joint Commissioner	State	basavaraj.sagar@ka.gov.in
110	29AKOPR5664F1ZH	SARPABHUSHAN RAVINDRANAG	Karnataka	Proprietorship	K. S. Basavaraj, Joint Commissioner	State	basavaraj.sagar@ka.gov.in
111	29ABEFA5626K1Z7	ARCHONS	Karnataka	Partnership	K. S. Basavaraj, Joint Commissioner	State	basavaraj.sagar@ka.gov.in
112	29AADFI7210H1ZH	INNOVATIVE LIGHTING SOLUTIONS	Karnataka	Partnership	K. S. Basavaraj, Joint Commissioner	State	basavaraj.sagar@ka.gov.in
113	29AAGPE0477K1ZJ	SHINOD KUMAR EPPARAMBATH	Karnataka	Proprietorship	K. S. Basavaraj, Joint Commissioner	State	basavaraj.sagar@ka.gov.in
114	29AADCS6226J1Z2	SANPAR MICROFILTERS PRIVATE LIMITED	Karnataka	Private Limited Company	K. S. Basavaraj, Joint Commissioner	State	basavaraj.sagar@ka.gov.in
115	29ABTPG6547Q1ZJ	MOTHAKAPALLI CHIKKANARASEGOWDA KRISHNEGOWDA	Karnataka	Proprietorship	K. S. Basavaraj, Joint Commissioner	State	basavaraj.sagar@ka.gov.in
116	29ABCFM6060F1ZA	MCKB CONSTRUCTIONS LLP	Karnataka	Limited Liability Partnership	K. S. Basavaraj, Joint Commissioner	State	basavaraj.sagar@ka.gov.in
117	29ARHPS2166H1ZE	SAMSATH ALI SHOWKATH	Karnataka	Proprietorship	K. S. Basavaraj, Joint Commissioner	State	basavaraj.sagar@ka.gov.in

118	29ALKPG1397D1Z0	Rajappa Ganesh Kumar	Karnataka	Proprietorship	K. S. Basavaraj, Joint Commissioner	State	basavaraj.sagar@ka.gov.in
119	29ADDPK6185E1ZE	Golden jewellers HARISH KUMAR	Karnataka	Proprietorship	K. S. Basavaraj, Joint Commissioner	State	basavaraj.sagar@ka.gov.in
120	29ABDPJ1483A1Z0	DEEPCHAND JAIN	Karnataka	Proprietorship	K. S. Basavaraj, Joint Commissioner	State	basavaraj.sagar@ka.gov.in
121	29AAPCS0607K1ZZ	STRUCTCON ENGINEERING AND CONSTRUCTION PRIVATE LIMITED	Karnataka	Private Limited Company	K. S. Basavaraj, Joint Commissioner	State	basavaraj.sagar@ka.gov.in
122	29AASFP1744L1ZJ	PADMASHREE ENTERPRISES	Karnataka	Partnership	K. S. Basavaraj, Joint Commissioner	State	basavaraj.sagar@ka.gov.in
123	29AACFM9909L1ZN	MANGALORE CASHEW INDUSTRIES	Karnataka	Partnership	K. S. Basavaraj, Joint Commissioner	State	basavaraj.sagar@ka.gov.in
124	29AGRPK3911H1Z4	KUMAR AGRO PRODUCTS	Karnataka	Proprietorship	K. S. Basavaraj, Joint Commissioner	State	basavaraj.sagar@ka.gov.in
125	29ADCPK7784J1ZX	NARENDRA KUMAR DHOKA	Karnataka	Proprietorship	K. S. Basavaraj, Joint Commissioner	State	basavaraj.sagar@ka.gov.in
126	29AAHFS2531H1Z5	SUTARIA AUTOMOBILES	Karnataka	Partnership	K. S. Basavaraj, Joint Commissioner	State	basavaraj.sagar@ka.gov.in
127	29AGUPK0309C1ZH	ARIHANT IMPEX	Karnataka	Proprietorship	K. S. Basavaraj, Joint	State	basavaraj.sagar@ka.gov.in

					Commissioner		
128	29AACFW0790M1ZM	WESTERN TRADING CO	Karnataka	Partnership	K. S. Basavaraj, Joint Commissioner	State	basavaraj.sagar@ka.gov.in
129	29AGEPB0517F1ZY	SURESH KUMAR BOKADIA	Karnataka	Proprietorship	K. S. Basavaraj, Joint Commissioner	State	basavaraj.sagar@ka.gov.in
130	29AAALS4268A2ZY	SAMRITU ELECTRIC AND REHVA LLP	Karnataka	Limited Liability Partnership	K. S. Basavaraj, Joint Commissioner	State	basavaraj.sagar@ka.gov.in
131	29AACFH9781K1ZO	HI-TECH ELECTRIC & REFRIGERATION CO	Karnataka	Partnership	K. S. Basavaraj, Joint Commissioner	State	basavaraj.sagar@ka.gov.in
132	29ADTPK0958M1ZO	VINOD KUMAR	Karnataka	Proprietorship	K. S. Basavaraj, Joint Commissioner	State	basavaraj.sagar@ka.gov.in
133	29AHUPP7424Q1Z3	SATHYANARAYANA PRADEEP	Karnataka	Proprietorship	K. S. Basavaraj, Joint Commissioner	State	basavaraj.sagar@ka.gov.in
134	29AAHHM1911K1Z2	MAYASANDRA SATYANARAYANA RAMASWAMY	Karnataka	Proprietorship	K. S. Basavaraj, Joint Commissioner	State	basavaraj.sagar@ka.gov.in
135	29AALFA6689C1Z2	ANNAPURNA AGRO AGENCIES	Karnataka	Partnership	K. S. Basavaraj, Joint Commissioner	State	basavaraj.sagar@ka.gov.in
136	29AAQFA6935N1ZL	AMOGHA ENTERPRISES.	Karnataka	Partnership	K. S. Basavaraj, Joint Commissioner	State	basavaraj.sagar@ka.gov.in
137	29AAKFB7903K1Z2	M/S BELLARY MEDICAL	Karnataka	Partnership	K. S. Basavaraj, Joint	State	basavaraj.sagar@ka.gov.in

		& GENRALS			Commissioner		
138	29AEJPR6966F1ZS	PERUMAL RAGAVAN	Karnataka	Proprietorship	K. S. Basavaraj, Joint Commissioner	State	basavaraj.sagar@ka.gov.in
139	29APWPP3430N1Z0	YERANNA NAVARA PAVANKUMAR REDDY	Karnataka	Proprietorship	K. S. Basavaraj, Joint Commissioner	State	basavaraj.sagar@ka.gov.in
140	29AAOFM7238A1Z4	M/S MUCH MORE, PARVATHI NAGAR, BELLARY	Karnataka	Partnership	K. S. Basavaraj, Joint Commissioner	State	basavaraj.sagar@ka.gov.in
141	29ACPPR3966H1ZS	RAGHU RAMA REDDY	Karnataka	Proprietorship	K. S. Basavaraj, Joint Commissioner	State	basavaraj.sagar@ka.gov.in
142	29AABFV5134D1ZB	VARADA AGRO SERVICES	Karnataka	Partnership	K. S. Basavaraj, Joint Commissioner	State	basavaraj.sagar@ka.gov.in
143	29AAXFS0105P1ZI	SRI YERRISWAMY SCIENTIFIC	Karnataka	Partnership	K. S. Basavaraj, Joint Commissioner	State	basavaraj.sagar@ka.gov.in
144	29ANVPM4473D1ZG	MADHU	Karnataka	Proprietorship	K. S. Basavaraj, Joint Commissioner	State	basavaraj.sagar@ka.gov.in
145	29AECPR6132G1ZF	YALAMANCHILI ESWARA RAO	Karnataka	Proprietorship	K. S. Basavaraj, Joint Commissioner	State	basavaraj.sagar@ka.gov.in
146	29AAMFA4981G1Z2	APEX SERVICES & TRADING COMPANY	Karnataka	Partnership	K. S. Basavaraj, Joint Commissioner	State	basavaraj.sagar@ka.gov.in
147	29AAFFL5950K1ZU	LIMRA ENTERPRISES	Karnataka	Partnership	K. S. Basavaraj, Joint Commissioner	State	basavaraj.sagar@ka.gov.in

148	29AKDPN9303L1ZR	KURUBAR NAGAPPA	Karnataka	Proprietorship	K. S. Basavaraj, Joint Commissioner	State	basavaraj.sagar@ka.gov.in
149	29AABFV1001H1ZL	VATTAM IRON MART.	Karnataka	Partnership	K. S. Basavaraj, Joint Commissioner	State	basavaraj.sagar@ka.gov.in
150	29AAXPR9435P1Z7	CHENHAR EDDY SREENIVAS REDDY	Karnataka	Proprietorship	K. S. Basavaraj, Joint Commissioner	State	basavaraj.sagar@ka.gov.in
151	29AGWPR0817N1ZG	YELLAMURTHY RAO	Karnataka	Proprietorship	K. S. Basavaraj, Joint Commissioner	State	basavaraj.sagar@ka.gov.in
152	29ABGFS7313F1Z2	SHREE MULLANGI DODDABASAPPA GAS COMPANY	Karnataka	Partnership	K. S. Basavaraj, Joint Commissioner	State	basavaraj.sagar@ka.gov.in
153	29AAHFK6583B1Z5	KALVA AGENCIES	Karnataka	Partnership	K. S. Basavaraj, Joint Commissioner	State	basavaraj.sagar@ka.gov.in
154	29BAEPA3174N1ZI	KALVA AYURVEDICS	Karnataka	Proprietorship	K. S. Basavaraj, Joint Commissioner	State	basavaraj.sagar@ka.gov.in

Category B2: Cases in which TRAN 1 filing attempted for first time or revision was attempted but no error/no valid error reported. As per GST System Logs the taxpayer has tried for saving/submitting for the first time or revision of TRAN 1 and there are no evidences of system error in logs.

S. No.	GSTIN/ Provisional Id	Legal Name (Name reported by the Nodal Officer is in brackets)	State	Constitution of business	Nodal Officer / Jurisdiction Name	Nodal officer's' Govt.	E-Mail ID
155	24ADIFS1600D1ZO	SHREEMAN	Gujarat	Partnership	S. M. Saxena, Joint Commr of State Tax, Ahmedabad	State	jcegov-ct@gujarat.gov.in
156	20AAOFR0303B1Z3	REPUBLIC DISTRIBUTORS	Jharkhand	Partnership	Sheo Sahai Singh, Joint Commr Of State Tax, Ranchi	State	gst-comtax@jharkhandmail.gov.in
157	07AAAPA4368D1Z8	SURINDER ARORA	Delhi	Proprietorship	Sidharth Goyal, Asst Commr, CGST Delhi-South	Center	ccu-cexdel@nic.in
158	33AAACU5272F1ZJ	UMS INFOTECH PVT LTD	Tamil Nadu	Private Limited Company	S. Ramasamy, Joint Commr of State Tax	State	jccs@ctd.tn.gov.in
159	05AADCM6630J1ZI	M/S Mountain Valley Springs India Pvt Ltd	Uttarakhand	Private Limited Company	Anurag Mishra,Nodal Officer, IT Glitches, State Taxes,	State	anuragmishra75@gmail.com
160	05ABVPI6235K1Z8	M/s Meer Sons Traders (INTAJAR)	Uttarakhand	Proprietorship	Anurag Mishra,Nodal Officer, IT Glitches,	State	anuragmishra75@gmail.com
161	19AABFU8714E1Z3	UNEKAR POLYMER AGENCY	West Bengal	Partnership	Atanu Majumdar Addl Commr Commercial Taxes	State	majumder.ctax@wbcomtax.gov.in
162	19AACCM0107F1ZZ	MEHTA MEDICARE PRIVATE LTD	West Bengal	Private Limited Company	Shri Rajeev Gupta, Commr, CGST Kolkata South	Center	kolsouth.gst@gov.in

Category B3: Cases in which TRAN 1 is successfully Filed as Per Logs with no valid error reported. The taxpayer has successfully filed TRAN 1 and no technical errors have been found in the examined technical logs

S.No.	GSTIN/ Provisional Id	Legal Name (Name reported by the Nodal Officer is in brackets)	State	Constitution of business	Nodal Officer / Jurisdiction Name	Nodal officers' Govt.	E-Mail ID
163	21AADCA4204E1ZL	ANJ ENTERPRISES PVT LTD	Odisha	Private Limited Company	Vishnu Kumar, Joint Commr, CGST Bhubaneswar	Center	vishnukumar.irs@nic.in
164	21AAECG1896K1ZH	GHAR SANSAR RETAILS PRIVATE LIMITED	Odisha	Private Limited Company	Vishnu Kumar, Joint Commr, CGST	Center	vishnukumar.irs@nic.in
165	33AAFCM2148H1ZP	MYUNGHWA AUTOMOTIVE INDIA PRIVATE LIMITED	Tamil Nadu	Private Limited Company	R. Savithri, Asst Commr, CGST Chennai	Center	Ramasamy.Savithri@icegate.gov.in
166	18AAKFD9895N1ZA	DIGI-CO.	Assam	Partnership	Subrata Gogoi, Supt of Taxes, Principal nodal officer, State govt, Assam	State	sugogoi@gmail.com
167	29AAECA2930J1ZO	AT& S INDIA PVT. LTD	Karnataka	Private Limited Company	G. V. Krishna Rao, Principal Commr, CGST Mysore	Center	techhqrs-cexmys@gov.in
168	24AAWPP5479J1ZS	SHAHEZAD YASINBHAI PANCHI	Gujarat	Prop. Ship	Kamleshkumar L. Hadula, Deputy Commr	State	dc5-ahd2-gstn@gujarat.gov.in

					State Tax, Ahmedabad		
169	24AADCV1145K1ZF	VODAFONE BUSINESS SERVICES LIMITED	Gujarat	Public Limited Company	S. M. Saxena, Joint Commr of State Tax, Ahmedabad	State	jcegov-ct@gujarat.gov.in
170	24AAACS4457Q2ZV	VODAFONE MOBILE SERVICES LIMITED	Gujarat	Public Limited Company	S. M. Saxena, Joint Commissioner	State	jcegov-ct@gujarat.gov.in
171	19AABCR8203N1Z1	RASHMI ISPAT LIMITED)	West Bengal	Public Limited Company	Atanu Majumdar Addl Commr	State	majumder.ctax@wbcomtax.gov.in
172	05ADCFS5896B1Z0	SUBHASH MALIK (SHIV GANGA STONE CRUSHER)	Uttarakhand	Partnership	Anurag Mishra, Nodal Officer, IT Glitches	State	anuragmishra75@gmail.com
173	36AADCM2691M1Z2	METROCHEM API PRIVATE LIMITED	Telangana	Private Limited Company	Shri. Raghu Kiran B, Joint Commr, CGST Medchal, Hyderabad	Center	cgst.mdclcommtecomp@gov.in
174	06AAICS9068D1Z4	SHIVAM INSTRUMENTS & CONTROLS PRIVATE LIMITED	Haryana	Private Limited Company	Mahesh Yadav, Suptd, CGST Gurugram	Center	Mahesh.Yadav@icegate.gov.in
175	32AACCN9915A1ZU	NAIK MEDITECHS & DEVICES PRIVATE LIMITED	Kerala	Private Limited Company	Biju Thomas, Deputy Commr, CGST Kochi,	Center	bijuthomasvk@gmail.com
176	32AACFN0095J1ZG	NAIK DISTRIBUTORS	Kerala	Partnership	Biju Thomas, Dy Commr, CGST	Center	bijuthomasvk@gmail.com

177	24AHPPS7955L1ZD	PRABHUBHAI GORDHANDAS MAHESHWARI	Gujarat	Proprietorship	MK Bhandari, Deputy Commissioner of State Tax	State	dcegov-ct@gujarat.gov.in
178	24AAACG6975B1ZS	Gujrat Pipavav Port Limited	Gujarat	Public Limited Company	SM Saxena, Joint Commr State Govt,	State	jcegov-ct@gujarat.gov.in
179	27AAHCM0293K1Z7	M K S D INDUSTRIES PRIVATE LIMITED	Maharashtra	Private Limited Company	Manpreet Arora, Addl Commr, CGST, Mumbai Central,	Center	compcexm1@gmail.com
180	27AKHPB4332P1Z0	Komal Industries (AADESH KUMAR KANTILAL BAGDE)	Maharashtra	Proprietorship	Kalyaneshwari Patil, Deputy Commissioner, State Tax,	State	gstit.state@mahagst.gov.in
181	03AABCH4072M1ZN	HIGHWAY INDUSTRIES LIMITED	Punjab	Public Limited Company	Ashutosh Barnwal, Commissioner, CGST Commissionerate, Ludhiana, Punjab	Centre	cexldh@nic.in

Category B4: Cases where the taxpayer has made Incorrect declaration of stock in TRAN 1 therefore problem in filing TRAN-2. Incorrect declaration was made by taxpayer in TRAN 1 of Stock.

