



Agenda for

45th GST Council Meeting

17 September 2021

Volume – 3





GST Council Secretariat

New Delhi

5th Floor, Tower-II, Jeevan Bharti Building, New Delhi

5 September 2021

Notice for the 45th Meeting of the GST Council scheduled to convene on 17th September 2021

The undersigned is directed to refer to the subject cited above and to convey that the 45th Meeting of the GST Council will be held on **17th September 2021** at Hotel Taj (Vivanta), Gomti Nagar in **Lucknow, Uttar Pradesh**. The schedule of the meeting is as follows:

- **Friday, 17th September 2021:** 11:00 hours onwards
2. In addition, an **Officers' Meeting** will be held on 16th September 2021 at the same venue as per following schedule:
- **Thursday, 16th September 2021:** 11:00 hours onwards
3. The agenda item and other details for the 45th Meeting of the GST Council will be communicated in due course of time.
4. Keeping in view the Covid-19 related protocols, it is requested that participation from each State may be limited to 2 officers in addition to the Hon'ble Member of GST Council.
5. Kindly convey the invitation to Hon'ble Member to attend the 45th Meeting of the GST Council.

(-Sd-)

(Tarun Bajaj)

Secretary to the Govt. of India and ex-officio Secretary to the GST Council

Tel: 011 23092653

Copy to:

1. PS to the Hon'ble Minister of Finance, Government of India, North Block, New Delhi with the request to brief Hon'ble Minister about the above said meeting.
2. PS to Hon'ble Minister of State (Finance), Government of India, North Block, New Delhi with the request to brief Hon'ble Minister about the above said meeting.
3. The Chief Secretaries of all the State Governments, Union Territories of Delhi, Puducherry and Jammu and Kashmir with the request to intimate the Minister in charge of Finance/Taxation or any other Minister nominated by the State Government as a Member of the GST Council about the above said meeting.
4. Chairman, CBIC, North Block, New Delhi, as a permanent invitee to the proceedings of the Council.
5. Chairman, GST Network

TABLE OF CONTENTS

<u>Agenda No.</u>	<u>Agenda Item</u>	<u>Page No.</u>
16	Agenda Note for GST Council on National Anti-Profiteering Authority	7
17	Review of Revenue Position under Goods and Services Tax	9
18	Compensation- Scenario Post June-2022 and Options	16

Discussion on Agenda Items

Agenda Item 16: Agenda Note for GST Council on National Anti-Profiteering Authority

The National Anti-Profiteering Authority (NAA) was constituted by the Government of India, Ministry of Finance, Department of Revenue under Section 171 of the CGST Act, 2017 read with Rule 124 (1) of the CGST Rules, 2017 vide Order No. 343/2017 dated 28th Nov, 2017 for a period of two years. The NAA started functioning w.e.f. 1st Dec, 2017. Sub-sections (1) and (2) of Section 171 of the Act reads as under:

***171. Antiproteering measure.**—(1) Any reduction in rate of tax on any supply of goods or services or the benefit of input tax credit shall be passed on to the recipient by way of commensurate reduction in prices.*

(2) The Central Government may, on recommendations of the Council, by notification, constitute an Authority, or empower an existing Authority constituted under any law for the time being in force, to examine whether input tax credits availed by any registered person or the reduction in the tax rate have actually resulted in a commensurate reduction in the price of the goods or services or both supplied by him.

2. The initial tenure of National Anti-profiteering Authority(NAA) was upto 30th November 2019. The issue of extension of tenure of National Anti-profiteering Authority was placed before the GST Council during its 35th meeting held on 21st June, 2019. During the discussion, it was considered that National Anti-profiteering Authority was intended as a transitional arrangement with a specific time limit in view of the sudden changes in tax levels due to introduction of GST followed by periodic rationalization.

3. It was also considered that since a number of orders had been passed by the NAA in the pending cases, therefore to implement those orders, it was necessary to extend the period of NAA further. It was also discussed that the intent of the Council, while forming NAA was always that it could not exist in eternity and would need to come to an end when GST starts functioning smoothly on its own. In such a scenario it would be able to take care of profiteering by itself. In the end, the Council agreed to the suggestion of extending the tenure of NAA by two years.

4. The tenure of the NAA was accordingly extended for further two years by amending Rule 137 of the CGST Rules, 2017 vide Notification No. 33/2019-Central Tax dated 18.07.2019. The current tenure of the NAA thus ends on 30th Nov, 2021.

