



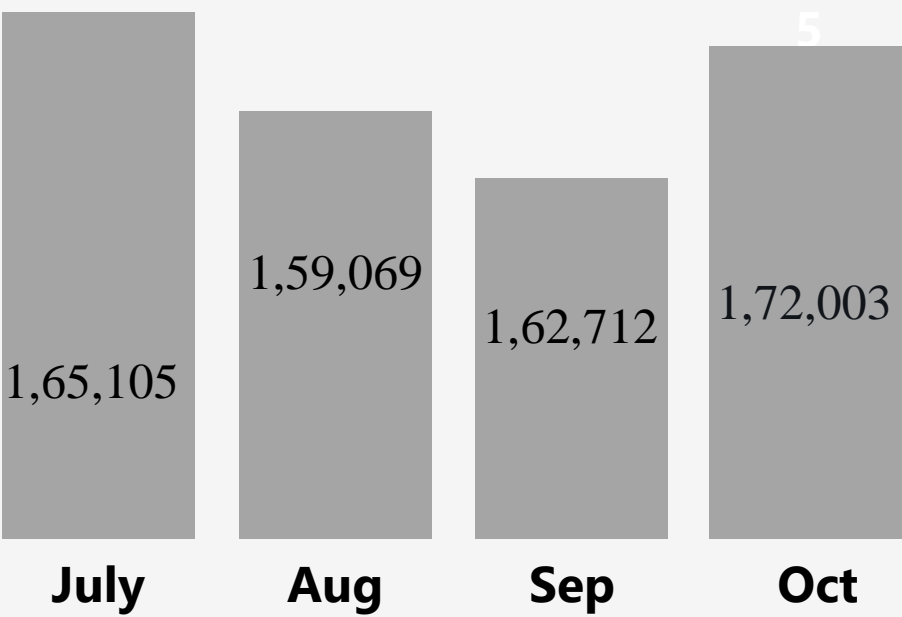
Goods and Services Tax Council

Role of GST Council and Recent amendment in GST

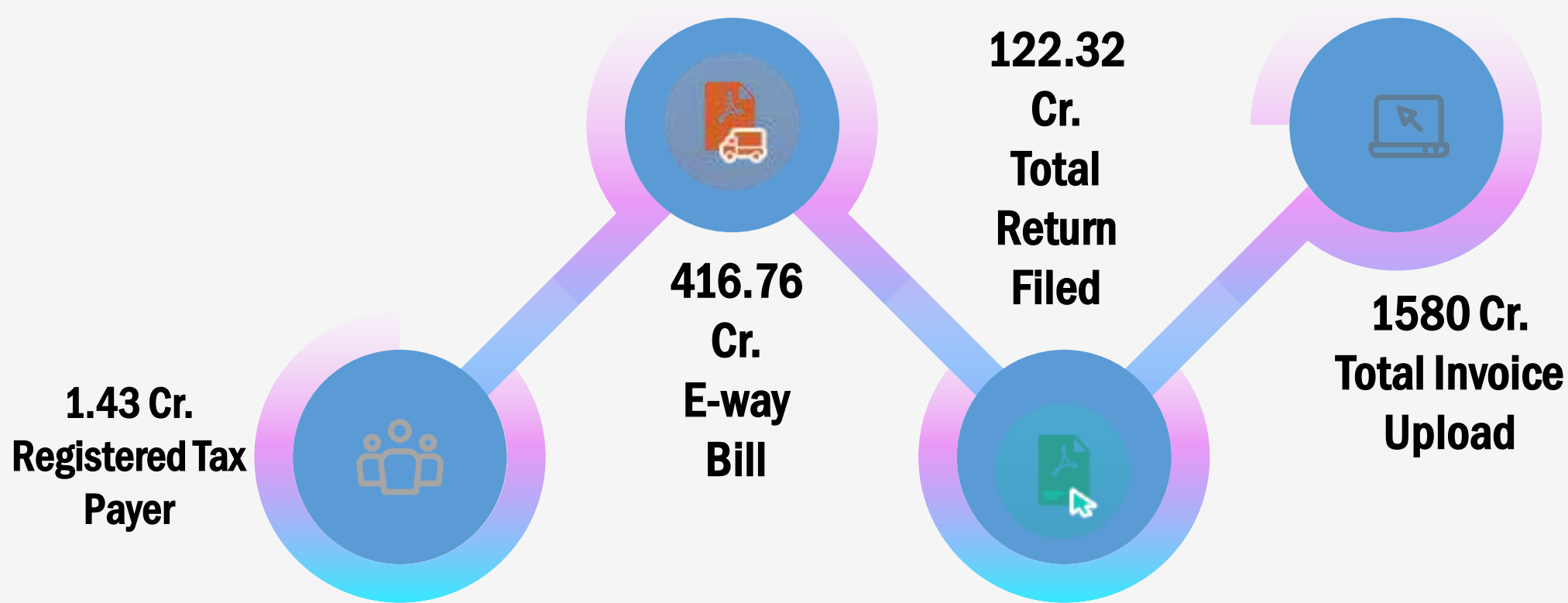
- Ashima Bansal
Joint Secretary, GSTCS

Overview

- ❖ The gross GST revenue collected in the month of October, 2023 is **₹ 1,72,003 crore**. GST revenue collection for October 2023 is second highest ever, next only to April 2023, at ₹1.72 lakh crore; records increase of 13% Y-o-Y
- ❖ GST collections have been over 1.50 lakh crore in last seven months
- ❖ the tax base more than doubled from 2017, with revenues witnessing substantial growth over the years.



GST STATISTICS AS ON 28th November 2023



GST Council – Article 279A

As per Article 279A (1) of the amended Constitution, the GST Council has to be constituted by the President within 60 days of the commencement of Article 279A. The notification for bringing into force Article 279A with effect from 12th September, 2016 was issued on 10th September, 2016.

(1) The President shall, within sixty days from the date of commencement of the Constitution (One Hundred and First Amendment) Act, 2016, by order, constitute a Council to be called the Goods and Services Tax Council.

(2) The Goods and Services Tax Council shall consist of the following members, namely-

(a) the Union Finance Minister-Chairperson;

(b) the Union Minister of State in charge of Revenue or Finance-Member;

(c) the Minister in charge of Finance or Taxation or any other Minister nominated by each State Government-Members.

(3) The Members of the Goods and Services Tax Council referred to in sub-clause (c) of clause (2) shall, as soon as may be, choose one amongst themselves to be the Vice-Chairperson of the Council for such period as they may decide.

GST Council – Article 279A

- 4)** The Goods and Services Tax Council shall make recommendations to the Union and the States on-
- a) the taxes, cesses and surcharges levied by the Union, the States and the local bodies which may be **subsumed** in the GST;
 - b) the goods and services that may be **subjected to, or exempted** from the GST;