S.No.	GSTIN/ Provisional Id	Legal Name	State	Constitution of business	Nodal Officer / Jurisdiction Name	Nodal officers' Govt.	E-Mail ID
182	24AACFK0122F1Z5	KOKILA TRADING COMPANY	Gujarat	Partnership	S. M. Saxena, Joint Commr of State Tax, Ahmedabad	State	jcegov-ct@gujarat.gov.in
183	24AACFM4839R1ZQ	MANUBHAI KESHAVLAL AND CO	Gujarat	Partnership	S. M. Saxena, Joint Commissioner	State	jcegov-ct@gujarat.gov.in

184	24AAWPD3244P1Z9	RAKESHKUMAR JAYENDRABHAI DOSHI	Gujarat	Proprietorship	S. M. Saxena, Joint Commissioner	State	jcegov-ct@gujarat.gov.in
185	24AABFV3975G1Z2	VENUS STEEL CORPORATION	Gujarat	Partnership	S. M. Saxena, Joint Commissioner	State	jcegov-ct@gujarat.gov.in
186	24AACHD6647J1Z9	DOSHI RAKESH JAYENDRABHAI	Gujarat	H.U. F	S. M. Saxena, Joint Commissioner	State	jcegov-ct@gujarat.gov.in
187	24ABXPP2862K1ZY	RAJENDRA GOKALDAS PATEL	Gujarat	Proprietorship	S. M. Saxena, Joint Commissioner	State	jcegov-ct@gujarat.gov.in
188	24ABFFS3814E1ZH	SHIVA TRANSMISSION AGENCY	Gujarat	Partnership	S. M. Saxena, Joint Commissioner	State	jcegov-ct@gujarat.gov.in
189	24ADPPG3492C1ZO	SUMITRA ASHOKKUMAR GUPTA	Gujarat	Proprietorship	S. M. Saxena, Joint Commissioner	State	jcegov-ct@gujarat.gov.in
190	24AAAFU4428Q1ZT	UMIYA AUTOMOBILES	Gujarat	Partnership	S. M. Saxena, Joint Commissioner	State	jcegov-ct@gujarat.gov.in
191	07AAACV0110H1ZY	Vibgyor International pvt ltd	New Delhi	Private Limited Company	Krishna A. Mishra, Commissioner, Central Taxes, Delhi West	Center	commr.gstdelwest@gov.in
192	03AAIFP2026K1ZG	Nobility Enterprises	Punjab	Partnership	Pawan Garg, Dy Commr of State Tax, Ludhiana	State	aetcgstpb@gmail.com
193	33AEEPK6219H1ZP	GEETHA KANNAN	Tamil Nadu	Proprietorship	S. Ramasamy, Joint Commissioner	State	jccs@ctd.tn.gov.in
194	24AAMPT0097Q1ZW	SUNIL MANILAL	Gujarat	Proprietorship	S M Saxena, Joint Commissioner,	State	jcegov-ct@gujarat.gov.in

		THACKER			State Tax, Gujarat		
195	27AABCO8237D1ZI	ONESTOP RETAIL PRIVATE LIMITED	Maharashtra	Private Limited Company	Kalyaneshwari Patil, Deputy Commissioner, State Tax,	State	gstit.state@mahagst.gov.in
196	03AAACP4072C1Z1	PROCTER & GAMBLE HOME PRODUCTS PRIVATE LIMITED	Punjab	Private Limited Company	Ashutosh Barnwal, Commissioner, CGST Commissionerate, Ludhiana, Punjab	Center	cexldh@nic.in
197	03AAACI3924J1ZU	GILLETTE INDIA LIMITED	Punjab	Public Limited Company	Ashutosh Barnwal, Commissioner, CGST Commissionerate, Ludhiana, Punjab	Center	cexldh@nic.in

Category B5: Cases in which TRAN-1 is filed once but credit not received: The taxpayer has filed Tran-1 once successfully but no credit has been posted in ledger and no errors has been observed in system logs.

S.No.	GSTIN/ Provisional Id	Legal Name (Name reported by the Nodal Officer is in brackets)	State	Constitution of business	Nodal Officer / Jurisdiction Name	Nodal officers' Govt.	E-Mail ID
198	24BBRPP7774F1Z1	SHAHNAWAZ YASIN PENCHI	Gujarat	Proprietorship	S. M. Saxena, Joint Commissioner of State Tax,	State	jcegov-ct@gujarat.gov.in
199	19AAACF3870A1ZY	FORTUNA IMPEX PVT LTD	West Bengal	Private Limited Company	Shri Rajeev Gupta, Commissioner, CGST Kolkata South	Center	kolsouth.gst@gov.in

Category B6: Cases in which TRAN1 is filed once and revised thereafter but credit not received. No error has been seen in system logs.

S.No.	GSTIN/ Provisional Id	Legal Name	State	Constitution of business	Nodal Officer / Jurisdiction Name	Nodal officers' Govt.	E-Mail ID
200	24AKTPS8891A1ZK	SANJAY JAYANTILAL SHAH	Gujarat	Proprietorship	S. M. Saxena, Joint Commr of State Tax,	State	jcegov-ct@gujarat.gov.in
201	24AADFU7807J1ZZ	UMA SALES	Gujarat	Partnership	S. M. Saxena, Joint Commr of State Tax,	State	jcegov-ct@gujarat.gov.in
202	33AACCN2964R2ZX	NEW AGE SOFTWARE AND SOLUTIONS (INDIA) PRIVATE LIMITED	Tamil Nadu	Private Limited Company	R Savithri, Assistant Commr, CGST Chennai	Center	Ramasamy.Savithri@icegate.gov.in

Category B7: Cases where the taxpayer received the error 'Invalid Provisional Id'. GSTIN has wrongly been reported by the jurisdictional nodal officer.

S. No.	GSTIN/ Provisional Id	Legal Name (Name reported by the Nodal Officer is in brackets)	State	Constitution of business	Nodal Officer / Jurisdiction Name	Nodal officers' Govt.	E-Mail ID
203	05ABEPC9005CIZE	VIJAY CHAUHAN	Uttarakhand		Anurag Mishra, Nodal Officer, IT Glitches, State Taxes, Uttarakhand	State	anuragmishra75@gmail.com

Annexure 2

Writ Petition cases

Category No.	Category	Detailed Description	Count of Taxpayer
A. Category-1	Processed with error	Cases where the taxpayer received the error 'Processed with error.' As per GST system logs the taxpayer has attempted to submit first time/fresh or revise TRAN1 but could not file because of errors.	5
B. Category-1	As per GST system log, there are no evidences of error or submission/filing of TRAN1.	As per GST system log, there are no evidences of error or submission/filing of TRAN1.	3
B. Category-2	TRAN-1 filing attempted for first time or revision was attempted but no error /no valid error reported	TRAN-1 Fresh/Revision Attempted with No error or No valid error reported	4
B. Category-3	Successfully Filed as Per Logs	The taxpayer has successfully filed TRAN-1 and no technical errors has been found. Also no issue were found while posting of credit in the electronic credit ledger	6
B. Category-4	Incorrect declaration of stock by taxpayer in TRAN 1 therefore problem in filing TRAN-2.	There are no technical issues in saving/submitting or filing of TRAN1. The taxpayer is facing issues in filing TRAN-2 due to incorrect declaration made by them in TRAN 1	2
B. Category-7	Taxpayer Registration stands cancel/Inactive in current date	As per GST System Logs, the taxpayer has neither tried for Saving / Submitting or Filing TRAN1 and their registrations stands cancelled as on date.	1
	Total		**21**

Category A1: Cases where the taxpayer received the error 'Processed with error.' As per GST system logs the taxpayer has attempted to submit first time/fresh or revise TRAN1 but could not file because of errors.

1. 2465/2018-M/s Polyplex Corporation Ltd. v. UOI & Ors

GSTIN/ Provisional id	State	Constitution of Business
05AAACP0278J1ZI	Uttarakhand	Public Limited Company

Issue: - The Petitioner received the error "processed with error" on 25.08.2017. The Petitioner lodged complaint on help-desk in September. They received the response on 09.12.2017. While doing non-core amendment the Petitioner received the following error messages "PAN does not exist" "Another promoter with the same mobile number exists", "duplicate Director Identification Number" and "name does not match for promoter". The Petitioner has provided screen-shots for all the errors.

Status: - The matter is pending the next date of hearing is not listed on the website. GSTN is a party in this matter. Comments have been sent to the Commissionerate on 5.2.2019.

2. 1286/2019-MSL Driveline Systems Limited v. UOI & Ors

GSTIN/ Provisional id	State	Constitution of Business
27AAACM3524A1Z3	Maharashtra	Public Limited Company

Issue: - The Petitioner could not upload JSON file. He has provided screen shot of the error. He received the error "errors occurred while uploading the file".

Status: - The matter is pending. The next date of hearing has not been updated on the website. GSTN is a party in this matter. Comments in this matter have been sent on 7.2.2019 to the Commissionerate.

3. W.P. 22889/2018-Synthetic Moulders Limited v. UOI & Ors

GSTIN/ Provisional id	State	Constitution of Business
19AADCS8890G1ZS	West Bengal	Public Limited Company

Issue: - The Petitioner could not file TRAN-1 due to processing errors and system errors of the GST Portal. The Petitioner has provided copies of screen shot where he received the error "processed with error". The screen shots however are not clear.

Status: - The matter is pending. Next date of hearing has not been updated on website. GSTN is a party in this matter. Comments have been sent to the Commissionerate on 7.2.2019.

4. SCA 1367/2019-Techno Tarp v. UOI & Ors

GSTIN/ Provisional id	State	Constitution of Business
24AACCT3607R1Z1	Gujarat	Private Limited Company

Issue: - The Petitioner could not file TRAN-1 due to technical glitches.

Status: - The matter is pending. GSTN is a party in this matter. Comments have been sent on 20.2.2019 to the Commissionerate.

5. W.P. 3117/2019-City Alloys Pvt. Ltd. v. UOI & Ors

GSTIN/ Provisional id	State	Constitution of Business
19AACCC4600R1ZE	West Bengal	Private Limited Company

Issue: - The Petitioner received an error on the GST Portal that his Central Excise Registration number was incorrect.

Status: - The matter is pending. GSTN is a party in this matter. Comments have been forwarded to the Commissionerate on 21.2.2019.

Category B1: Cases where the taxpayer say they received error: As per GST system log, there are no evidences of error or submission/filing of TRAN1.' As per GST System Logs, the taxpayer has neither tried for saving / submitting or Filing TRAN1.

1. WP (C) No.27064 of 2018 -India Gate Terminal Pvt. Ltd. v. UOI & Ors

GSTIN/ Provisional id	State	Constitution of Business
32AABCI3293F1ZV	Kerala	Private Limited Company

Issue: - The Petitioner was not able to file TRAN 1 due to technical issue. They had contacted the helpdesk over phone and through e-mail. But the issue was not resolved.

Status: - Kerala High Court vide Judgment dated 25/09/2018, has ordered that the petitioner may apply to the Nodal Officer. The Nodal Officer will look into the issue and facilitate the petitioner's uploading FORM GST TRAN-1 without reference to the time frame ordered so. It was also observed that if the petitioner applies within two weeks after receiving this judgment, the Nodal Officer will consider it and take steps within a week thereafter. If the uploading of FORM GST TRAN-1 is not possible for reasons not attributable to the petitioner, the authority will also enable him to take credit of the input tax available at the time of migration.

2. Writ Tax 17108/2018-Ashish Kumar Aggarwal v. UOI & Ors.

GSTIN/ Provisional id	State	Constitution of Business
09ADHPA1462A1Z8	Uttar Pradesh	Proprietorship

Issue: - The Petitioner has alleged that the portal was not responding while attempting to file TRAN-1.

Status: - The Writ Petition number provided by the State is incorrect, therefore, the status of the case could not be determined. GSTN has not received a copy of the Writ Petition. The Nodal Officer has sent this case to GSTN stating that it is a Writ Petition.

On analysis it was found that as per logs User neither submitted nor filed the form. No logs of save as well.

3. CWP 20543/2018- S.K. Trading & Company v. UOI & Ors.

GSTIN/ Provisional id	State	Constitution of Business
03AAWPK2317E1ZX	Punjab	Proprietorship

Issue: - The Taxpayer tried to file the TRAN-1 on 25.12.2017, but due to technical glitches in the system of GST Portal, the details could not be uploaded. When the taxpayer tried, again on 31.12.2018 system shows an error that "The filing of declaration in TRAN 1 is not available now as the due date is over". The taxpayer tried the same on 31/12/2017 as the last date to file TRAN 1 is 31/12/2017 mentioned in press release dated 10/11/2017 issued by GST Council after its 23rd meeting at Guwahati.

Status: - GSTN has not received a copy of the Writ Petition. The Writ Petition was disposed of vide order dated 10.9.2018. The Court has directed that the ITGRC mechanism should be followed in this matter.

The GST Portal allowed filing of TRAN-1 till the date provided in Order No. 10/2017-GST dated 15.11.2017. The abovementioned order extended the period for submitting the declaration in form GST TRAN-1 till 27th December, 2017.