5. The NAA has 5 members consisting of a Chairman and 4 Technical members. The post of Chairman is vacant since 11th May, 2021. There are 2 vacant posts of Technical Members currently.

6. The latest quarterly report of the NAA for April-June 2021 has already been placed before the Council. 39 cases are currently pending for disposal with NAA and 427 cases are either under investigation by Directorate General of Anti-profiteering (DGAP) or under scrutiny of the Standing Committee and the State Level Screening Committees. Nearly all the Anti-Profiteering rules framed to give effect to the provisions of Section 171 of CGST Act, 2017 are under challenge through 126 writ petitions filed by suppliers against the NAA's orders in 8 High Courts of the country.

7. In view of the above, the matter is placed before the GST Council on whether to—
- (a) let the term of the authority be over and empower the Competition Commission of India established under The Competition Act, 2002 (12 of 2003) under sub-section (2) of section 171 of the Central Goods and Services Act, 2017 or any other authority as the Council may deem fit;
 - or
 - (b) any other option as may be decided by the Council.

Agenda Item 17: Review of Revenue Position under Goods and Services Tax

1. The Figure below shows the trend and Table 1 shows the details of the collection in FY 2021-22 vis-à-vis FY 2020-21.

Figure 1: Monthly gross GST collection (in ₹ lakh crore)

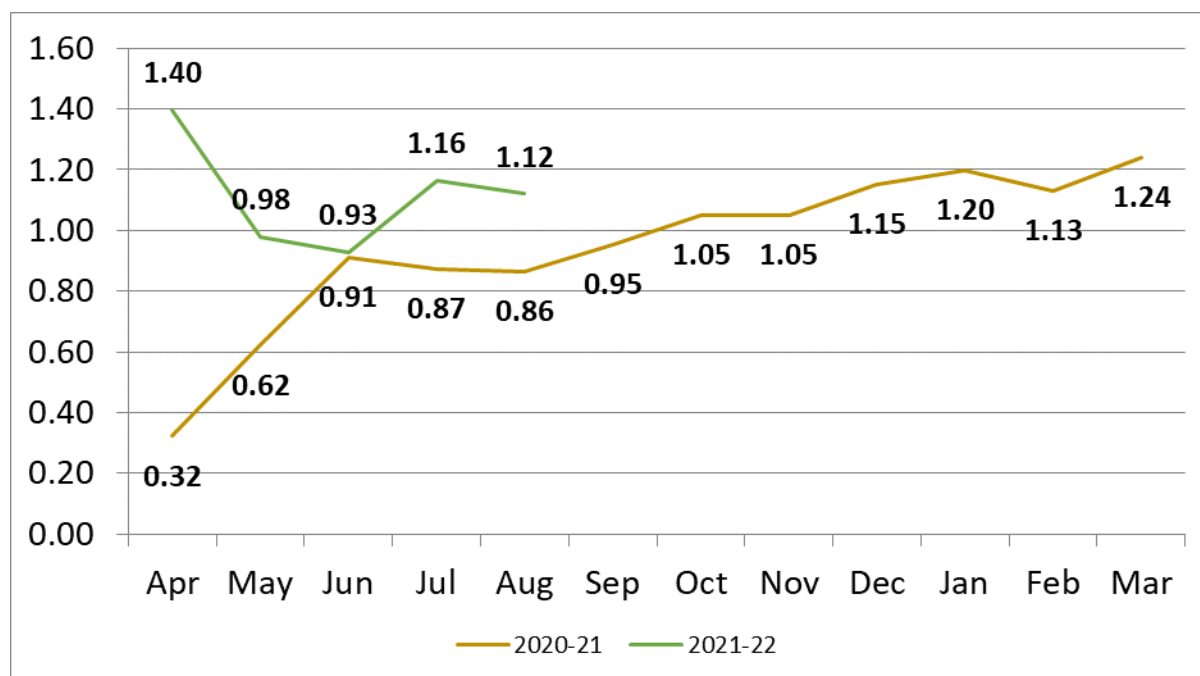


Table 1: Monthly gross GST collection (₹crore)

	Apr'21	May'21	Jun'21	Jul'21	Aug'21
CGST	27,837	16,120	16,331	22,197	20,522
SGST	35,621	20,739	20,341	28,541	26,605
IGST	66,878	51,737	49,179	57,864	56,247
<i>Domestic</i>	38,882	25,735	23,417	29,964	29,363
<i>Imports</i>	27,996	26,002	25,762	27,900	26,884
Comp Cess	9,372	9,225	6,949	7,790	8,646
<i>Domestic</i>	8,464	8,357	6,140	6,975	8,000
<i>Imports</i>	908	868	809	815	646
Total	139,708	97,821	92,800	116,393	112,020