 - c) model Goods and Services Tax Laws, principles of levy, **apportionment** of GST levied on supplies in the course of inter-State trade or commerce under article 269A and the principles that govern the place of supply;
 - d) The **threshold limit** of turnover below which goods and services may be exempted from GST;
 - e) the rates including **floor rates** with bands of GST;
 - f) any special rate or rates for a specified period, to raise additional resources during any **natural calamity** or disaster;
 - g) special provision with respect to the States of Arunachal Pradesh, Assam, Jammu and Kashmir, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, Himachal Pradesh and Uttarakhand; and
 - h) any other matter relating to the GST, as the Council may decide.
- (5)** The Goods and Services Tax Council shall recommend the date on which the goods and services tax be levied on petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel.

GST Council – Article 279A

- (6)** While discharging the functions conferred by this article, the GST Council shall be guided by the need for a harmonised structure of GST and for the development of a harmonised national market for goods and services.
- (7)** One-half of the total number of Members of the GST Council shall constitute the quorum at its meetings.
- (8)** The GST Council shall determine the procedure in the performance of its functions.
- (9)** Every decision of the GST Council shall be taken at a meeting, by a majority of not less than three-fourths of the weighted votes of the members present and voting, in accordance with the following principles, namely-
- a) the vote of the Central Government shall have a weightage of one-third of the total votes cast, and
 - b) the votes of all the State Governments taken together shall have a weightage of two-thirds of the total votes cast, in that meeting.
- (10)** No act or proceedings of the GST Council shall be invalid merely by reason of-
- a) any vacancy in, or any defect in, the constitution of the Council; or
 - b) any defect in the appointment of a person as a Member of the Council; or
 - c) any procedural irregularity of the Council not affecting the merits of the case.