B Category 2: TRAN-1 filing attempted for first time or revision was attempted but no error /no valid error reported: Tran-1 Fresh/Revision Attempted with No error or No valid error reported

9. CWP No. 891/2018-M/s Dayachand Engineering Pvt. Ltd. v. UOI

GSTIN/ Provisional id	State	Constitution of Business
09AAACD0623R1ZH	Uttar Pradesh	Private Limited Company

Issue: - The Petitioner was unable to file TRAN-1 due to technical glitches. Only copy of Allahabad High Court's order 20.07.2018 along with recommendation of Assistant Commissioner has been received. The Hon'ble court vide order dated 20.07.2018 directed the respondents to reopen the portal within two weeks from date of order. In the event they do not do so, they will entertain the application of the petitioner manually and pass orders on it after due verification of the credits as claimed by the petitioner.

Status: - GSTN is not a party. The matter is pending before the High Court and the next date of hearing has not been updated on the Court's website.

Action by GSTN: - An email dated 06.02.2019 was sent to the Petitioner requesting for the following information: -

i. Exact technical glitch faced by you while filing TRAN-1

ii. Nature of error noticed

iii. Screen-shots of technical error/emails sent to help-desk along with ticket numbers.

iv. Whether you faced any technical issues/errors while filing your application for Non-core amendment.

The Petitioner was requested to provide the abovementioned information by 08.02.2019. The Petitioner responded vide email dated 07.02.2019. The petitioner in his e-mail stated that he could not file Tran-1 online and his TRAN-1 was processed manually on the direction of Hon'ble High Court of Allahabad by the deputy commissioner, commercial tax, Muzaffarnagar along with copy of letter of Deputy Commissioner. He further stated that the processed Tran-1 was forwarded to GSTN through e mail dated 20.08.2018 by the Joint Commissioner, IT, Commercial Tax, Head Quarter, Lucknow for uploading on GST portal.

It may be appreciated that GSTN cannot upload manual documents as only the taxpayer has access to uploading and transacting on GST portal.

10. WP NO. 17479/2018 Heera Metals Pvt Ltd v. UOI

GSTIN/ Provisional id	State	Constitution of Business
19AAACH6625B1ZV	West Bengal	Private Limited Company

Issue: - The Petitioner claims to have received information of successful filing of TRAN-1 from the website. However, on intimation to the Commissionerate, the petitioner was informed that the TRAN-1 has not been filed. The Petitioner has alleged that he didn't receive the ITC.

Status: GSTN is a party and the matter is pending before the High Court. Next date of hearing has not been updated on the Court's website.

Action by GSTN: - An email dated 06.02.2019 was sent to the Petitioner requesting for the following information: -

i. Exact technical glitch faced by you while filing TRAN-1

ii. Nature of error noticed

iii. Screen-shots of technical error/emails sent to help-desk along with ticket numbers.

iv. Whether you faced any technical issues/errors while filing your application for Non-core amendment.

The Petitioner was requested to provide the abovementioned information by 08.02.2019. The tax payer responded vide e-mail dated 06.02.2019. The taxpayer has provided screen shot of the

Processed with Error in TRAN1/Table 5C i.e. State /UT Tax credit carried forward which has also been captured in the logs. **This is a valid error message as the taxpayer was entering his GSTIN instead of VAT registration Number to claim transitional credit. Thus, there was no technical issue but mistake committed by taxpayer.**

11. W.P. 506/2018-Levana Products Pvt. Ltd.

GSTIN/ Provisional id	State	Constitution of Business
19AABCL0252F1ZV	West Bengal	Private Limited Company

Issue: - The Petitioner after saving the required data on the portal was trying to validate DSC of its director so that form TRAN-1 could be finally submitted. However, after facing problems in synchronisation of the emsigner with GST Portal and the Petitioner could not submit TRAN-1.

Status: - GSTN is a party in the matter. Writ is pending before the High Court. Next date of hearing has not been updated on the Court's website.

Action by GSTN: - An email dated 06.02.2019 was sent to the Petitioner requesting for the following information: -

i. Exact technical glitch faced by you while filing TRAN-1

ii. Nature of error noticed

iii. Screen-shots of technical error/emails sent to help-desk along with ticket numbers.

iv. Whether you faced any technical issues/errors while filing your application for Non-core amendment.

The Petitioner was requested to provide the abovementioned information by 08.02.2019. However, no response has received from the Petitioner.

12. Writ Tax 1097/2018-Rabyte Technologies LLP v. UOI

GSTIN/ Provisional id	State	Constitution of Business
09AATFR8142F1ZP	Uttar Pradesh	LL.P.

Issue: - The Petitioner tried to file its form TRAN-1 on GST Portal on 27.12.2017 but it was not accepted by the Portal due to technical glitch.

Status: The Hon'ble Court vide order dated 09.08.2018 directed the respondents to reopen the portal within two weeks from the date of order. In the event they do not do so, they will entertain the application of the petitioner manually and pass orders on it after due verification of the credits as claimed by the petitioner. The matter is pending before the High Court of Allahabad and next date of hearing has not been updated on website.

Action by GSTN: - An email dated 08.1.2019 was sent to the Petitioner requesting for the following information: -

i. Exact technical glitch faced by you while filing TRAN-1

ii. Nature of error noticed

iii. Screen-shots of technical error/emails sent to help-desk along with ticket numbers.

The Petitioner was requested to provide the abovementioned information by 10.1.2019. The Petitioner vide his email dated 09.1.2019 provided screen-shots of oops error and issues relating to server issue. However, the date and time of the error were not visible. The Petitioner also shared the screen-shot of the GST Council website wherein it has been provided that last date of filing TRAN-1 is 31.12.2017. The Petitioner has stated that since the server was not responding and time limit was extended till 31.12.2017, hence they decided to wait for few days and file TRAN-1 after 27.12.2017, so that the system may respond. However, when they tried to file TRAN-1 **after 27.12.2017**, the system was displaying the message that "The filing of declaration in TRAN-1 is not available now as the due date is over".

The Petitioner vide email dated 4.2.2019 was asked to provide screen of the GST Portal with date and time since the logs did not capture this error. In case the same was not available, the Petitioner was requested to provide the exact date when he received the error. The Petitioner was requested to provide the said information by 6.2.2019 however the Petitioner did not respond to this email.

B Category 3: Successfully Filed as Per Logs.: The taxpayer has successfully filed TRAN-1 and no technical errors has been found. Also, no issue was found while posting of credit in the electronic credit ledger.

13. Writ Tax 883 of 2018-M/s Mittal Metal Trading v. UOI

GSTIN/ Provisional id	State	Constitution of Business
09AAZPM0006D1ZS	Uttar Pradesh	Proprietorship

Issue: - The Petitioner could not file TRAN-1. The Hon'ble Court vide order dated 19.07.2018 directed the respondents to process the manual revise TRAN-1 and TRAN-2 filed by the petitioner in accordance with law.

Status: - The matter is still pending before the Allahabad High Court and likely to be listed on 14.03.2019. GSTN is party in the Writ Petition, however, only copy of order dated 19.07.2018 along with manual FORMS of GST TRAN-1 and TRAN-2 has received by GSTN.

Action by GSTN: - An email dated 06.02.2019 was sent to the Petitioner requesting for the following information: -

i. Exact technical glitch faced by you while filing TRAN-1

ii. Nature of error noticed

iii. Screen-shots of technical error/emails sent to help-desk along with ticket numbers.

iv. Whether you faced any technical issues/errors while filing your application for Non-core amendment.

The Petitioner was requested to provide the abovementioned information by 08.02.2019. No response was received from the Petitioner.

14. WP No. 17409/2018 M/s Modern Steel Enterprises v. UOI

GSTIN/ Provisional id	State	Constitution of Business
19AABCM7788H1ZV	West Bengal	Private Limited Company

Issue: -The Petitioner could not submit TRAN-1 form due to system error.

Status: - GSTN is a party in this matter. The matter is pending. The next date of hearing in this matter has not been updated on the Court's website.

Action by GSTN: - An email dated 06.02.2019 was sent to the Petitioner requesting for the following information: -

i. Exact technical glitch faced by you while filing TRAN-1

ii. Nature of error noticed

iii. Screen-shots of technical error/emails sent to help-desk along with ticket numbers.

iv. Whether you faced any technical issues/errors while filing your application for Non-core amendment.

The Petitioner was requested to provide the abovementioned information by 08.02.2019. The Petitioner responded vide email dated 07.02.2019. The Petitioner in their email stated that in Table 5A of TRAN-1, was not properly filled and credit of Rs.10,27,447 was not claimed. Rs.0 was mentioned in CENVAT Credit Admissible as ITC in place of Rs.10,27,447. The Petitioner provided the screen shot of the same.

15. Writ Tax 1115/2018-M/s Brijlax Motors Pvt. Ltd. v. UOI & Ors

GSTIN/ Provisional id	State	Constitution of Business
09AABCB1464B1Z6	Uttar Pradesh	Private Limited Company

Issue:- The Petitioner had filed TRAN-1 on GST Portal before 27.12.2017 for carrying forward VAT Credit as well as CENVAT credit balance amounting to Rs.70,09,486.54 which was shown as closing balance in the return of Central Excise filed for the month of June 2017, but after filing of TRAN-1, out

of total 119 invoices entry covering total tax credit of 70,09,486.54, which was uploaded, only 116 entry was accepted by GST Portal but three entries were not shown on the GST Portal.

Status: - GSTN is a party in this matter. The matter is pending before the High Court and the next date of hearing has not been updated on the Court's website.

Action by GSTN: - An email dated 06.02.2019 was sent to the Petitioner requesting for the following information: -

i. Exact technical glitch faced by you while filing TRAN-1

ii. Nature of error noticed

iii. Screen-shots of technical error/emails sent to help-desk along with ticket numbers.

iv. Whether you faced any technical issues/errors while filing your application for Non-core amendment.

The Petitioner was requested to provide the abovementioned information by 08.02.2019. However, no response was received from the Petitioner.

16. W.P. 21058-M/s Rathee Iron & Steel Industries Ltd. Indore

GSTIN/ Provisional id	State	Constitution of Business
23AACCR2011B2ZD	Madhya Pradesh	Private Limited Company

Issue: - The Petitioner tried to revise his TRAN-1 on 28.11.2017. The second column was not accepting any entry and therefore the Petitioner could not revise his TRAN-1.

Status: - GSTN is a party in this matter. The matter is pending before the M.P. High Court and the next date of hearing has not been updated on the Court's website.

Action by GSTN: - An email dated 06.02.2019 was sent to the Petitioner requesting for the following information: -

i. Exact technical glitch faced by you while filing TRAN-1

ii. Nature of error noticed

iii. Screen-shots of technical error/emails sent to help-desk along with ticket numbers.

iv. Whether you faced any technical issues/errors while filing your application for Non-core amendment.

The Petitioner was requested to provide the abovementioned information by 08.02.2019. However, no response was received from the Petitioner.

17. SCA 18433/2017-Filco Trade Centre Pvt. Ltd. v. UOI & Ors

GSTIN/ Provisional id	State	Constitution of Business
24AAECR2809P1Z3	Gujarat	Private Limited Company

Issue: - No technical glitch has been raised by the Petitioner. The Petitioner has demanded that TRAN-1 should be re-opened in order to claim ITC which was restricted earlier under Clause (iv) of subsection (3) of section 140. The same has been held unconstitutional by the High Court of Gujarat in the matter SCA 18433 OF 2017- Filco Trade Centre Pvt. Ltd. v. UOI & Ors.

Status: - The matter was disposed of on 5.9.2018. Copy of the judgment is annexed as **Annexure-3.** GSTN has not received a copy of this Writ Petition.

18. Writ Petition (c) 9067/2018- Smt. Leena P. Nair v. UOI & Ors

GSTIN/ Provisional id	State	Constitution of Business
32AAVPN6846L1ZX	Kerala	Proprietorship

Issue: - The Petitioner could not file TRAN-1. In the Writ Petition, the Petitioner has claimed that the initial date of filing was 30.09.2017 but as per the Press Release made by the 1st Respondent in the 23rd meeting at Guwahati on 10.11.2017, the last date for filing TRAN-1 and one-time option of revision was further extended to 31.12.2017. Since the last date of uploading was 31.12.2017, the petitioner took time to cross check the details uploaded for filing details to be accurate. The Petitioner tried to upload TRAN-1 on 28.12.2017. At the time of filing of TRAN-1 on 28.12.2017, it was shown in the GST Website that the filing of declaration of TRAN-1 is not available now as the due date was over.

Status: - The matter was disposed off with the direction to make appropriate facilities provisions to enable the petitioner to complete the filing of TRAN1 as directed in the Circular no. 39/13/2018. GSTN had provided it is comments on 6.4.2018 to Thiruvananthapuram Commissionerate. GSTN had stated The GST Portal allowed filing of TRAN-1 till the date provided in Order No. 10/2017-GST dated 15.11.2017. The abovementioned order extended the period for submitting the declaration in form GST TRAN-1 till 27th December, 2017.

Category B4: Cases where the taxpayer received the error 'Incorrect declaration of stock. Problem in filing TRAN-2.' There are no technical issues in saving/submitting or filing of TRAN1. The taxpayer is facing issues in filing TRAN-2.

19. W.P. 1856/2018-DNR Alloys v. UOI & Ors

GSTIN/ Provisional id	State	Constitution of Business
27AACPZ9875E1ZZ	Maharashtra	Proprietorship

Issue: - While filing TRAN- 1, part 7B of table 7(a) was not reflected on the portal, so the details were filed in 7(b). Subsequently when tried to file TRAN- 2, they are getting error.

Status: - The matter has been disposed off by Mumbai High Court with the directions that In facts of the case, we request the concerned **Commissioner/ Nodal Officer to take appropriate decision** on the representations of the respective Petitioners before us. The entire exercise of examining the cases of the Petitioners through the channel explained before us as noted above, shall be completed latest by 31st January, 2019.

GSTN is not a party in the Writ Petition. The Writ Petition was received by GSTN on 30.10.2018. Comments in the matter were provided by GSTN to Mumbai Central Commissionerate on 16.11.2018. As per GST Portal data the Petitioner has successfully filed TRAN-1 on 27.12.2017. To fill details in table 7a of TRAN-1, the taxpayer had to select table 7a and then click on add details. Upon clicking add details, the taxpayer was required to input details such as HSN, Unit, Quantity, value, eligible duties paid on such inputs, whether duty paid invoices are applicable and type of good. Part 7B of table 7a pertains to transactions where duty paid invoices are not available (Applicable only for person other than manufacturer or service provider) – Credit in terms of Rule 117 (4). In order to fill Part 7B of table 7a the taxpayer had to merely select "no" from the drop down while filling the column whether duty paid invoices are applicable. The process mentioned above was explained in detail on the GST Portal at https://tutorial.gst.gov.in/userguide/returns/index.htm#t=GST_TRAN_-_1_Manual.htm. Apart from the user manual, FAQ's and troubleshooting TRAN-1 issues were also made available to the taxpayers at https://tutorial.gst.gov.in/userguide/returns/index.htm#t=Submission_of_Transition_Form_GST_TRAN_-_1.htm and https://tutorial.gst.gov.in/userguide/returns/index.htm#t=Troubleshooting_TRAN-1_issues.htm respectively.