2. Table 2 shows the IGST collected, refunded and settled/apportioned during FY 2021-22 till July, 2021.

Table 2: IGST Collection/Settlement/Appportionment/Refund in FY21-22

1	Collections (+)	229197.48
2	Recovery from IGST Ad-hoc appportionment(+)	0
3	Refunds (-)	39405.64
4	Settlement (-)	167019.80
	i. CGST	91572.22
	ii. SGST	75447.58
5	Ad-hoc Settlement (-)	0
	i. CGST ad hoc	0
	ii. SGST ad hoc	0
6	Net (1+2-3-4-5)	22772.04*

Source: PrCCA, CBIC

*Rs. 24,000 crore of IGST settled on adhoc basis on 12th August, 2021

Compensation Fund

3. As per provision of GST (Compensation to States) Act, 2017 the Compensation Cess collected since implementation of GST w.e.f. 01.07.2017 till August 2021 and the compensation released are shown in the table below:

Table 3: Compensation Cess collected and compensation released

	(Figures in Rs. Crore)				
	2017-18	2018-19	2019-20	2020-21	2021-22 (Apr-Aug)
Opening Balance		21,466	47,272	55,737	3940
Compensation Cess collected (net)	62,612	95,081	95,551	85,191	40,464
Compensation released	41,146	69,275	1,20,498	1,36,988	21,000
Balance	21,466	47,272	55,737*	3940	23,404 [#]

* Centre had transferred Rs. 33,412 crore from CFI to Compensation Cess Fund as part of an exercise to apportion balance IGST pertaining to FY 2017-18