Four Pillars Of The GST Council

01

Law Committee

- Proposes changes in the GST laws taking into account various feedbacks about the problems being faced by various industries/ trades/ taxpayers.
- Preparing draft Rules/notifications
- Examining all representations of trade on Legal issues

02

Fitment Committee

- tasked with evolving a principle and a subsequent methodology to determine rates for various supplies under GST. Recommending any other rate provided in Act or Rules
- Examining all representations of trade on rate, classification and other issue related to rates like inverted duty structure

03

GIC

- decision-making body at the top tier
- takes decisions to the extent possible and where necessary, on issues of urgent and procedural nature

04

ITGRC

- The IT Grievance Redressal Committee was envisaged to address the difficulties faced by a section of taxpayers owing to technical glitches on GST Portal.
- SoP to submit the issues of data fixation to the GST Council.

GoMs

GoM on rate rationalisation

GoM on Rate Rationalization. LED, printing inks, knives, composite work contracts, etc inverted duty structure corrected.

GoM to consider rationalizing the rate and also the number of rates/tax slabs

GoM on GSTAT

- Recently law amended to pave the way for constitution of GSTAT

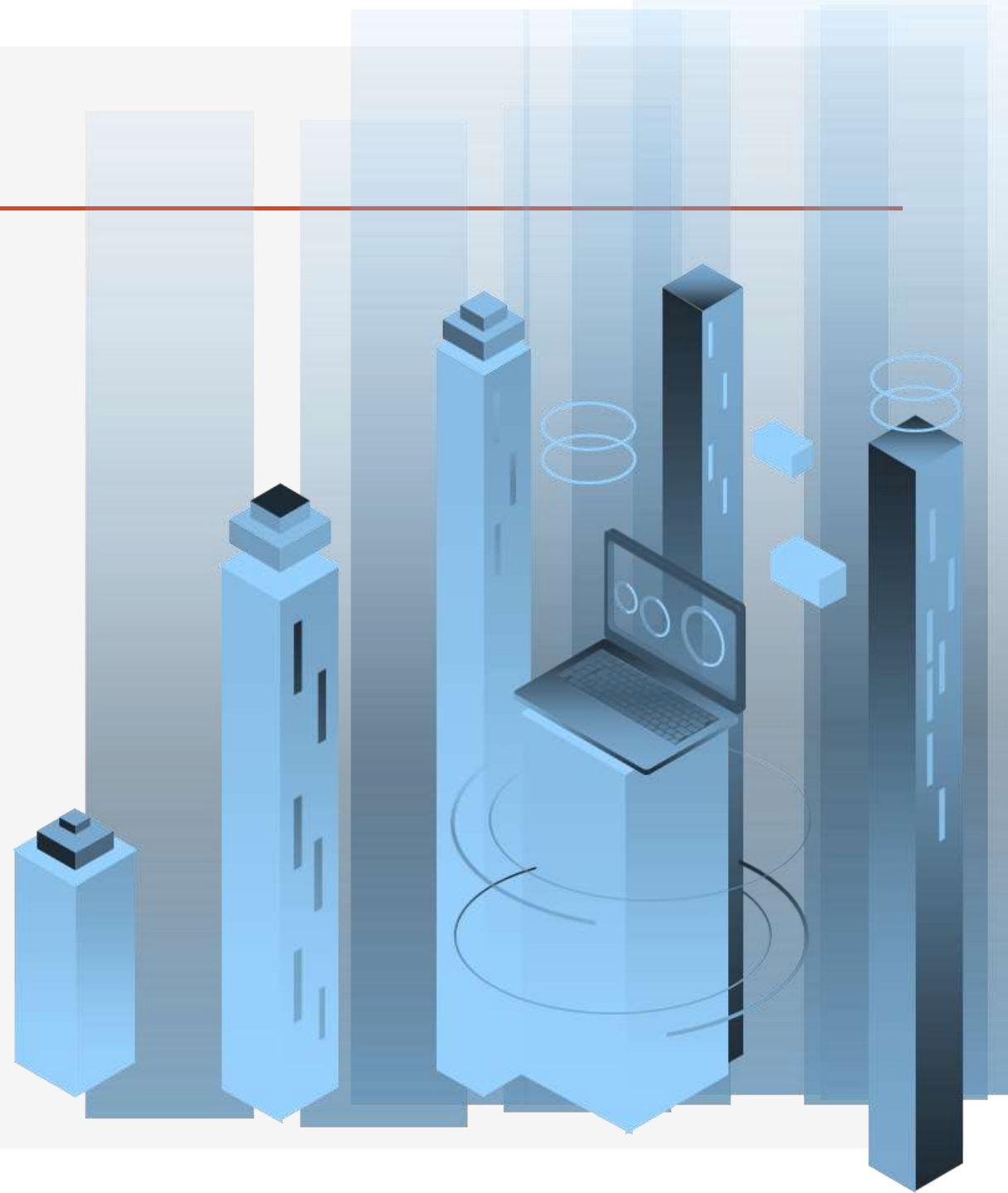
Important GoMs

- Online gaming, Casinos and Horse racing (closed)
- GST Appellate Tribunal (closed)
- System Reforms (ongoing)