20. W.P. 1862/2018-Forge Cast Alloys v. UOI & Ors

GSTIN/ Provisional id	**State**	**Constitution of Business**
27AABCF2875J1ZE	Maharashtra	Private Limited Company

Issue: - While filing TRAN- 1, part 7B of table 7(a) was not reflected on the portal, so the details were filed in 7(b). Subsequently when tried to file TRAN- 2, they are getting error.

Status: - The matter has been disposed off by Mumbai High Court with the directions that in facts of the case, we request the concerned Commissioner/ Nodal Officer to take appropriate decision on the representations of the respective Petitioners before us. The entire exercise of examining the cases of the Petitioners through the channel explained before us as noted above, shall be completed latest by 31st January, 2019.

GSTN is not a party in the Writ Petition. The Writ Petition has not been received by GSTN. Comments in the matter were provided by GSTN to Mumbai Central Commissionerate on 16.11.2018. As per GST Portal data the Petitioner has successfully filed TRAN-1 on 27.12.2017. To fill details in table 7a of TRAN-1, the taxpayer had to select table 7a and then click on add details. Upon clicking add details, the taxpayer was required to input details such as HSN, Unit, Quantity, value, eligible duties paid on such inputs, whether duty paid invoices are applicable and type of good. Part 7B of table 7a pertains to transactions where duty paid invoices are not available (Applicable only for person other than manufacturer or service provider) – Credit in terms of Rule 117 (4). In order to fill Part 7B of table 7a the taxpayer had to merely select "no" from the drop down while filling the column whether duty paid invoices are applicable. The process mentioned above was explained in detail on the GST Portal at https://tutorial.gst.gov.in/userguide/returns/index.htm#t=GST_TRAN_-_1_Manual.htm. Apart from the user manual, FAQ's and troubleshooting TRAN-1 issues were also made available to the taxpayers at https://tutorial.gst.gov.in/userguide/returns/index.htm#t=Submission_of_Transition_Form_GST_TRAN_-_1.htm and https://tutorial.gst.gov.in/userguide/returns/index.htm#t=Troubleshooting_TRAN-1_issues.htm respectively.

Category B7: Taxpayer Registration stand cancel/Inactive in current date. As per GST System Logs, the taxpayer has neither tried for Saving / Submitting or Filing TRAN 1 and their registrations stands cancelled as on date.

21. WP No. 15912/2018- Mag Steel Industries Pvt. Ltd. v. UOI & Ors.

GSTIN/ Provisional id	State	Constitution of Business
33AAGCM8182J3Z3	Tamil Nadu	Private Limited Company

Issue: - Due to the delay in restoration of the TIN in VAT regime the Petitioner were unable to migrate to GST regime on time. They applied for new registration under GST and were allotted new GSTIN 33AAGCM8182J3Z3 Dated 15.12.2017. Due to delayed GST migration they unable file their TRAN-1 within due date.

Status: - GSTN has not received a copy of the Writ Petition.

Annexure 3

Members (Centre)

- Sh. A. K. Pandey, Member (GST), CBIC
- Sh. Sandeep Mohan Bhatnagar, Member, CBIC
- Sh. P.K. Jain, Pr. Director General, DG-GST, CBIC

GST Council Secretariat

- Dr. Rajeev Ranjan, Special Secretary, GST Council

Members (States) (through VC)

- Dr. P.D. Vaghela, CCST, Gujarat
- Ms. Smaraki Mahapatra, CST, West Bengal
- Sh.Vijay Singh, Additional Commissioner, State Tax, Haryana (On behalf of ACS, Haryana)
- Sh. Gnanasekaran, Additional Commissioner, State Tax, Tamil Nadu (On behalf of CST, Tamil Nadu)

Special Invitees

- Sh. Shashank Priya, Joint Secretary, GST Council
- Sh. Upender Gupta, Pr. Commissioner, GST Policy Wing, CBIC
- Sh. Dheeraj Rastogi, Joint Secretary, GST Council
- Sh. Manish Kumar Sinha, Joint Secretary TRU II, DoR
- Ms. Kajal Singh, EVP (Services), GSTN (through VC)

Others

- Sh. Rajesh Kumar Agarwal, Director, GST Council
- Sh. Gauri Shankar Sinha, Director, GST Council
- Sh. Arjun Kumar Meena, Under Secretary, GST Council
- Sh. Rahul Raja, Under Secretary, GST Council
- Sh. S Mahesh Kumar, Under Secretary, GST Council

Agenda Item 5: Recommendations of the Joint Committee (Fitment Committee and Law Committee) on Real Estate Sector

GST Council in its 33rd meeting held on 24th February had made following recommendations-

i. GST rate:
   a. GST shall be levied at effective GST rate of 5% without ITC on residential properties outside affordable segment;
   b. GST shall be levied at effective GST of 1% without ITC on affordable housing properties.

ii. Definition of affordable housing shall be a residential house/flat of carpet area of upto 90 sqm in non-metropolitan cities/towns and 60 sqm in metropolitan cities having value upto Rs. 45 lacs (both for metropolitan and non-metropolitan cities). Metropolitan Cities are Bengaluru, Chennai, Delhi NCR (limited to Delhi, Noida, Greater Noida, Ghaziabad, Gurgaon, Faridabad), Hyderabad, Kolkata and Mumbai (whole of MMR).

iii. Intermediate tax on development right, such as TDR, JDA, lease (premium), FSI shall be exempted only for such residential property on which GST is payable.

iv. The new rate shall become applicable from 1st of April, 2019. Details of the scheme shall be worked out by an Officers committee and shall be approved by the GST Council in a meeting to be called specifically for this purpose.

2. Joint meeting of Law Committee and Fitment Committee was held on 6th March, 2019 to discuss the operational modalities for implementation of recommendations of the Council.

3. Based on the recommendations of the joint meeting of the Law Committee and the Fitment Committee, draft notifications and amendment to ITC rules, as listed the **Annexure** (in total 6 notifications and amended ITC rules) have been drafted. The most important document is the notification at sl. No.1 and its annexure, which provides ITC transition mechanism for ongoing projects. Salient features of the notifications and rules drafted to implement the recommendations of the GSTC are as under;

(i) Reduced rate of 1% on construction of affordable houses shall be available for,

(a) all houses which meet the definition of affordable houses as decided by GSTC (area 60 sqm in non- metros / 90 sqm in metros and value upto Rs. 45 lakh), and

(b) affordable houses being constructed in ongoing projects under the existing Central and State Housing Schemes presently eligible for concessional rate of 8% GST (after 1/3rd land abatement).

(ii) Reduced rate of 1% on construction of affordable and 5% on other than affordable houses shall be available subject to the following conditions, -

(a) ITC shall not be available,

(b) 80% of inputs and input services (other than capital goods, TDR/ JDA, FSI, long term lease (premiums) shall be purchased from registered persons. On shortfall of purchases from 80%, tax shall be paid by the builder @ 18% on RCM basis. However, tax on cement purchased from unregistered person shall be paid @ 28% under RCM,

(c) ITC of GST paid @ 5% or 1% as the case may be shall be available to a landowner who transfers TDR or FSI to a developer against constructed flats and independently sells such flats to his buyers to avoid double taxation of flats sold by landowner in a joint development agreement.

(iii) Transitional provisions have been provided to enable the builder to take ITC in proportion to commercial portion in the ongoing projects on which tax will be payable @ 12% with ITC even after 1.4.2019 and in proportion to invoicing of houses before 1.4.2019 which shall be liable to tax @ 12%/ 8% with ITC. Remaining ITC shall be reversed by the builder.

(iv) The transition formula extrapolates ITC taken for percentage completion to that of ITC for the entire project, based on ITC availed. Then based on percentage invoicing, ITC eligibility is determined. This is fairly simple to calculate using the prescribed formula. However, the formula does not function well in extreme situations of mismatch between percentage completion of project and percentage invoicing. Therefore, appropriate safeguards have been provided as anti-avoidance measures.

(iv) Supply of TDR, FSI, long term lease (premium) of land by a landowner to a developer shall be exempted subject to the condition that the constructed flats are sold before issuance of completion certificate and tax is paid on them. Exemption of TDR, FSI, long term lease (premium) shall be withdrawn in case of flats sold after issue of completion certificate, but such withdrawal shall be limited to 1% of value in case of affordable houses and 5% of value in case of other than affordable houses. This will achieve tax parity between under construction and ready to move property.

(v) The liability to pay tax on TDR, FSI, long term lease (premium) shall be shifted from land owner to builder under RCM.

(vi) The date on which builder shall be liable to pay tax on TDR, FSI, long term lease (premium) of land under RCM in respect of flats sold after completion certificate is being shifted to date of issue of completion certificate.

(vii) The liability of builder to pay tax on construction of houses given to land owner in a JDA is also being shifted to date of completion.

(viii) ITC rules shall be amended to bring greater clarity on monthly and final determination of ITC and reversal thereof in real estate projects.

4. The draft notifications and rules are placed before the GST Council for approval with the permission to make drafting changes and other changes in consultation with Ministry of Law and Justice, Government of India.

Annexure

Sl. No	Draft Document No	Purpose
1	1. _-2019-CT (R)_Amnd Nf 11-2017 - CTR	A. To notify the rates for affordable apartments and non-affordable apartments by amending the notification No. 11/2017- CT (R) • Annexure I: transitional provisions for ITC in residential real estate project (RREP) • Annexure II: transitional provisions for ITC in REP other than RREP • Annexure III: method of accounting for threshold limit of 80% B. To create a new rate of 18% on supply of any services other than transfer of development rights, FSI (including additional FSI), long term lease of land (against upfront payment in the form of premium, salami, development charges etc.) by an unregistered person to a promoter of REP by amending notification No. 1/2017- CTR
1A	1A. illustration	Excel sheet containing illustration I and II to annexure I and illustration I and II to annexure II
2	2. -2019-CT (R)_Amnd nf. no. 12-2017 - CTR	To exempt supply of transfer of development rights, FSI (including additional FSI), long term lease of land (against upfront payment in the form of premium, salami, development charges etc.) by amending notification No. 12/2017- CTR
3	3._-2019-CTR_Amnd to Nf no. 13-2017 - CTR	Putting tax liability on promoter under sub-section (3) of section 9 (RCM) on receipt of following services from unregistered person • services supplied by way of transfer of development rights or FSI (including additional FSI) and • long term lease of land (against upfront payment in the form of premium, salami, development charges etc.)
4	4. _-2019-CTR Sec 148 TDR	Shifting the date on which liability to pay tax on supply of TDR, FSI and long-term lease shall arise to the date of issuance of completion certificate for the REP under section 148 of CGST Act and to rescind the earlier notification in this regard
5	5._-2019-CTR_ section 9 (4)	Invoking RCM under section (4) of section 9 of CGST Act, to tax TDR, FSI, long term lease and Cement when received by promoter from an unregistered supplier to pay tax on reverse charge basis as recipient of such goods or services
6	6._-2019-CTR_ Amnd nf 1-2017-CTR	To create a new rate of 18% on supply of any goods other than capital goods and cement falling under chapter heading 2523 in the first schedule to the Customs Tariff Act, 1975 (51 of 1975), by an unregistered person to a promoter of REP by amending notification No. 1/2017- CTR
7	7. Amendment to rule 42 and 43	Amendment to rule 42 and 43 of CGST rules

Sl. No. 1

[TO BE PUBLISHED IN THE GAZZETE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (i)]

Government of India

Ministry of Finance

(Department of Revenue)

Notification No. <>/2019-Central Tax (Rate)

New Delhi, the ____, 2019

G.S.R.....(E).- In exercise of the powers conferred by sub-section (1), sub-Section (3) and sub-Section (4) of Section 9, sub-section (1) of section 11,sub-section (5) of section 15, sub-section (1) of section 16 and Section 148 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council, and on being satisfied that it is necessary in the public interest so to do, hereby makes the following further amendments in the notification of the Government of India, in the Ministry of Finance (Department of Revenue) No.11/2017- Central Tax (Rate), dated the 28thJune, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), *vide* number G.S.R. 690(E), dated the 28thJune, 2017, namely:-

In the said notification, -

(i) in the preamble,

(a) after the words, figures and symbols "conferred by sub-section (1),", the words, figures and symbols "sub-Section (3) and sub-Section (4)" shall be inserted;

(b) the word "and" after the words and figures "sub-section (5) of section 15" shall be substituted by the symbol ",";

(c) after the word and figures "section (16)", the words and figure "and Section 148" shall be inserted;

(ii) in the Table, -

(a) against serial number 3, in item (i), and the entries relating thereto in column (3), (4) and (5), the following items and entries relating thereto shall be substituted, namely, -

Table

(3)	(4)	(5)
"(i) Construction of affordable residential apartments by a promoter in a residential real estate project (herein after referred to as RREP), intended for sale to a buyer, wholly or partly, except where the entire consideration has been received after issuance of completion certificate, where required, by the competent authority or after its first occupation, whichever is earlier. (Provisions of paragraph 2 of this notification shall apply for valuation of this service)	0.75	Provided that credit of input tax charged on goods and services used in supplying the service has not been taken except to the extent as prescribed in the annexure I read with Explanation no. (iv); Provided further that where a registered person (landowner- promoter) who transfers development right or FSI (including additional FSI) to a promoter (developer- promoter) against consideration, wholly or partly, in the form of construction of apartments, -
(ia) Construction of residential apartments other than affordable residential apartments by a promoter in a residential real estate project (RREP),	3.75	

intended for sale to a buyer, wholly or partly, except where the entire consideration has been received after issuance of completion certificate, where required, by the competent authority or after its first occupation, whichever is earlier. (Provisions of paragraph 2 of this notification shall apply for valuation of this service)		i- The developer- promoter shall pay tax on supply of construction of apartments to the landowner- promoter, and ii- Such landowner – promoter shall be eligible for credit of taxes paid by him to the developer promoter towards the supply of construction of apartments by developer- promoter to him, provided the landowner- promoter further supplies such apartments to his buyers before issuance of completion certificate or first occupation, whichever is earlier, and pays tax on the same which is not less than the amount of tax paid by him on construction of such apartments to the developer- promoter. [Explanation. - i. "developer- promoter" is a promoter who constructs or converts a building into apartments or develops a plot for sale", ii. landowner- promoter is a promoter who transfers the land/ development rights/ FSI to a developer- promoter for construction of apartments and receives constructed apartments against such transferred rights and sells such apartments to his buyers independently.] Provided further that the registered person shall pay, by debit in the electronic credit ledger or electronic cash ledger, an amount equivalent to the input tax credit attributable to construction in an ongoing project, time of supply of which is on or after 01.04.2019, which shall be calculated in the manner as prescribed in the annexure I in the case of REP other than RREP and in case of RREP, in the manner as prescribed in annexure II; Provided further that eighty percent of value of input and input services, [other than services by way of grant of development
(ib) Construction of commercial apartments (shops, offices, godowns etc.) by a promoter in a residential real estate project (RREP), intended for sale to a buyer, wholly or partly, except where the entire consideration has been received after issuance of completion certificate, where required, by the competent authority or after its first occupation, whichever is earlier. (Provisions of paragraph 2 of this notification shall apply for valuation of this service)	3.75	
(ic) Construction of affordable residential apartments by a promoter **in a real estate project (herein after referred as REP) other than a residential real estate project (RREP)**, intended for sale to a buyer, wholly or partly, except where the entire consideration has been received after issuance of completion certificate, where required, by the competent authority or after its first occupation, whichever is earlier. (Provisions of paragraph 2 of this notification shall apply for valuation of this service)	0.75	
(id) Construction of residential apartments other than affordable residential apartments by a promoter **in a real estate project (REP) other than a residential real estate project (RREP)**, intended for sale to a buyer, wholly or partly, except where the entire consideration has been received after issuance of completion certificate, where required, by the competent authority or after its first occupation, whichever is earlier. (Provisions of paragraph 2 of this notification shall apply for valuation of this service)	3.75	