[#]Centre has released compensation of Rs. 22,000 crore on 10.09.2021

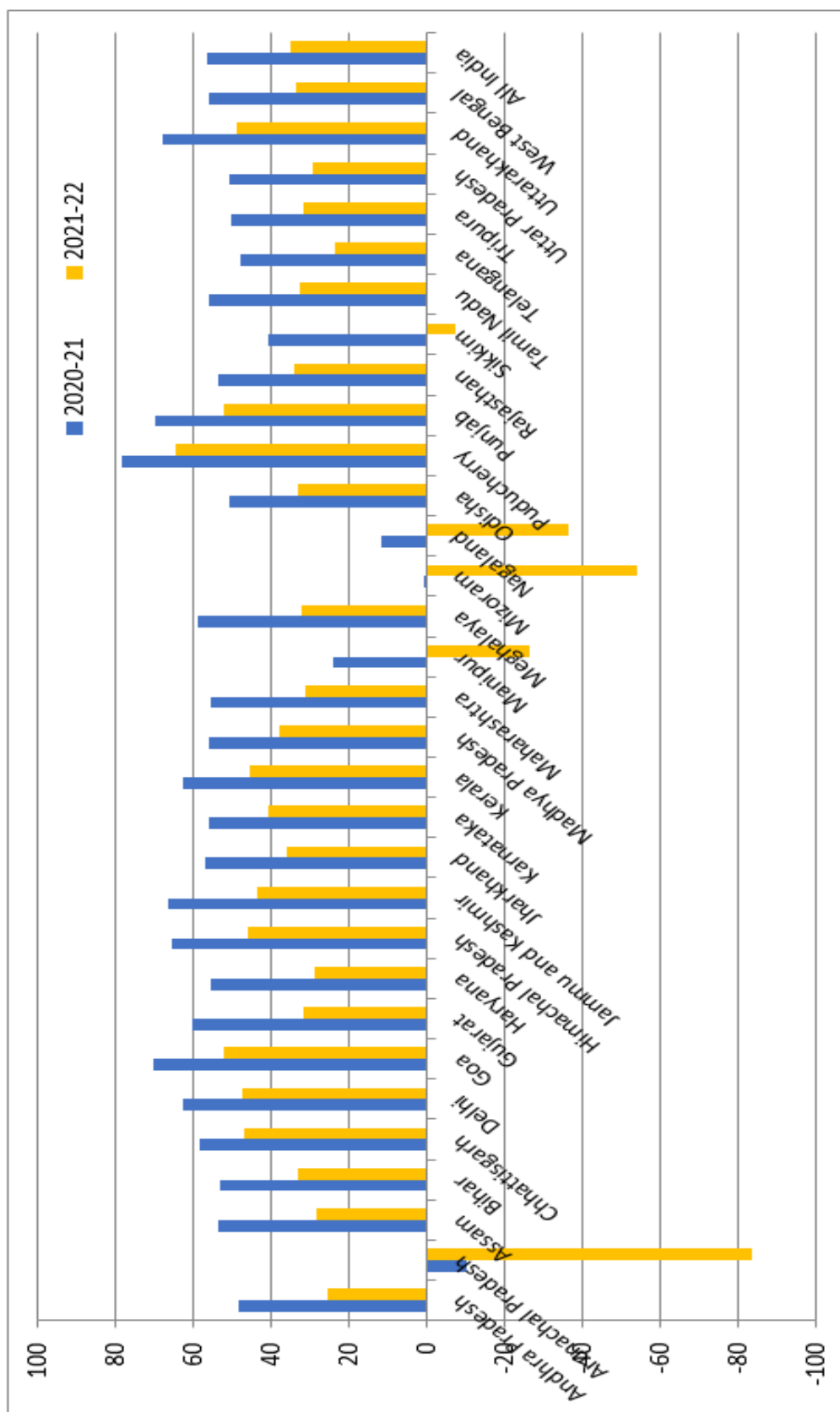
Gap with respect to base Revenue

4. The State-wise details of gap between the protected revenue and the post settlement gross SGST revenue (including ad-hoc settlement) for April-August of FY 2021-22 as compared to April-August of FY 2020-21 may be seen in the Table 4. This information is also depicted in the graph placed at Figure 2.

Table 4: Revenue Gap during the period April to August

	State/UTs	2020-21(%)	2021-22(%)
1	Andhra Pradesh	48.1	25.5
2	Arunachal Pradesh	-10.4	-83.5
3	Assam	53.4	28.4
4	Bihar	53.2	32.9
5	Chhattisgarh	58.3	46.7
6	Delhi	62.5	47.3
7	Goa	70.4	51.9
8	Gujarat	60.1	31.5
9	Haryana	55.3	28.7
10	Himachal Pradesh	65.4	45.9
11	Jammu and Kashmir	65.3	41.0
12	Jharkhand	56.8	36.1
13	Karnataka	56.1	40.8
14	Kerala	62.8	45.6
15	Madhya Pradesh	55.8	37.7
16	Maharashtra	55.4	31.1
17	Manipur	24.0	-26.2
18	Meghalaya	59.0	32.0
19	Mizoram	0.2	-54.1
20	Nagaland	11.5	-36.3
21	Odisha	50.7	33.0
22	Puducherry	78.5	64.3
23	Punjab	69.8	52.3
24	Rajasthan	53.4	34.1
25	Sikkim	40.8	-7.6
26	Tamil Nadu	55.9	32.5
27	Telangana	47.7	23.4
28	Tripura	50.2	31.5
29	Uttar Pradesh	50.6	29.2
30	Uttarakhand	67.6	48.9
31	West Bengal	56.1	33.4
	All India	56.2	34.8

Figure 2: Revenue Gap comparison- April 2021 to August 2021 YoY



Trends in Return filing

5. The table 5 shows the trend in return filing in FORM GSTR-3B till due date and till date for return periods upto July, 2021. Table 6 and 7 show the State wise filing for these months.

Table 5: Return filing (GSTR-3B) till due date and till date

Return Period	Till due date		Till 5 Sep, 2021	
	Filed	%	Filed	%
Apr'21	1,217,800	17.54%	62,90,907	90.61%
May'21	1,446,441	20.81%	6,260,927	90.08%
Jun'21	6,843,455	63.04%	9,915,789	91.34%
July'21	4,909,070	69.95%	5,899,851	84.06%