Active GoMs

GoM on rate rationalization, GST System Reform, for boosting Real Estate Sector under GST regime and on analysis of Revenue from GST

Technological Advancements and Digitalization



Digitalization
Mechanism

GSTN

ITGRC

Engagement with the
stakeholders



Digitalization Mechanism

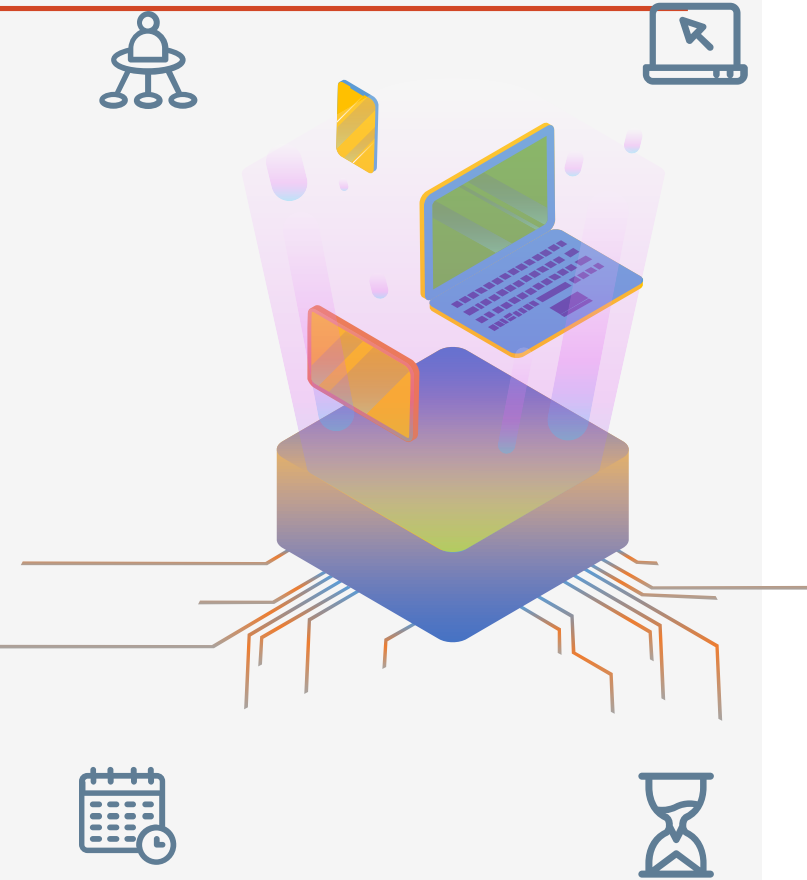