		rights, long term lease of land (against upfront payment in the form of premium, salami, development charges etc.) or FSI (including additional FSI), electricity, high speed diesel, motor spirit, natural gas], used in supplying the service shall be received from registered supplier only; Provided further that where value of input and input services received from registered suppliers during the financial year (or part of the financial year till the date of issuance of completion certificate or first occupation of the project, whichever is earlier)falls short of the said threshold of 80%, tax shall be paid by the promoter on value of input and input services comprising such shortfall at the rate of eighteen percent on reverse charge basis and all the provisions of the Central Goods and Services Tax Act, 2017 (12 of 2017) shall apply to him as if he is the person liable for paying the tax in relation to the supply of such goods or services or both; Provided further that notwithstanding anything contained herein above, where cement is received from an unregistered person, the promoter shall pay tax on supply of such cement at the applicable rates on reverse charge basis and all the provisions of the Central Goods and Services Tax Act, 2017 (12 of 2017), shall apply to him as if he is the person liable for paying the tax in relation to such supply of cement; (Please refer to the illustrations in annexure III) Explanation. - 1.The promoter shall maintain project wise account of inward supplies from registered and unregistered supplier and calculate tax payments on the shortfall at the end of the financial year and shall submit the same in the prescribed form electronically on the common

		portal by end of the quarter following the financial year. The tax liability on the shortfall of inward supplies from unregistered person so determined shall be added to his output tax liability in the month not later than the month of June following the end of the financial year. 2. ITC not availed shall be reported every month by reporting the same as ineligible credit in GSTR-3B [Row No. 4 (D)(2)].
(ie) Construction of a complex, building, civil structure or a part thereof, including commercial apartments (shops, offices, godowns etc.) by a promoter **in a real estate project (REP) other than a residential real estate project (RREP)**, but excluding supply by way of services specified at items (i), (ia), (ib), (ic), (id), and (ie) above intended for sale to a buyer, wholly or partly, except where the entire consideration has been received after issuance of completion certificate, where required, by the competent authority or after its first occupation, whichever is earlier. *Note*. - for the removal of doubt, it is hereby clarified that, supply by way of services specified at items (i), (ia), (ib), (ic), (id), and (ie) in column (3) above shall attract central tax prescribed against them in column (4) subject to conditions specified against them in column (5) and shall not be levied at the rate as specified under this entry. (Provisions of paragraph 2 of this notification shall apply for valuation of this service	9	-”;

(b) against serial number 3, -

a. in item (ii) in column (3) and the entries relating thereto in column (4) and (5) shall be deleted;

b. in item (iv) in column (3), -

(1) after the figures “2017”, the words, brackets, and figures “other than that covered by items (i), (ia), (ib), (ic), (id), and (ie) above” shall be inserted’;

(2) after paragraph (g), the following paragraph, shall be inserted, namely; -

“(ga) affordable residential apartments”

c. in item (v) in column (3), -

(1) after the figures “2017”, the words, brackets, and figures “other than that covered by items (i), (ia), (ib), (ic), (id), and (ie) above” shall be inserted’;
(2) after paragraph (f), the following paragraph, shall be inserted, namely; -
“(fa) affordable residential apartments”

d. in item (vi) in column (3), after the figures “2017”, the words, brackets, and figures “other than that covered by items (i), (ia), (ib), (ic), (id), and (ie) above” shall be inserted’;
e. in item (xii) in column (3), for the entry, the following entry shall be substituted, namely: -
“(xii) Construction services other than (i), (ia), (ib), (ic), (id), (ie), (iii), (iv), (v), (vi), (vii), (viii), (ix), (x) and (xi) above.

Note. - for the removal of doubt, it is hereby clarified that, supply by way of services specified at items (i), (ia), (ib), (ic), (id), and (ie) in column (3) above shall attract central tax prescribed against them in column (4) subject to conditions specified against them in column (5) and shall not be levied at the rate as specified under this entry.”;

(c) against serial number 16,in item (ii) in column (3), for the words, brackets and figures “sub-item (b), sub-item (c), sub-item (d), sub-item (da) and sub-item (db) of item (iv); sub-item (b), sub-item (c), sub-item(d) and sub-item (da)of item (v); and sub-item (c) of item (vi)”, the words, brackets and figures “(ia), (ib), (ic), (id), and (ie)” shall be substituted;
(d) after serial number 38 in column (1) and the entries relating thereto in column (2), (3), (4) and (5) the following serial number and entries shall be inserted, namely: -

(1)	(2)	(3)	(4)	(5)
“39.	Chapter 99	Supply of services other than services by way of grant of development rights, long term lease of land (against upfront payment in the form of premium, salami, development charges etc.) or FSI (including additional FSI) by an unregistered person to a promoter for construction of REP on which tax is payable by the recipient of the services under sub- section 4 of section 9 of the Central Goods and Services Tax Act, 2017 (12 of 2017), as prescribed in notification No. ___/ 2019- Central Tax Rate, dated __, published in Gazette of India vide G.S.R. No. _, dated ____ Explanation. - This entry is to be taken to apply to all services which satisfy the conditions prescribed herein, even though they may be covered by a more specific chapter, section or heading elsewhere in this notification.	9	-”;

(iii) in paragraph 2, for the words, brackets and figures "sub-item (b), sub-item (c), sub-item (d), sub-item (da) and sub-item (db) of item (iv); sub-item (b), sub-item (c), sub-item (d) and sub-item (da) of item (v); and sub-item (c) of item (vi)," the words, brackets and figures "(ia), (ib), (ic), (id), and (ie)" shall be substituted;

(iv) after paragraph 2, the following paragraph shall be inserted, namely, -

"2A. Value of supply of service by way of transfer of development rights or FSI by a person to the promoter against consideration in the form of commercial or residential apartments in a REP shall be deemed to be equal to the value of similar commercial or residential apartments charged by the promoter from the independent buyers other than the person transferring the development rights or FSI, nearest to the date on which such development rights or FSI is transferred to the promoter."

(v) in paragraph 4 relating to Explanation, after clause (xii), the following clauses shall be inserted, namely: -

"(xii) an apartment booked on or before 31.03.2019 shall mean an apartment which meets all the following three conditions, namely- (a)part of supply of construction of which has time of supply on or before 31.03.2019 and (b) at least one instalment has been paid on or before 31.03.2019 and (c) an allotment letter or sale agreement or any other similar document evidencing booking of the apartment has been issued on or before 31.03.2019.

(xiii) the term "apartment" shall have the same meaning as assigned to it in Real Estate (Regulation and Development) Act, 2016.

(xiv) the term "project" shall mean a real estate project or a residential real estate project.

(xv) The term "affordable residential apartment" shall mean, -

(a) a residential apartment having carpet area not exceeding 60 square meter in metropolitan cities or 90 square meter in cities or towns other than metropolitan cities and for which the gross amount charged, is not more than Rs. 45 lakhs. For the purpose of this clause, -

(i) Metropolitan cities are Bengaluru, Chennai, Delhi NCR (limited to Delhi, Noida, Greater Noida, Ghaziabad, Gurgaon, Faridabad), Hyderabad, Kolkata and Mumbai (whole of MMR) with their respective geographical limits prescribed by an order issued by the Central/ State government in this regard;

(ii) Gross amount shall be the sum total of; -

A. Consideration charged for the services specified at item (i) and (ic) in column (3) against sl. No. 3 in the table above;

B. Amount charged for the transfer of land or undivided share of land, as the case may be including by way of lease or sub lease; and

C. Any other amount charged by the promoter from the buyer of the apartment including preferential location charges, development charges, parking charges, common facility charges etc.;

(b) an apartments booked on or before 31.03.2019 and being constructed in an ongoing REP under various schemes specified in column (3), sub-item (b), sub-item (c), sub-item (d), sub-item (da) and sub-item (db) of item (iv); sub-item (b), sub-item (c), sub-item (d) and sub-item (da) of item (v); and sub-item (c) of item (vi), against serial number 3 of the Table above."

(xvi) The term "promoter" shall have the same meaning as assigned to it in Real Estate (Regulation and Development) Act, 2016.

(xvii) The term "real estate project (REP)" shall have the same meaning as assigned to it in Real Estate (Regulation and Development) Act, 2016.

(xviii) The term "residential real estate project (RREP)" shall mean a REP in which the carpet area of the commercial apartments is not more than 15% of the total carpet area of all the apartments in the REP.

(xix) The term "ongoing REP" shall mean a REP which started on or before 31.03.2019 but issuance of completion certificate or first occupation did not take place by the said date.

(xx) The term "carpet area" shall have the same meaning as assigned to it in Real Estate (Regulation and Development) Act, 2016.

(xxi) the term "Real Estate Regulatory Authority" shall mean the Authority established under section 20 (1) of the Real Estate (Regulation and Development) Act, 2016 (No. 16 of 2016) by the Central or State Government"

2. This notification shall come into force on the1st day of April, 2019.

[F. No.354/32/2019-TRU]

(Gunjan Kumar Verma)
Under Secretary to the Government of India

Note: -The principal notification No. 11/2017 - Central Tax(Rate), dated the 28th June, 2017 was published in the Gazette of India, Extraordinary, *vide* number G.S.R. 690 (E), dated the 28th June, 2017 and was last amended by notification No._____, dated the _____*vide* number G.S.R. _____(E), dated the_____.

Annexure I

Real estate project other than RREP

Input tax credit attributable to construction of residential portion in an ongoing REP, which has time of supply on or after 1.4.2019, shall be calculated project wise for all ongoing projects, before the due date for furnishing of the return for the month of September following the end of financial year 2018-19, in the following manner:

1. Where % completion as on 31.03.2019 is not zero

(a) Input tax credit on inputs and input services attributable to construction of residential portion in an ongoing REP, which has time of supply on or after 1.4.2019, may be denoted as Tx. Tx shall be calculated as under:

Tx=T-Te

Where,

(i) T is the total ITC availed (utilized or not) on inputs and input services used in construction of the RREP from 1.7.2017 to 31.3.2019 including transitional credit taken on 01.07.2017;

(ii) Te is the eligible ITC attributable to (a) construction of commercial portion and (b) construction of residential portion, in the REP which has time of supply on or before 31.03.2019;

(b) Te shall be calculated as under:

Te = Tc + Tr

Where, -

Tc is the ITC attributable to construction of commercial portion in the REP, calculated as under:

Tc =T * (carpet area of commercial apartments in the REP/ total carpet area of commercial and residential apartments in the REP) and

Tr is the ITC attributable to construction of residential portion in the REP which has time of supply on or before 31.03.2019 and which shall be calculated as under,

$Tr = T^* F_1 * F_2 * F_3 * F_4$

Where, -

$F_1 =$ Carpet area of residential apartments in REP / Total carpet area of commercial and residential apartments in the REP

$F_2 =$ Total carpet area of residential apartment booked on or before 31.03.2019 / Total carpet area of the residential apartment in REP

$F_3 =$ Such Value of supply of construction of residential apartments booked on or before 31.03.2019 which has time of supply on or before 31.03.2019

Total value of supply of construction of residential apartments booked on or before 31.03.2019

(F3 is to account for percentage invoicing of booked residential apartments)

$$F_4 = \frac{1}{\text{\% Completion of construction as on 31.03.2019}}$$

Illustration: where one- fifth (twenty percent) of the construction has been completed, F_4 shall be 100 ÷ 20 = 5.

Explanation: "% Completion of construction as on 31.03.2019" shall be the same as declared to the Real Estate Regulatory Authority in terms of section 4 and section 11 of Real Estate (Regulation and Development) Act, 2016 and where the same is not required to be declared to the Real Estate Regulatory Authority, it shall be got determined and certified by a chartered engineer or an architect.

(c) A registered person shall have the option to calculate 'Te' in the manner prescribed below instead of the manner prescribed in (b) above, -

Te shall be calculated as under:

Te = Tc + T1 + Tr

Where, -

Tc is the ITC attributable to construction of commercial portion in the REP, calculated as under:

Tc =T3 * (carpet area of commercial apartments in the REP/ total carpet area of commercial and residential apartments in the REP);

Wherein

T3 = T- (T1 + T2)

T1 = ITC attributable exclusively to construction of commercial portion in the REP

T2 = ITC attributable exclusively to construction of residential portion in the REP

and

Tr is the ITC attributable to construction of residential portion in the REP which has time of supply on or before 31.03.2019 and which shall be calculated as under,

$$Tr = (T3 + T2) * F_1 * F_2 * F_3 * F_4$$

(d) The amounts 'Tx' and 'Te' shall be computed separately for input tax credit of central tax, State tax, Union territory tax and integrated tax.

(e) Where, Tx is positive, i.e. Te<T, the registered person shall pay, by debit in the electronic credit ledger or electronic cash ledger, an amount equal to the difference between T and Te. Such amount shall form part of the output tax liability of the registered person and the amount shall be furnished in FORM GST ITC- 03.

Explanation: The registered person may file an application in FORM GST DRC- 20, seeking extension of time for the payment of taxes or any amount due or for allowing payment of such taxes or amount in

instalments in accordance with the provisions of section 80. The commissioner may issue an order in FORM GST DRC- 21 allowing the taxable person further time to make payment and/or to pay the amount in such monthly instalments, not exceeding twenty-four, as he may deem fit.

(f) Where Tx is negative, i.e. Te>T, the registered person shall be eligible to take ITC on goods and services received on or after 01.04.2019 for construction of residential portion in the REP, to the extent of difference between Te and T.

(g) The registered person may calculate Tc and utilize credit to the extent of Tc for payment of tax on commercial apartments, till the complete accounting of Tx is carried out and submitted.