Figure 3: GSTR-3B Filing till due date and till 5th Sep'2021

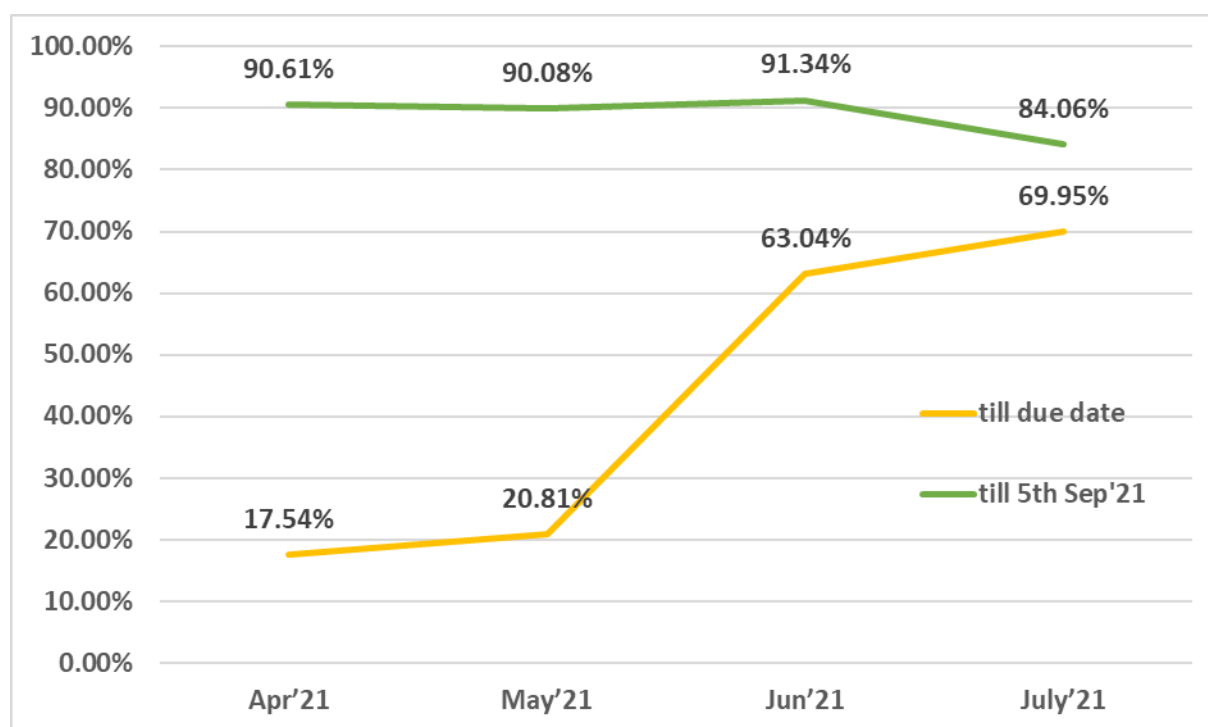


Table 6: State-wise Return filing (GSTR-3B) till due date (Apr'21-July'21)

	State/UT Name	Apr'21	May'21	Jun'21	July'21
1	Jammu and Kashmir	18%	25%	66%	75%
2	Himachal Pradesh	18%	22%	68%	71%
3	Punjab	22%	23%	74%	77%
4	Chandigarh	26%	29%	71%	80%
5	Uttarakhand	16%	22%	63%	67%
6	Haryana	16%	23%	66%	71%
7	Delhi	15%	21%	67%	70%
8	Rajasthan	15%	23%	70%	72%
9	Uttar Pradesh	15%	23%	64%	74%
10	Bihar	14%	19%	56%	63%
11	Sikkim	20%	20%	52%	57%
12	Arunachal Pradesh	14%	14%	37%	42%
13	Nagaland	22%	18%	43%	55%
14	Manipur	12%	14%	30%	42%
15	Mizoram	28%	27%	46%	55%
16	Tripura	19%	15%	54%	68%
17	Meghalaya	21%	22%	52%	52%
18	Assam	15%	16%	46%	58%
19	West Bengal	21%	19%	62%	65%
20	Jharkhand	18%	21%	59%	70%
21	Odisha	18%	19%	57%	66%
22	Chhattisgarh	17%	23%	54%	59%
23	Madhya Pradesh	16%	24%	66%	68%
24	Gujarat	23%	27%	75%	80%
25	Daman and Diu	-	-	-	-
26	Dadra and Nagar Haveli	29%	32%	62%	70%
27	Maharashtra	23%	25%	62%	66%
29	Karnataka	15%	18%	61%	71%
30	Goa	15%	19%	52%	55%
31	Lakshadweep	27%	24%	51%	57%
32	Kerala	6%	9%	44%	66%
33	Tamil Nadu	17%	16%	62%	75%
34	Puducherry	17%	20%	55%	69%
35	Andaman and Nicobar Islands	15%	14%	42%	52%
36	Telangana	21%	22%	53%	61%
37	Andhra Pradesh	19%	20%	59%	68%
38	Ladakh	19%	25%	65%	55%
97	Other Territory	68%	56%	67%	78%
	All India	18%	21%	63%	70%