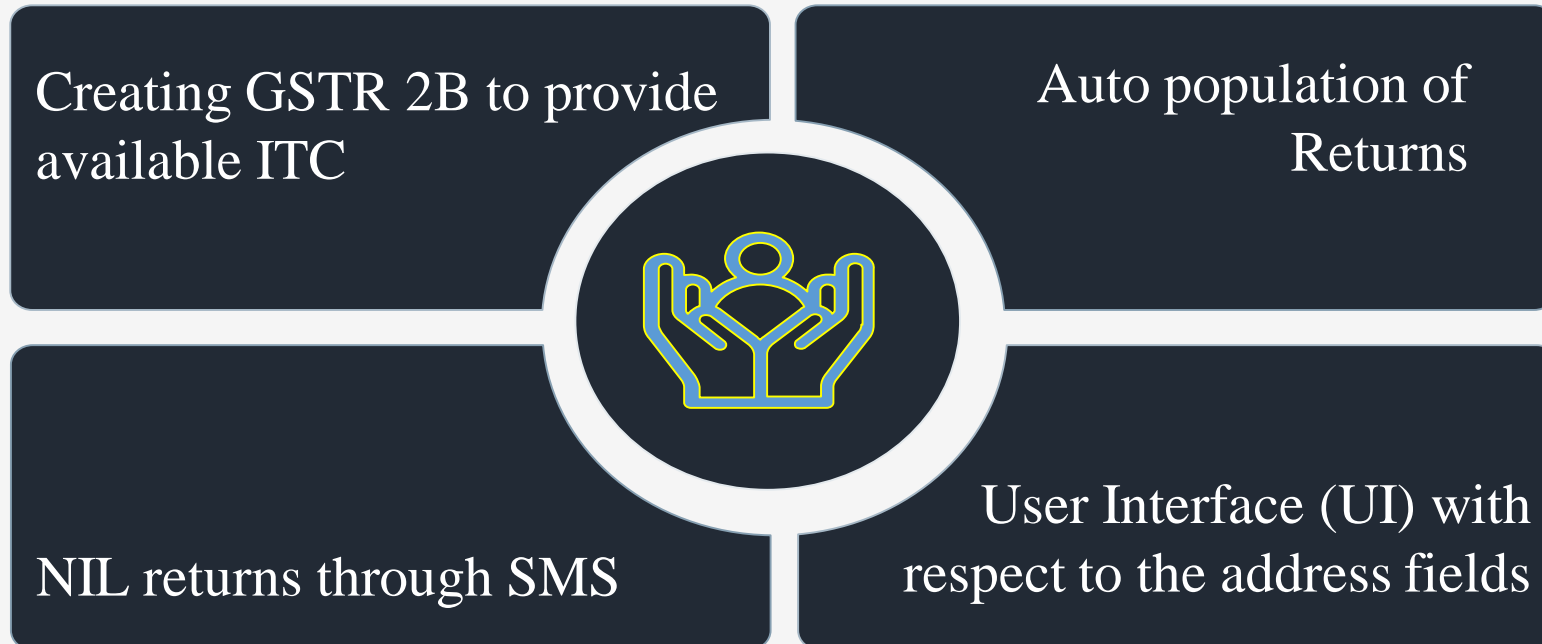
- ❑ Establishment of GST Network (GSTN) and efforts to make the IT infrastructure robust in the last five years.
- ❑ Reduction in compliance burden on taxpayers.
- ❑ Automation has also helped the Government to use data analytics. BIFA throws up red flags.