2. Where % completion as on 31.03.2019 is zero but invoicing has been done having time of supply before 31.03.2019, "Te" shall be calculated as follows: -

(a) Input tax credit on inputs and input services attributable to construction of residential portion in an ongoing REP, which has time of supply on or before 31.03.2019 may be denoted as Te which shall be calculated as under,

Te = Tc + Tr

Where, -

Tc is the ITC attributable to construction of commercial portion in the REP, calculated as under:

Tc =Tn * (carpet area of commercial apartments in the REP/ total carpet area of commercial and residential apartments in the REP) and

Tr is the ITC attributable to construction of residential portion in the REP which has time of supply on or before 31.03.2019 and which shall be calculated as under,

$Tr = Tn^* F_1 * F_2 * F_3$

Where, -

Tn= Tax paid on such inputs and input services on which ITC is available under the CGST Act, received in 2019-20 for construction of REP

F1, F2 and F3 shall be the same as above

(b) The registered person shall be eligible to take ITC on goods and services received on or after 01.04.2019 for construction of residential portion in the REP, to the extent of such amount of Te as is in excess of ITC already taken on goods and services received for the project prior to 31.3.2019.

(c) The amount 'Te' shall be computed separately for input tax credit of central tax, State tax, Union territory tax and integrated tax.

3. Notwithstanding anything contained in paragraph 1 or paragraph 2 above, Te shall be determined in the following situations as under:

(i) where the difference between percentage invoicing and the percentage completion of construction is more than 25% percent points; the value of percentage invoicing shall be deemed to be percentage completion plus 25% percent points;

(ii) where the value of invoices issued on or prior to 31.03.2019 exceeds the consideration actually received on or prior to 31.03.2019 by more than 25% percent; the value of such invoices for

the purpose of determination of percentage invoicing shall be deemed to be actual consideration received plus 25% of the actual consideration received; and

(iii) where, the value of procurement of inputs and input services prior to 01.04.2019 exceeds the value of actual consumption of the inputs and input services used in the percentage of construction completed as on 31.03.2019 by more than 25% percent, the jurisdictional commissioner or any other officer authorized in this regard may fix the Te based on actual per unit consumption of inputs and input services and inputs in stock based on the documents duly certified by a chartered accountant or cost accountant submitted by the promoter in this regard, applying the accepted principles of accounting.

[F. No.354/32/2019-TRU]

(Gunjan Kumar Verma)

Annexure II

Residential Real estate project (RREP)

Input tax credit attributable to construction of residential and commercial portion in an ongoing RREP, which has time of supply on or after 1.4.2019, shall be calculated project wise for all ongoing projects, before the due date for furnishing of the return for the month of September following the end of financial year 2018-19, in the following manner:

1. Where % completion as on 31.03.2019 is not zero

(a) Input tax credit on inputs and input services attributable to construction of residential and commercial portion in an ongoing RREP, which has time of supply on or after 1.4.2019, may be denoted as Tx. Tx shall be calculated as under:

$$Tx=T-Te$$

Where,

(i) T is the total ITC availed (utilized or not) on inputs and input services used in construction of the RREP from 1.7.2017 to 31.3.2019 including transitional credit taken on 01.07.2017;

(ii) Te is the eligible ITC attributable to construction of commercial portion and construction of residential portion, in the RREP which has time of supply on or before 31.03.2019;

(b) Te shall be calculated as under:

$$Te= T* F_1 * F_2 * F_3* F_4$$

Where, -

$$F_1= \frac{\text{Carpet area of residential and commercial apartments in theRREP}}{\text{Total carpet areaof apartments in the RREP}}$$

(In case of a Residential Real Estate Project, value of "F1" shall be 1.)

$$F_2= \frac{\text{Total carpet area of residential apartment booked on or before 31.03.2019}}{\text{Total carpet area of the residential apartment in RREP}}$$

$$F_3= \frac{\text{Such value of supply of construction of residential apartments booked on or before 31.03.2019 which has time of supply on or before 31.03.2019}}{\text{Total value of supply of construction of residential apartments booked on or before 31.03.2019}}$$

(F3 is to account for percentage invoicing of booked residential apartments)

$$F_4= \frac{1}{\text{\% Completion of construction as on 31.03.2019}}$$

Illustration: where one- fifth (twenty percent) of the construction has been completed, F_4 shall be 100 ÷ 20 = 5.

Explanation: "% Completion of construction as on 31.03.2019" shall be the same as declared to the Real Estate Regulatory Authority in terms of section 4 and section 11 of Real Estate (Regulation and Development) Act, 2016 and where the same is not required to be declared to the Real Estate Regulatory Authority, it shall be got determined and certified by a chartered engineer or an architect.

(c) The amounts 'Tx' and 'Te' shall be computed separately for input tax credit of central tax, State tax, Union territory tax and integrated tax.

(d) Where, Tx is positive, i.e. Te<T, the registered person shall pay, by debit in the electronic credit ledger or electronic cash ledger, an amount equal to the difference between T and Te. Such amount shall form part of the output tax liability of the registered person and the amount shall be furnished in FORM GST ITC- 03.

Explanation: The registered person may file an application in FORM GST DRC- 20, seeking extension of time for the payment of taxes or any amount due or for allowing payment of such taxes or amount in instalments in accordance with the provisions of section 80. The commissioner may issue an order in FORM GST DRC- 21 allowing the taxable person further time to make payment and/or to pay the amount in such monthly instalments, not exceeding twenty-four, as he may deem fit.

(e) Where Tx is negative, i.e. Te>T, the registered person shall be eligible to take ITC on goods and services received on or after 01.04.2019 for construction of the RREP, to the extent of difference between Te and T.

2. Where % completion as on 31.03.2019 is zero but invoicing has been done having time of supply before 31.03.2018 "Te" shall be calculated as follows: -

(a) Input tax credit on inputs and input services attributable to construction of residential and commercial portion in an ongoing RREP, which has time of supply on or before 31.03.2019 may be denoted as Te which shall be calculated as under,

$$Te = Tn^* F_1 * F_2 * F_3$$

Where, -

Tn= Tax paid on such inputs and input services on which ITC is available under the CGST Act, received in 2019-20 for construction of residential and commercial apartments in the RREP.

F1, F2 and F3 shall be the same as above

(b) The registered person shall be eligible to take ITC on goods and services received on or after 01.04.2019 for construction of residential or commercial portion in the RREP, to the extent of such amount of TE as is in excess of ITC already taken on goods and services received for the project prior to 31.3.2019.

(c) The amount 'Te' shall be computed separately for input tax credit of central tax, State tax, Union territory tax and integrated tax.

3. Notwithstanding anything contained in paragraph 1 or paragraph 2 above, Te shall be determined in the following situations as under:

(i) where the difference between percentage invoicing and the percentage completion of construction is more than 25% percent points; the value of percentage invoicing shall be deemed to be percentage completion plus 25% percent points;

(ii) where the value of invoices issued on or prior to 31.03.2019 exceeds the consideration actually received on or prior to 31.03.2019 by more than 25% percent; the value of such invoices for the purpose of determination of percentage invoicing shall be deemed to be actual consideration received plus 25% of the actual consideration received; and

(iii) where, the value of procurement of inputs and input services prior to 01.04.2019 exceeds the value of actual consumption of the inputs and input services used in the percentage of construction completed as on 31.03.2019 by more than 25% percent, the jurisdictional commissioner or any other officer authorized in this regard may fix the Te based on actual per unit consumption of inputs and input services and inputs in stock based on the documents duly certified by a chartered accountant or cost accountant submitted by the promoter in this regard, applying the accepted principles of accounting.

[F. No.354/32/2019-TRU]

(Gunjan Kumar Verma)

Annexure III

Illustration 1:

A promoter has procured following goods and services [other than capital goods and services by way of grant of development rights, long term lease of land or FSI] for construction of a residential real estate project during a financial year.

Sl. No.	Name of input goods and services	% age of input goods and services received during the financial year	Whether inputs received from registered supplier? (Y/ N)
1	Sand	10	Y
2	**Cement**	**15**	**N**
3	Steel	20	Y
4	Bricks	15	Y
5	Flooring tiles	10	Y
6	Paints	5	Y
7	Architect/ designing/ CAD drawing etc.	10	Y
8	Aluminium windows, Ply, commercial wood	15	Y

In this example, the promoter has procured 80% of goods and services [other than services by way of grant of development rights, long term lease of land (against upfront payment in the form of premium, salami, development charges etc.) or FSI (including additional FSI), electricity, high speed diesel, motor spirit, natural gas], from a GST registered person. However, he has procured cement from an unregistered supplier. Hence at the end of financial year, the promoter has to pay GST on cement at the applicable rates on reverse charge basis.

Illustration 2:

A promoter has procured following goods and services [other than services by way of grant of development rights, long term lease of land (against upfront payment in the form of premium, salami, development charges etc.) or FSI (including additional FSI), electricity, high speed diesel, motor spirit, natural gas], for construction of a residential real estate project during a financial year.

Sl. No.	Name of input goods and services	% age of input goods and services received during the financial year	Whether inputs received from registered supplier? (Y/ N)
1	Sand	10	Y
2	Cement	15	Y
3	Steel	20	Y
4	Bricks	15	Y
5	Flooring tiles	10	Y
6	**Paints**	**5**	**N**
7	Architect/ designing/ CAD drawing etc.	10	Y
8	**Aluminium windows, Ply, commercial wood**	**15**	**N**

In this example, the promoter has procured 80% of goods and services including cement from a GST registered person. However, he has procured paints, aluminum windows, ply and commercial wood etc. from an unregistered supplier. Hence at the end of financial year, the promoter is not required to pay GST on inputs on reverse charge basis.

Illustration 3:

A promoter has procured following goods and services [other than services by way of grant of development rights, long term lease of land (against upfront payment in the form of premium, salami, development charges etc.) or FSI (including additional FSI), electricity, high speed diesel, motor spirit, natural gas], for construction of a residential real estate project during a financial year.

Sl. No.	**Name of input goods and services**	**% age of input goods and services received during the financial year**	**Whether inputs procured from registered supplier? (Y/ N)**
1	**Sand**	**10**	**N**
2	**Cement**	**15**	**N**
3	Steel	15	Y
4	Bricks	10	Y
5	Flooring tiles	10	Y
6	Paints	5	Y
7	Architect/ designing/ CAD drawing etc.	10	Y
8	**Aluminium windows**	**15**	**N**
9	**Ply, commercial wood**	**10**	**N**

In this example, the promoter has procured 50% of goods and services from a GST registered person. However, he has procured sand, cement and aluminum windows, ply and commercial wood etc. from an unregistered supplier. Thus, value of goods and services procured from registered suppliers during a financial year falls short of threshold limit of 80%. To fulfill his tax liability on the shortfall of 30% from mandatory purchase, the promoter has to pay GST on cement at the applicable rate on reverse charge basis. After payment of GST on cement, on the remaining shortfall of 15%, the promoter shall pay tax @ 18% under RCM.

[F. No.354/32/2019-TRU]

(Gunjan Kumar Verma)

Sl.No. 2

[TO BE PUBLISHED IN THE GAZZETE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (i)]

Government of India

Ministry of Finance

(Department of Revenue)

Notification No.<>/2018- Central Tax (Rate)

New Delhi, the <>st March, 2019

G.S.R.....(E).- In exercise of the powers conferred by sub-section (1) of section 11 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on being satisfied that it is necessary in the public interest so to do, on the recommendations of the Council, hereby makes the following further amendments in the notification of the Government of India, in the Ministry of Finance (Department of Revenue), No.12/2017- Central Tax (Rate), dated the 28thJune, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), *vide* number G.S.R. 691(E), dated the 28thJune, 2017, namely:-

In the said notification, -

(i) in the preamble, for the words and figures "sub-section (1) of section 11" the words, figures and punctuation", sub-section (3) and sub-section (4) of section 9, sub-section (1) of section 11, sub-section (5) of section 15 and section 148," shall be substituted;

(ii)in the Table, -

(a) after serial number 41 and the entries relating thereto, the following serial numbers and entries relating thereto shall be inserted, namely: -

(1)	(2)	(3)	(4)	(5)
"41A	Heading 9972	Service by way of transfer of development rights or FSI (including additional FSI) for construction of residential apartments by a promoter in a real estate project, intended for sale to a buyer, wholly or partly, except where the entire consideration has been received after issuance of completion certificate, where required, by the competent authority or after its first occupation, whichever is earlier. The amount of GST exemption available for	Nil	Provided that the promoter shall be liable to pay tax at the applicable rate, on reverse charge basis, on such proportion of value of development rights, or FSI (including additional FSI), or both, as is attributable to the residential apartments, which remain unsold on the date of issuance of completion certificate, or first occupation of the REP, as the case may be, as per the following formula; - (GST payable on TDR or FSI (including additional FSI) or both for construction of the residential apartments in the REP but for the exemption contained herein) *(carpet area of the residential apartments in the REP which remain un- booked or un-sold on the date of issuance of completion certificate or first occupation/ Total carpet area of the residential apartments in the REP)

		construction of residential apartments in the REP under this notification shall be calculated as under: (GST payable on TDR or FSI (including additional FSI) or both for construction of the REP)*(carpet area of the residential apartments in the REP/ Total carpet area of the residential and commercial apartments in the REP)		Provided further that tax payable in terms of the first proviso hereinabove shall not exceed 0.5**%** of the value in case of affordable residential apartments and 2.5% of the value in case of residential apartments other than affordable residential apartments remaining unsold on the date of issuance of completion certificate or first occupation The liability to pay central tax on the said portion of the development rights or FSI, or both, calculated as above, shall arise on the date of completion or first occupation of the REP, as the case may be, whichever is earlier.
41B	Heading 9972	Upfront amount (called as premium, salami, cost, price, development charges or by any other name) payable in respect of service by way of granting of long term lease of thirty years, or more for construction of residential apartments by a promoter in a real estate project, intended for sale to a buyer, wholly or partly, except where the entire consideration has been received after issuance of completion certificate, where required, by the competent authority or after its first occupation, whichever is earlier. The amount of GST exemption available for construction of residential apartments in the REP under this notification shall be calculated as under: (GST payable on upfront amount (called as premium, salami, cost,	Nil	Provided that the promoter shall be liable to pay tax at the applicable rate, on reverse charge basis, on such proportion of upfront amount (called as premium, salami, cost, price, development charges or by any other name) paid for long term lease of land, as is attributable to the residential apartments, which remain unsold on the date of issuance of completion certificate, or first occupation of the REP, as the case may be, as per the following formula; - (GST payable on upfront amount (called as premium, salami, cost, price, development charges or by any other name) payable for long term lease of land for construction of the REP) but for the exemption contained herein) *(carpet area of the residential apartments in the REP which remain un- booked or un-sold on the date of issuance of completion certificate or first occupation/ Total carpet area of the residential apartments in the REP) Provided further that tax payable in terms of the first proviso hereinabove shall not exceed 0.5%of the value in case of affordable residential apartments and 2.5% of the value in case of residential apartments other than affordable residential apartments remaining unsold on the date of issuance of completion certificate or first occupation.

		price, development charges or by any other name) payable for long term lease of land for construction of the REP) *(carpet area of the residential apartments in the REP/ Total carpet area of the residential and commercial apartments in the REP).		The liability to pay central tax on the said proportion of upfront amount (called as premium, salami, cost, price, development charges or by any other name) paid for long term lease of land, calculated as above, shall arise on the date of issue of completion certificate or first occupation of the REP, as the case may be.