Table 7: State-wise Return filing (GSTR-3B) till 5th Sep, 2021

	State/UT Name	Apr'21	May'21	Jun'21	July'21
1	Jammu and Kashmir	98%	99%	98%	92%
2	Himachal Pradesh	92%	92%	94%	85%
3	Punjab	92%	92%	94%	88%
4	Chandigarh	97%	97%	97%	92%
5	Uttarakhand	90%	89%	91%	82%
6	Haryana	90%	90%	91%	84%
7	Delhi	89%	88%	91%	83%
8	Rajasthan	94%	94%	94%	87%
9	Uttar Pradesh	93%	93%	95%	89%
10	Bihar	83%	82%	87%	79%
11	Sikkim	81%	79%	82%	71%
12	Arunachal Pradesh	66%	65%	68%	56%
13	Nagaland	80%	79%	79%	70%
14	Manipur	67%	66%	67%	58%
15	Mizoram	74%	74%	75%	67%
16	Tripura	85%	86%	87%	81%
17	Meghalaya	73%	72%	79%	65%
18	Assam	82%	82%	84%	75%
19	West Bengal	83%	82%	87%	77%
20	Jharkhand	92%	92%	91%	84%
21	Odisha	90%	90%	91%	81%
22	Chhattisgarh	89%	88%	89%	78%
23	Madhya Pradesh	95%	95%	95%	87%
24	Gujarat	95%	95%	95%	90%
25	Daman and Diu	0%	0%	0%	0%
26	Dadra and Nagar Haveli	92%	91%	91%	84%
27	Maharashtra	91%	90%	91%	81%
29	Karnataka	92%	91%	91%	85%
30	Goa	76%	75%	80%	69%
31	Lakshadweep	86%	83%	83%	73%
32	Kerala	91%	90%	90%	83%
33	Tamil Nadu	94%	93%	92%	88%
34	Puducherry	90%	89%	88%	83%
35	Andaman and Nicobar Islands	81%	80%	80%	70%
36	Telangana	84%	83%	84%	76%
37	Andhra Pradesh	89%	88%	88%	82%
38	Ladakh	90%	88%	90%	73%
97	Other Territory	83%	82%	80%	79%
	All India	91%	90%	91%	84%

Agenda Item 18: Compensation- Scenario Post June-2022 and Options

1. The GST compensation is paid out the GST Compensation Fund as per section 10 (2) of the GST Compensation Act to which the Compensation Cess levied under Section 8 is credited. The GST compensation is calculated as per the formula provided in the Compensation Act and is released on a bi-monthly basis. GST compensation for financial years 2017-18, 2018-19 and 2019-20 has already been paid to the States/UTs out of the Compensation Cess collected.
2. However, the economic impact of the pandemic has led to higher compensation requirement due to lower GST collection and at the same time lower collection of GST compensation cess. GST compensation of ₹1,13,000 crore has been released to States to partly meet the compensation payable since April 2020 and the amount in GST Compensation Fund is not adequate to meet the full compensation requirement.
3. The issue of GST Compensation to States has been deliberated in the 41st and 42nd GST Council meetings, especially in light of the fact that States needed immediate access to resources to meet the challenges thrown by the pandemic. Accordingly, in 2020-21, Centre borrowed 1.1 lakh crore under a special window and passed on to the States as back-to-back loan to help the States to meet the resource gap due to short-release of compensation on account of inadequate balance in the Compensation Fund. This arrangement had been finalized after detailed deliberations with the States and all States opted for this arrangement.
4. Subsequent to deliberations in the 43rd GST Council meeting, it has been decided that the Centre is borrowing ₹1.59 lakh crore from the market through special window in current financial year and passing it on to the States/ UTs as a back-to-back loan in appropriate tranches as was done in the last year. Out of this, Centre has already released ₹. 75,000 crores to States on 15.07.2021 as back-to-back loan through special borrowing to meet the compensation shortfall. In addition, depending on the amount available in the Compensation Fund, Centre has also been releasing the regular GST compensation to States to make up for GST revenue shortfall.
5. During the current year, it is expected that the GST revenues would do better and the monthly gross revenues have been above ₹ 1.1 lakh crore again after the temporary dip during the second wave of the pandemic. It is expected that after taking into account the compensation cess that would be released to States of around ₹ 1 lakh crore, the back-to-back assistance would more than cover the gap and would partially compensate for the arrears of last year.
6. The GST Council has already extended the levy of cess to enable repayment of the loan taken to provide the assistance on a back-to-back basis and arrears of compensation.
7. A detailed presentation will be made during the meeting to list out the scenario post June-2022 and options that can be considered to make up for the shortfall.