GSTN

- ❑ GSTN portal is an application that runs on a captive infrastructure owned by GSTN.
- ❑ GSTN has continually brought about improvements in the facilities.

Some of the prominent examples of innovation in Features



ITGRC



- ❑ Pursuant to the discussions in the 32nd GST Council meeting held on 10.01.2019 it was resolved that the ITGRC shall be mandated to address non-technical issues.
- ❑ Pursuant to the decision of the 15th ITGRC meeting held on 12.08.2021 technical issues requiring data fix of the processed incorrect data through backend utilities are also taken up by the Committee and SoP was approved.
- ❑ Reopening of common portal for Filing the TRAN 1 in accordance with the Hon'ble Supreme Court of India's order dated 22.07.2022 in the matter of ***Union of India vs. M/s. Filco Trade Centre Pvt. Ltd., SLP(C) No. 32709-32710/2018.***
- ❑ Guidelines for filing/revising TRAN-1/TRAN-2 were issued vide circular no. [180/12/2022-GST](#) dated 09.09.2022 and Circular No. [182/14/2022-GST](#) dated 10.11.2022.

Engagement with the stakeholders

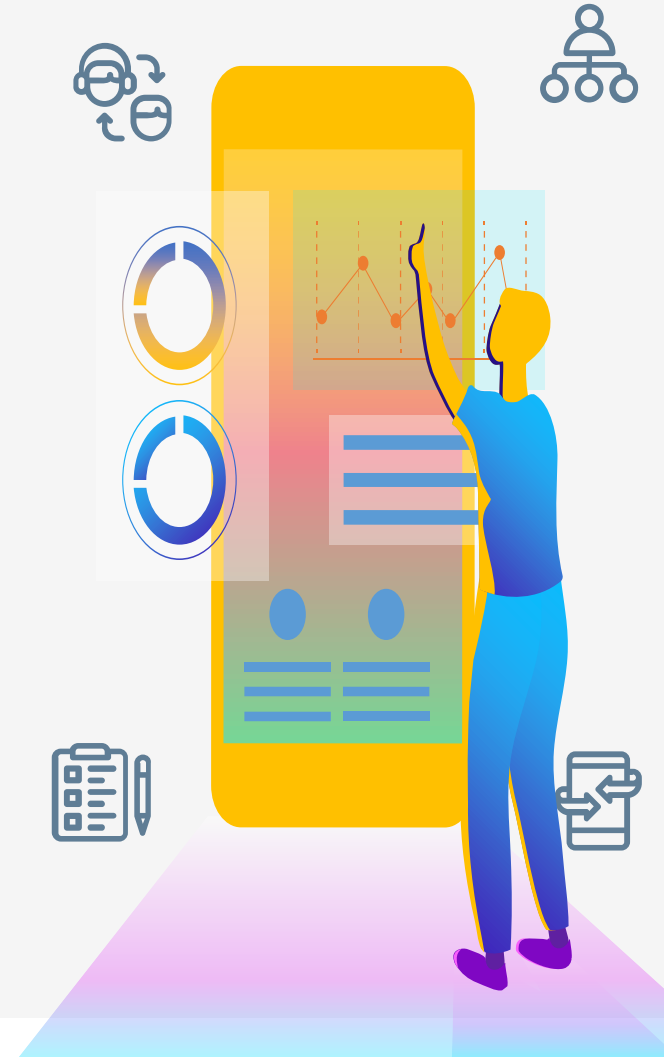
- ❑ Regular engagement is kept with the stakeholders to take feedback about the issues and problems faced by them through addressing Representations from the Industry.
- ❑ Effective communication of new tax reforms through various outreach activities such as :

PRINT MEDIA

SOCIAL MEDIA

Trade
representations

WEBINARS



Recent amendment in GST in 2023

Changes in GST rates

- GST rates on “Food preparation of millet flour in powder form, containing at least 70% millets by weight”, falling under HS 1901, with effect from date of notification, have been prescribed as:
 1. 5% if sold in pre-packaged and labelled form [**NN 17/2023- CT (Rate) dt 19.10.23**]
 2. 0% if sold in other than pre-packaged and labelled form [**NN 18/2023- CT (Rate) dt 19.10.23**]
- Clarified that imitation zari thread or yarn made out of metallised polyester film /plastic film, falling under HS 5605, are covered by the entry for imitation zari thread or yarn attracting 5% GST rate. [**Circular 205 dated 31.10.2023**]. However, no refund will be allowed on polyester film (metallised) /plastic film on account of inversion [**NN 20/2023- CT (Rate) dt 19.10.2023**]
- Foreign going vessels are liable to pay 5% IGST on the value of the vessel if it converts to coastal run. GST Council recommended conditional IGST exemption to foreign flag foreign going vessel when it converts to coastal run subject to its reconversion to foreign going vessel in six months.
(CBIC vide **NN 60/2023-Customs dated October 19, 2023** inserted entry no. 551A to the *Notification No. 50/2017-Customs dated June 30, 2017*)

Changes in GST rates

- GST Council recommended to keep Extra Neutral Alcohol (ENA) used for manufacture of alcoholic liquor for human consumption outside GST. Law Committee will examine suitable amendment in law to exclude ENA for use in manufacture of alcoholic liquors for human consumption from ambit of GST. (Need to make the amendment in law)
- Reduced GST on molasses from 28% to 5%. This step will increase liquidity with mills and enable faster clearance of cane dues to sugarcane farmers. This will also lead to reduction in cost for manufacture of cattle feed as molasses is also an ingredient in its manufacture. **[NN 17/2023- CT (Rate) dt 19.10.23]**
- A separate tariff HS code has been created at 8 digit level in the Customs Tariff Act to cover rectified spirit for industrial use. The GST rate notification amended to create an entry for ENA for industrial use attracting 18% GST. **[NN 17/2023- CT (Rate) dt 19.10.23]**