(iii) After paragraph 1, the following paragraphs shall be inserted, namely, -

"1A. Value of supply of service by way of transfer of development rights or FSI by a person to the builder/developer against consideration in the form of residential or commercial apartments shall be deemed to be equal to the value of similar apartments charged by the builder/developer from the independent buyers nearest to the date on which such development rights or FSI is transferred to the builder/developer.

1B. Value of portion of residential or commercial apartments remaining un-sold on the date of issuance of completion certificate or first occupation, as the case may be, shall be deemed to be equal to the value of similar apartments charged by the builder/developer nearest to the date of issuance of completion certificate or first occupation, as the case may be."

(iv) in paragraph 3 relating to Explanation, after clause (iv), the following clause shall be inserted, namely: -

"(v) The term "apartment" shall have the same meaning as assigned to it in Real Estate (Regulation and Development) Act, 2016.

(vi) The term "affordable residential apartment" shall have the same meaning as assigned to it in the notification No. ___, dated, published in Gazette of India vide GSR No___ dated, _____.

(vii) The term "promoter" shall have the same meaning as assigned to it in Real Estate (Regulation and Development) Act, 2016.

(viii) The term "real estate project (REP)" shall have the same meaning as assigned to it in Real Estate (Regulation and Development) Act, 2016.

(ix) The term "carpet area" shall have the same meaning as assigned to it in Real Estate (Regulation and Development) Act, 2016.

(x) an apartment booked on or before 31.03.2019 shall mean an apartment which meets all the following three conditions, namely- (a) part of supply of construction of which has time of supply on or before 31.03.2019 and (b) at least one instalment on or before 31.03.2019 and (c) an allotment letter or sale

agreement or similar other document evidencing booking of the apartment has been issued on or before 31.03.2019."

2. This notification shall come into force on the 1st day of April, 2019.

[F. No.354/<>/2018 -TRU]

(Gunjan Kumar Verma)
Under Secretary to the Government of India

Note: -The principal notification No. 12/2017 - Central Tax (Rate), dated the 28th June, 2017 was published in the Gazette of India, Extraordinary, *vide* number G.S.R. 691 (E), dated the 28th June, 2017 and was last amended by notification No. 23/2018 - Central Tax (Rate), dated the 20th September, 2018 *vide* number G.S.R. 906(E), dated the 20th September, 2018.

Sl. No. 3

[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (i)]

Government of India

Ministry of Finance

(Department of Revenue)

Notification No. _/2019- Central Tax (Rate)

New Delhi, the ___, 2019

GSR.....(E).- In exercise of the powers conferred by sub-section (3) of section 9 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council, hereby makes the following further amendments in the notification of the Government of India, in the Ministry of Finance (Department of Revenue), No.13/2017- Central Tax (Rate), dated the 28thJune, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), *vide* number G.S.R. 692(E), dated the 28thJune, 2017, namely:-

In the said notification, -

(i) in the Table, after serial number 5A and the entries relating thereto, the following serial number and entries shall be inserted, namely: -

(1)	(2)	(3)	(4)
"5B	Services supplied by any person by way of transfer of development rights or FSI (including additional FSI) for construction of a real estate project by a promoter.	Any person	Promoter;
5C	Long term lease of land (30 years or more) by any person against consideration in the form of upfront amount (called as premium, salami, cost, price, development charges or by any other name) and/or periodic rent for construction of a real estate project by a promoter.	Any person	Promoter;

(ii) in the Explanation, after clause (g), the following clause shall be inserted, namely: -

" "(h)The term "apartment" shall have the same meaning as assigned to it in Real Estate (Regulation and Development) Act, 2016.

(i) "Promoter" shall have the same meaning as assigned to it in Real Estate (Regulation and Development) Act, 2016.

(j) "Real estate project (REP)" shall have the same meaning as assigned to it in Real Estate (Regulation and Development) Act, 2016.".

2. This notification shall come into force with effect from 1st of April, 2019.

[F. No. 354/32/2019- TRU]

(Gunjan Kumar Verma)
Under Secretary to the Government of India

Note: -The principal notification No. 13/2017 - Central Tax (Rate), dated the 28th June, 2017 was published in the Gazette of India, Extraordinary, *vide* number G.S.R. 692 (E), dated the 28th June, 2017 and was last amended by notification No.__/2018 - Central Tax (Rate), dated the ____, 2018*vide* number G.S.R. ____(E), dated the _____, 2018.

Sl. No. 4

[TO BE PUBLISHED IN THE GAZZETE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (i)]

Government of India
Ministry of Finance
(Department of Revenue)

Notification No. _/2019-Central Tax

New Delhi, the ___, 2019

G.S.R.....(E).- In exercise of the powers conferred by section 148 of the Central Goods and Services Tax Act, 2017 (12 of 2017), and in supersession of notification No. 4/2018- Central Tax (Rate) dated 25th January, 2018 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), *vide* GSR No. _____dated 25th January, 2018,the Central Government, on the recommendations of the Council, hereby notifies the following classes of registered persons, namely,

(i) a promoter who receives development rights or FSI (including additional FSI) for construction of a real estate project against consideration paid by him, wholly or partly, in the form of construction service of commercial or residential apartments in the REP or in any other form including in cash;

(ii)a promoter who receives long term lease of land for construction of residential apartments in a real estate project against consideration paid by him, in the form of upfront amount (called as premium, salami, cost, price, development charges or by any other name);

as the registered persons in whose case the liability to pay central tax on, -

(a) the consideration paid by him in the form of construction service of commercial or residential apartments in the REP, for supply of development rights or FSI (including additional FSI);
(b) the monetary consideration paid by him, for supply of development rights or FSI (including additional FSI) relatable to construction of residential apartments in the real estate project;
(c) the upfront amount (called as premium, salami, cost, price, development charges or by any other name) paid by him for long term lease of land relatable to construction of residential apartments in the real estate project; and
(d) the supply of construction service by him against consideration in the form of development rights or FSI (including additional FSI), -

shall arise on the date of issuance of completion certificate for the REP, where required, by the competent authority or on its first occupation, whichever is earlier.

2. Explanation:

(i) The term “apartment” shall have the same meaning as assigned to it in Real Estate (Regulation and Development) Act, 2016.

(ii) The term “promoter” shall have the same meaning as assigned to it in Real Estate (Regulation and Development) Act, 2016.

(iii) The term “real estate project (REP)” shall have the same meaning as assigned to it in Real Estate (Regulation and Development) Act, 2016.

(iv) Tax on services covered by sub-para (a), (b) and (c) of paragraph 1 above is required to be paid under RCM in accordance with notification No. - Central Tax (Rate) dated _____ published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), *vide* GSR No. _____dated _____ .

3. The notification No. 4/2018- Central Tax (Rate) dated 25th January, 2018 hereby rescinded. This notification shall come into force on the 1stday of April, 2019.

[F. No.354/32/2019-TRU]

(Gunjan Kumar Verma)
Under Secretary to the Government of India

Sl. No. 5

[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (i)]

Government of India

Ministry of Finance

(Department of Revenue)

Notification No. _/2019- Central Tax (Rate)

New Delhi, the ___, 2019

GSR.....(E).- In exercise of the powers conferred by sub-section (4) of section 9 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council, hereby notifies that the registered person specified in column (3) of the table below, shall in respect of supply of goods or services or both specified in column (2) of the Table below, received from an unregistered supplier shall pay tax on reverse charge basis as recipient of such goods or services or both:-

Table

Sl. No.	Category of supply of goods and services	Recipient of goods and services
(1)	(2)	(3)
1	Supply of such goods and services or both [other than services by way of grant of development rights, long term lease of land (against upfront payment in the form of premium, salami, development charges etc.) or FSI (including additional FSI)] which constitute the shortfall from the minimum value of goods or services or both required to be purchased by a promoter for construction of Real Estate Project (REP), in a financial year (or part of the financial year till the date of issuance of completion certificate or first occupation, whichever is earlier) as prescribed in notification No. 11/ 2017- Central Tax Rate, dated 28.06.2017, published in Gazette of India vide G.S.R. No. _, dated _____	Promoter
2	Cement falling in chapter heading 2523 in the first schedule to the Customs Tariff Act, 1975 (51 of 1975).	Promoter
3	Capital goods falling under any chapter in the first schedule to the Customs Tariff Act, 1975 (51 of 1975).	Promoter

Explanation. - For the purpose of this notification, -

(i) "Promoter" shall have the same meaning as assigned to it in Real Estate (Regulation and Development) Act, 2016.

(iii) "Real estate project (REP)" shall have the same meaning as assigned to it in Real Estate (Regulation and Development) Act, 2016.".

2. This notification shall come into force with effect from 1st of April, 2019.

[F. No. 354/32/2019- TRU]

(Gunjan Kumar Verma)
Under Secretary to the Government of India

Sl. No. 6

[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (i)]

Government of India

Ministry of Finance

(Department of Revenue)

Notification No. _/2019- Central Tax (Rate)

New Delhi, the ___, 2019

G.S.R. (E).- In exercise of the powers conferred by sub-section (1) of section 9 and sub- section (5) of section 15 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council, hereby makes the following further amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No.1/2017-Central Tax (Rate), dated the 28th June, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 673(E), dated the 28th June, 2017, namely:-

In the said notification, in Schedule III - 9%, after serial number 452P in column (1) and the entries relating thereto in column (2), (3) and (4), the following serial number and entries shall be inserted, namely: -

(1)	(2)	(3)	(4)
"452Q	Any chapter	Supply of any goods other than capital goods and cement falling under chapter heading 2523 in the first schedule to the Customs Tariff Act, 1975 (51 of 1975), by an unregistered person to a promoter for construction of REP on which tax is payable by the promoter as recipient of goods under sub-section 4 of section 9 of the Central Goods and Services Tax Act, 2017 (12 of 2017), as prescribed in notification No. ___/ 2019- Central Tax Rate, dated __, published in Gazette of India vide G.S.R. No. _, dated ____ Explanation. – (i) "Promoter" shall have the same meaning as assigned to it in Real Estate (Regulation and Development) Act, 2016. (ii) "Real estate project (REP)" shall have the same meaning as assigned to it in Real Estate (Regulation and Development) Act, 2016.".	9%";

		(iii) This entry is to be taken to apply to all goods which satisfy the conditions prescribed herein, even though they may be covered by a more specific chapter/ heading/ sub heading or tariff item elsewhere in this notification.	

2. This notification shall come into force with effect from 1st of April, 2019.

[F. No. 354/32/2019- TRU]

(Gunjan Kumar Verma)
Under Secretary to the Government of India

Note: - The principal notification No.1/2017-Central Tax (Rate), dated the 28th June, 2017 was published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 673(E), dated the 28th June, 2017 and last amended by notification No. ____-Central Tax (Rate), dated the ____, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. ____(E), dated the ____.

42. Manner of determination of input tax credit in respect of inputs or input services and reversal thereof.-(1) The input tax credit in respect of inputs or input services, which attract the provisions of sub-section (1) or sub-section (2) of section 17, being partly used for the purposes of business and partly for other purposes, or partly used for effecting taxable supplies including zero rated supplies and partly for effecting exempt supplies, shall be attributed to the purposes of business or for effecting taxable supplies in the following manner, namely,-

(a) the total input tax involved on inputs and input services in a tax period, be denoted as 'T';

(b) the amount of input tax, out of 'T', attributable to inputs and input services intended to be used exclusively for the purposes other than business, be denoted as 'T1';

(c) the amount of input tax, out of 'T', attributable to inputs and input services intended to be used exclusively for effecting exempt supplies, be denoted as 'T2';

(d) the amount of input tax, out of 'T', in respect of inputs and input services on which credit is not available under sub-section (5) of section 17, be denoted as 'T3';

(e) the amount of input tax credit credited to the electronic credit ledger of registered person, be denoted as 'C1' and calculated as

C1 = T- (T1+T2+T3);

(f) the amount of input tax credit attributable to inputs and input services intended to be used exclusively for effecting supplies other than exempted but including zero rated supplies, be denoted as 'T4';

(g) 'T1', 'T2', 'T3'and 'T4' shall be determined and declared by the registered person at the invoice level in FORM GSTR-2 and GSTR-3B;

(h) input tax credit left after attribution of input tax credit under clause (g) shall be called common credit, be denoted as 'C2' and calculated as

C2 = C1- T4;

(i) the amount of input tax credit attributable towards exempt supplies, be denoted as 'D1' and calculated as

D1= (E÷F) × C2

where,

'E' is the aggregate value of exempt supplies during the tax period, and

'F' is the total turnover in the State of the registered person during the tax period:

Provided that in case of supply of services covered by para 5 (b) of Schedule II of CGST Act, 2017, the value of 'E/F' for a tax period shall be calculated for each REP separately, taking value of E and F as under;

E= aggregate carpet area of the apartments, construction of which is exempt from tax + aggregate carpet area of the apartments, construction of which is not exempt from tax, but are identified by the promoter to be sold after issue of completion certificate or first occupation, whichever is earlier;

F= aggregate carpet area of the apartments in the real estate project;

Explanation: In the tax period in which the issuance of completion certificate or first occupation of the real estate project takes place, value of E shall also include aggregate carpet area of the apartments, which have not been booked till the date of issuance of completion certificate or first occupation of the real estate project, whichever is earlier

(Remarks: - Residential apartments shall be covered in exempt supplies by virtue of Explanation 4 (iv) in notification No. 11/2017-CT(R)

(TO BE INSERTED THROUGH ROD)

Provided further that where the registered person does not have any turnover during the said tax period or the aforesaid information is not available, the value of 'E/F' shall be calculated by taking values of 'E' and 'F' of the last tax period for which the details of such turnover are available, previous to the month during which the said value of 'E/F' is to be calculated;

Explanation: For the purposes of this clause, it is hereby clarified that the aggregate value of exempt supplies and the total turnover shall exclude the amount of any duty or tax levied under entry 84 [and entry 92A] of List I of the Seventh Schedule to the Constitution and entry 51 and 54 of List II of the said Schedule;

(j) the amount of credit attributable to non-business purposes if common inputs and input services are used partly for business and partly for non-business purposes, be denoted as 'D2', and shall be equal to five per cent. of C2; and

(k) the remainder of the common credit shall be the eligible input tax credit attributed to the purposes of business and for effecting supplies other than exempted supplies but including zero rated supplies and shall be denoted as 'C3', where, -

C3 = C2 - (D1+D2);

(l) the amount 'C3', 'D1' and 'D2' shall be computed separately for input tax credit of central tax, State tax, Union territory tax and integrated tax and declared in Form GSTR-3B;

(m) the amount equal to aggregate of 'D1' and 'D2' shall be added to the output tax liability of the registered person:

Provided that where the amount of input tax relating to inputs or input services used partly for the purposes other than business and partly for effecting exempt supplies has been identified and segregated at the invoice level by the registered person, the same shall be included in 'T1' and 'T2' respectively, and the remaining amount of credit on such inputs or input services shall be included in 'T4'.