Changes in GST rates

- Entries at Sl. No. 3 and 3A of notification No. 12/2017-CTR dated 28.06.2017 exempts pure and composite services provided to Central/State/UT governments and local authorities in relation to any function entrusted to Panchayat/ Municipality under Article 243G and 243W of the Constitution of India. The GST Council has recommended to retain the existing exemption entries **with no change**.
- Further, the GST Council has also recommended to exempt services of water supply, public health, sanitation conservancy, solid waste management and slum improvement and upgradation supplied to Governmental Authorities. **[NN 13/2023- CT (Rate) dt 19.10.23]**
- clarified that job work services for processing of barley into malt attracts GST @ 5% as applicable to "job work in relation to food and food products" and not 18%. **[Circular – 206 dt 31.10.2023]**
- With effect from 1st January 2022, liability to pay GST on bus transportation services supplied through Electronic Commerce Operators (ECOs) has been placed on the ECO under section 9(5) of CGST Act, 2017. This trade facilitation measure was taken on the representation of industry association that most of the bus operators supplying service through ECO owned one or two buses and were not in a position to take registration and meet GST compliances. To arrive at a balance between the need of small operators for ease of doing business and the need of large organized players to take ITC, GST Council has recommended that bus operators organised as companies may be excluded from the purview of section 9(5) of CGST Act, 2017. This would enable them to pay GST on their supplies using their ITC. **[NN 16/2023- CT (Rate) dt 19.10.23]**

Changes in GST rates

- Clarified that District Mineral Foundations Trusts (DMFT) set up by the State Governments across the country in mineral mining areas are Governmental Authorities and thus eligible for the same exemptions from GST as available to any other Governmental Authority. [**Circular – 206 dt 31.10.2023**]
- Supply of all goods and services by Indian Railways to be taxed under Forward Charge Mechanism to enable them to avail ITC. This will reduce the cost for Indian Railways. [**NN 13/2023, NN 14/2023, NN 19/2023- CT (Rate) dt 19.10.23**]

Measures for facilitation of trade

i) Amnesty Scheme for filing of appeals against demand orders in cases where appeal could not be filed within the allowable time period:

The Council has recommended providing an amnesty scheme through a special procedure under section 148 of CGST Act, 2017 for taxable persons, who could not file an appeal under section 107 of the said Act, against the demand order under section 73 or 74 of CGST Act, 2017 passed on or before the 31st day of March, 2023, or whose appeal against the said order was rejected solely on the grounds that the said appeal was not filed within the time period specified in sub-section (1) of section 107. **In all such cases, filing of appeal by the taxpayers to be allowed against such orders upto 31st January 2024**, subject to the condition of payment of an amount of pre-deposit of 12.5% of the tax under dispute, out of which at least 20% (i.e. 2.5% of the tax under dispute) should be debited from Electronic Cash Ledger. **This will facilitate a large number of taxpayers, who could not file appeal in the past within the specified time period.**

[NN 53/2023- CT dt 2.11.23 and GSTN advisory dated 28.11.23]

Measures for facilitation of trade

ii) Clarifications regarding taxability of personal guarantee offered by directors to the bank against the credit limits/loans being sanctioned to the company and regarding taxability of corporate guarantee provided for related persons including corporate guarantee provided by holding company to its subsidiary company:

The Council has *inter alia* recommended to:

- (a) clarify that when no consideration is paid by the company to the director in any form, directly or indirectly, for providing personal guarantee to the bank/ financial institutes on their behalf, the open market value of the said transaction/ supply may be treated as zero and hence, no tax to be payable in respect of such supply of services.
- (b) insert sub-rule (2) in Rule 28 of CGST Rules, 2017, to provide for taxable value of supply of corporate guarantee provided between related parties as one per cent of the amount of such guarantee offered, or the actual consideration, whichever is higher.
- (c) Clarify through the circular that after the insertion of the said sub-rule, the value of such supply of services of corporate guarantee provided between related parties would be governed by the proposed sub-rule (2) of rule 28 of CGST Rules, 2017, irrespective of whether full ITC is available to the recipient of services or not.

[Circular – 204 dt 27.10.2023]

Measures for facilitation of trade

iii) Provision for automatic restoration of provisionally attached property after completion of one year: The Council has recommended an amendment in sub-rule (2) of Rule 159 of CGST Rules, 2017 and **FORM GST DRC-22** to provide that the order for provisional attachment in **FORM GST DRC-22** shall not be valid after expiry of one year from the date of the said order. This will facilitate release of provisionally attached properties after expiry of period of one year, without need for separate specific written order from the Commissioner. **[NN 52/2023- CT dt 26.10.23]**

iv) Clarification on various issues related to Place of Supply: The Council has recommended to issue a Circular to clarify the place of supply in respect of the following supply of services:

- (i) Supply of service of transportation of goods, including by mail or courier, in cases where the location of supplier or the location of recipient of services is outside India;
- (ii) Supply of advertising services;
- (iii) Supply of the co-location services.

[Circular – 203 dt 27.10.2023]

Measures for facilitation of trade

v) Issuance of clarification relating to export of services-: The Council has recommended to issue a circular to clarify the admissibility of export remittances received in Special INR Vostro account, as permitted by RBI, for the purpose of consideration of supply of services to qualify as export of services in terms of the provisions of sub-clause (iv) of clause (6) of section 2 of the IGST Act, 2017.

[Circular – 202 dt 27.10.2023]

vi) Allowing supplies to SEZ units/ developer for authorised operations for IGST refund route by amendment in Notification 01/2023-Integrated Tax dated 31.07.2023: The Council has recommended to amend Notification No. 1/2023-Integrated Tax dated 31.07.2023 w.e.f. 01.10.2023 so as to allow the suppliers to a Special Economic Zone developer or a Special Economic Zone unit for authorised operations to make supply of goods or services (except the commodities like pan masala, tobacco, gutkha, etc. mentioned in the Notification No. 1/2023-Integrated Tax dated 31.07.2023) to the Special Economic Zone developer or the Special Economic Zone unit for authorised operations on payment of integrated tax and claim the refund of tax so paid.

[NN 5/2023- IT dt 26.10.23]

Other measures pertaining to law and procedures

i) Alignment of provisions of the CGST Act, 2017 with the provisions of the Tribunal Reforms Act, 2021 in respect of Appointment of President and Member of the proposed GST Appellate Tribunals: The Council has recommended amendments in section 110 of the CGST Act, 2017 to provide that:

- an advocate for ten years with substantial experience in litigation under indirect tax laws in the Appellate Tribunal, Central Excise and Service Tax Tribunal, State VAT Tribunals, by whatever name called, High Court or Supreme Court to be eligible for the appointment as judicial member;
- the minimum age for eligibility for appointment as President and Member to be 50 years;
- President and Members shall have tenure up to a maximum age of 70 years and 67 years respectively.

[Need amendment in law]

ii) Law amendment with respect to ISD as recommended by the GST Council in its 50th meeting: GST Council in its 50th meeting had recommended that ISD (Input Service Distributor) procedure as laid down in Section 20 of the CGST Act, 2017 may be made mandatory prospectively for distribution of ITC in respect of input services procured by Head Office (HO) from a third party but attributable to both HO and Branch Office (BO) or exclusively to one or more BOs. The Council has now recommended amendments in Section 2(61) and section 20 of CGST Act, 2017 as well amendment in rule 39 of CGST Rules, 2017 in respect of the same.

[Need amendment in law]

Casinos, Race Courses & Online Gaming

- The GST Council in the 50th meeting held on 11.07.2023 had deliberated on the Second Report of the Group of Ministers (GoM) on Casinos, Race Courses and Online Gaming and had recommended that the actionable claims supplied in Casinos, Horse racing and Online gaming be taxed at the rate of 28% on full face value, irrespective of whether the activities are a game of skill or chance. The Council had also recommended that the law may be amended to provide clarity in the matter.
- Accordingly, the GST Council in its 51st meeting recommended certain amendments in the CGST Act 2017 and IGST Act 2017, including amendment in Schedule III of CGST Act, 2017, to provide clarity on the taxation of supplies in casinos, horse racing and online gaming. The Council also recommended to insert a specific provision in IGST Act, 2017 to provide for liability to pay GST on the supply of online money gaming by a supplier located outside India to a person in India, for single registration in India for the said supplier through a simplified registration scheme and also for blocking of access by the public to any information generated, transmitted, received or hosted in any computer resource used for supply of online money gaming by such supplier in case of failure to comply with provisions of registration and payment of tax.
- The Council also recommended that valuation of supply of online gaming and actionable claims in casinos may be done based on the amount paid or payable to or deposited with the supplier, by or on behalf of the player (excluding the amount entered into games/ bets out of winnings of previous games/ bets) and not on the total value of each bet placed. The Council recommended that CGST Rules, 2017 may be amended to insert specific provisions for valuation of supply of online gaming and supply of actionable claims in casino accordingly. The Council also recommended issuance of certain notifications/ amendment in notification related to the issue.
- **[Finance Act 2023 dated 18.08.2023 made effective from 1.10.2023 vide NN 48/2023- CT dt 29.09.23]**

THANK YOU