(2) Except in case of supply of services covered by para 5(b) of schedule II of CGST Act, 2017, the input tax credit determined under sub-rule (1) shall be calculated finally for the financial year before

the due date for furnishing of the return for the month of September following the end of the financial year to which such credit relates, in the manner specified in the said sub-rule and-

(a) where the aggregate of the amounts calculated finally in respect of 'D1' and 'D2' exceeds the aggregate of the amounts determined under sub-rule (1) in respect of 'D1' and 'D2', such excess shall be added to the output tax liability of the registered person in the month not later than the month of September following the end of the financial year to which such credit relates and the said person shall be liable to pay interest on the said excess amount at the rate specified in sub-section (1) of section 50 for the period starting from the first day of April of the succeeding financial year till the date of payment; or

(b) where the aggregate of the amounts determined under sub-rule (1) in respect of 'D1' and 'D2' exceeds the aggregate of the amounts calculated finally in respect of 'D1' and 'D2', such excess amount shall be claimed as credit by the registered person in his return for a month not later than the month of September following the end of the financial year to which such credit relates.

(3) In case of supply of services covered by para 5(b) of schedule II of CGST Act,2017, the input tax determined under sub-rule (1) shall be calculated finally, for each REP, for the entire period from the commencement of the REP or 1.7.2017, whichever is later, to the completion or first occupation of the REP, whichever is earlier, before the due date for furnishing of the return for the month of September following the end of financial year in which the completion certificate is issued or first occupation takes place of the REP, in the manner prescribed in the said sub-rule, with the modification that value of E/F shall be calculated taking value of E and F as under:

E= aggregate carpet area of the apartments, construction of which is exempt from tax + aggregate carpet area of the apartments, construction of which is not exempt from tax, but which have not been booked till the date of issuance of completion certificate or first occupationof the real estate project, whichever is earlier;

F= aggregate carpet area of the apartments in the real estate project;

and, -

(a) where the aggregate of the amounts calculated finally in respect of 'D1' and 'D2' exceeds the aggregate of the amounts determined under sub-rule (1) in respect of 'D1' and 'D2', such excess shall be added to the output tax liability of the registered person in the month not later than the month of September following the end of the financial year in which the completion certificate is issued or first occupation takes place of the REP and the said person shall be liable to pay interest on the said excess amount at the rate specified in sub-section (1) of section 50 for the period starting from the first day of April of the succeeding financial year till the date of payment; or

(b) where the aggregate of the amounts determined under sub-rule (1) in respect of 'D1' and 'D2' exceeds the aggregate of the amounts calculated finally in respect of 'D1' and 'D2', such excess amount shall be claimed as credit by the registered person in his return for a month not later than the month of September following the end of the financial year in which the completion certificate is issued or first occupation takes place of the REP.

Provide that in case of real estate projects which commenced prior to 01.04.2019, any credit paid, by debit in the electronic credit ledger or electronic cash ledger, on transition on 01.04.2019 in accordance

with notification No. ___ dated,____ published in the Gazette of India vide GSR No.____, dated_____, shall be added to the aggregate of the amounts of D1 and D2 determined under sub-rule 1; and any eligible credit taken on account of such transition in accordance with the said notification shall be subtracted from the aggregate of the amounts of D1 and D2 determined under sub- rule 1 in order to determine the output tax liability under (a) or credit eligibility under (b) above as the case may be.

(4) Where any input or input service are used for more than one REP, input tax credit with respect to such input or input service shall be assigned to each REP on a reasonable basis and credit reversal pertaining to each project shall be carried out as per sub-rule (3).

43. Manner of determination of input tax credit in respect of capital goods and reversal thereof in certain cases.-(1) Subject to the provisions of sub-section (3) of section 16, the input tax credit in respect of capital goods, which attract the provisions of sub-sections (1) and (2) of section 17, being partly used for the purposes of business and partly for other purposes, or partly used for effecting taxable supplies including zero rated supplies and partly for effecting exempt supplies, shall be attributed to the purposes of business or for effecting taxable supplies in the following manner, namely,-

(a) the amount of input tax in respect of capital goods used or intended to be used exclusively for non-business purposes or used or intended to be used exclusively for effecting exempt supplies shall be indicated in FORM GSTR-2 and FORM GSTR-3B and shall not be credited to his electronic credit ledger;

(b) the amount of input tax in respect of capital goods used or intended to be used exclusively for effecting supplies other than exempted supplies but including zero rated supplies shall be indicated in FORM GSTR-2and FORM GSTR-3B and shall be credited to the electronic credit ledger;

(c) the amount of input tax in respect of capital goods not covered under clauses (a) and (b), denoted as ‘A’, shall be credited to the electronic credit ledger and the useful life of such goods shall be taken as five years from the date of the invoice for such goods:

Provided that where any capital goods earlier covered under clause (a) is subsequently covered under this clause, the value of ‘A’ shall be arrived at by reducing the input tax at the rate of five percentage points for every quarter or part thereof and the amount ‘A’ shall be credited to the electronic credit ledger;

Explanation. - An item of capital goods declared under clause (a) on its receipt shall not attract the provisions of sub-section (4) of section 18, if it is subsequently covered under this clause.

(d) the aggregate of the amounts of ‘A’ credited to the electronic credit ledger under clause (c), to be denoted as ‘Tc’, shall be the common credit in respect of capital goods for a tax period:

Provided that where any capital goods earlier covered under clause (b) is subsequently covered under clause (c), the value of ‘A’ arrived at by reducing the input tax at the rate of five percentage points for every quarter or part thereof shall be added to the aggregate value ‘Tc’;

(e) the amount of input tax credit attributable to a tax period on common capital goods during their useful life, be denoted as ‘Tm’ and calculated as

Tm= Tc÷60

(f) the amount of input tax credit, at the beginning of a tax period, on all common capital goods whose useful life remains during the tax period, be denoted as 'Tr' and shall be the aggregate of 'Tm' for all such capital goods;

(g) the amount of common credit attributable towards exempted supplies, be denoted as 'Te', and calculated as

Te= (E÷ F) x Tr

where,

'E' is the aggregate value of exempt supplies, made, during the tax period, and

'F' is the total turnover of the registered person during the tax period:

Provided that in case of supply of services covered by para 5 (b) of Schedule II of CGST Act, 2017, the value of 'E/F' for a tax period shall be calculated for each REP separately, taking value of E and F as under;

E= aggregate carpet area of the apartments, construction of which is exempt from tax + aggregate carpet area of the apartments, construction of which is not exempt from tax, but are identified by the promoter to be sold after issue of completion certificate or first occupation, whichever is earlier;

F= aggregate carpet area of the apartments in the real estate project;

Explanation: In the tax period in which the issuance of completion certificate or first occupation of the real estate project takes place, value of E shall also include aggregate carpet area of the apartments, which have not been booked till the date of issuance of completion certificate or first occupation of the real estate project, whichever is earlier.
(TO BE INSERTED THROUGH ROD)

Provided further that where the registered person does not have any turnover during the said tax period or the aforesaid information is not available, the value of 'E/F' shall be calculated by taking values of 'E' and 'F' of the last tax period for which the details of such turnover are available, previous to the month during which the said value of 'E/F' is to be calculated;

Explanation. - For the purposes of this clause, it is hereby clarified that the aggregate value of exempt supplies and the total turnover shall exclude the amount of any duty or tax levied under entry 84 [and entry 92A] of List I of the Seventh Schedule to the Constitution and entry 51 and 54 of List II of the said Schedule;

(h) the amount Te along with the applicable interest shall, during every tax period of the useful life of the concerned capital goods, be added to the output tax liability of the person making such claim of credit.

(i) The amount Te shall be computed separately for central tax, State tax, Union territory tax and integrated tax and declared in FORM GSTR-3B.

~~(2) The amount Te shall be computed separately for central tax, State tax, Union territory tax and integrated tax.~~

(2)In case of supply of services covered by para 5(b) of schedule II of CGST Act,2017,the amount of common credit attributable towards exempted supplies (Te^{final})shall be calculated finally for the entire period from the commencement of the REP or 1.7.2017, whichever is later,to the completion or first occupation of the REP, whichever is earlier, for each REP separately, before the due date for furnishing of the return for the month of September following the end of financial year in which the completion certificate is issued or first occupation takes place of the REP, as under:

Te^{final}= (E/F)*Tc^{final},

Where,-

E= aggregate carpet area of the apartments, construction of which is exempt from tax + aggregate carpet area of the apartments, construction of which is not exempt from tax, but have not been booked till the date of issuance of completion certificate or first occupation of the real estate project, whichever is earlier;

F= aggregate carpet area of the apartments in the real estate project;

Tc^{final} = aggregate of A^{final} in respect of all capital goods used in the project and A^{final} for each capital goods shall be calculated as under,

A^{final} = A x (number of months for which capital goods is used for the project/ 60)

and, -

(a) where value of Te^{final} exceeds the aggregate of amounts of Te determined for each tax period under sub-rule (1), such excess shall be added to the output tax liability of the registered person in the month not later than the month of September following the end of the financial year in which the completion certificate is issued or first occupation takes place of the REP and the said person shall be liable to pay interest on the said excess amount at the rate specified in sub-section (1) of section 50 for the period starting from the first day of April of the succeeding financial year till the date of payment; or

(b) where aggregate of amounts of Te determined for each tax period under sub-rule (1) exceeds $Te^{final,}$ such excess amount shall be claimed as credit by the registered person in his return for a month not later than the month of September following the end of the financial year in which the completion certificate is issued or first occupation takes place of the REP.

Explanation; - For the purpose of calculation of Tc^{final}, part of the month shall be treated as one complete month.

(3) The amount Te^{final} and Tc^{final} shall be computed separately for central tax, State tax, Union territory tax and integrated tax.

(4) Where any capital goods are used for more than one REP, input tax credit with respect to such capital goods shall be assigned to each REP on a reasonable basis and credit reversal pertaining to each project shall be carried out as per sub-rule (2).

(5) where any capital goods used for the project have their useful life remaining on the completion of the real estate project,

[Explanation1: -For the purposes of rule 42, and this rule, it is hereby clarified that the aggregate value of exempt supplies shall exclude: -

(a) omitted

(b) the value of services by way of accepting deposits, extending loans or advances in so far as the consideration is represented by way of interest or discount, except in case of a banking company or a financial institution including a non-banking financial company, engaged in supplying services by way of accepting deposits, extending loans or advances; and

(c) the value of supply of services by way of transportation of goods by a vessel from the customs station of clearance in India to a place outside India.

Explanation 2:
For the purposes of this rule, -
(i) The term "apartment" shall have the same meaning as assigned to it in the Real Estate (Regulation and Development) Act, 2016.

(ii) The term "real estate project (REP)" shall have the same meaning as assigned to it in the Real Estate (Regulation and Development) Act, 2016.

(iii) The term "carpet area" shall have the same meaning as assigned to it in the Real Estate (Regulation and Development) Act, 2016.

(iv)an apartment booked on the date of issuance of completion certificate or first occupation of the real estate projectshall mean an apartment which meets all the following three conditions, namely- (a) part of supply of construction of the apartment has time of supply on or before the said date and (b) at least one instalment on or before 31.03.2019 and (c) an allotment letter or sale agreement or any other similar document evidencing booking of the apartment has been issued on or before the said date.

Agenda Item 6: Creation of the State and Area Benches of the Goods and Services Tax Appellate Tribunal (GSTAT)

The Chapter XVIII of the CGST Act, 2017 provides for the Appeal and Review Mechanism for dispute resolution under the GST Regime. Section 109 of this Chapter under CGST Act empowers the Central Government to constitute, on the recommendation of Council, by notification, with effect from such date as may be specified therein, an Appellate Tribunal known as the Goods and Services Tax Appellate Tribunal for hearing appeals against orders passed by the Appellate Authority or by the Revisional Authority**.** The law envisages constitution of National Bench/Regional Benches and the State Bench/Area Benches.

2. Sub Section (6) of Section 109 of the CGST Act reads as under:

(6) The Government shall, by notification, specify for each State or Union territory except for the State of Jammu and Kashmir, a Bench of the Appellate Tribunal (hereafter in this Chapter, referred to as "State Bench") for exercising the powers of the Appellate Tribunal within the concerned State or Union territory:

Provided that for the State of Jammu and Kashmir, the State Bench of the Goods and Services Tax Appellate Tribunal constituted under this Act shall be the State Appellate Tribunal constituted under the Jammu and Kashmir Goods and Services Tax Act, 2017:

Provided further that the Government shall, on receipt of a request from any State Government, constitute such number of Area Benches in that State, as may be recommended by the Council:

Provided also that the Government may, on receipt of a request from any State, or on its own motion for a Union territory, notify the Appellate Tribunal in a State to act as the Appellate Tribunal for any other State or Union territory, as may be recommended by the Council, subject to such terms and conditions as may be prescribed."

3. While the proposal for constitution of National Bench of the Appellate Tribunal has been approved by the Cabinet, the process of notifying the State Benches in each of the State or Union Territories except Jammu & Kashmir needs to be initiated. Since the first proviso to sub-Section(1) provides that on receipt of a request for any State Government, Centre Government may constitute such number of Area Benches as may be recommended by the Council and the second proviso to sub Section (6) provides that on receipt of the request from any State and on the recommendations of the Council, an Appellate Tribunal in another State may be notified as Appellate Tribunal for that State, opinion regarding constitution of State Bench from all States/UTs as per sub-Section (6) of Section 109 were sought.

4. The details of information provided by the States/UTs is as below:

S. No.	**Name of State/UTs**	**Location for State Bench**	**Location for Area Bench**
1.	Chhattisgarh	Atal Nagar Raipur	Not required
2.	Karnataka	Bengaluru	Not required
3.	Himachal Pradesh	Shimla	Not required
4.	West Bengal	Kolkata	two Area Benches at Kolkata.
5.	Uttarakhand	Dehradun	Not required
6.	Assam	Guwahati	Not required

S. No.	Name of State/UTs	Location for State Bench	Location for Area Bench
7.	Tripura	(place not Indicated)	Not required
8.	Tamil Nadu	Chennai	Not required
9.	Haryana	Hisar	Not required
10.	Gujarat	Ahmedabad	Not required
11	Puducherry	Pondicherry	Not required
12.	Maharashtra	Mumbai	Pune and Nagpur
13.	Punjab	Chandigarh	Not required
14.	Goa	Panaji	Not required
15.	Bihar	Patna	Not required
16.	Jharkhand	Ranchi	Not required
17.	Uttar Pradesh	Allahabad	4 Area Benches at 4 Locations (**Annexure 1**)

5. The State of Sikkim has conveyed that it is not in favor of setting up of Appellate Tribunal Benches under Section 109 of Sikkim Goods & Services Tax Act, 2017.Further, the State of Nagaland has informed that since the State of Nagaland currently lacks expertise to constitute the State Bench of GSTAT, the state may be clubbed with the State Bench of a neighboring State for the time being. The response from other States/UTs are still awaited.

6. The matter is placed before GST Council for consideration.

Annexure 1

SL. No	Name of the Zone	Place
1	Ghaziabad	Ghaziabad
2	Lucknow	Lucknow
3	Varanasi	Varanasi
4	Agra	Agra