

Agenda for

2nd GST Council Meeting

On 30th September 2016

Venue: Main Committee Room, Parliament House Annexe, New Delhi

Meeting of the GST Council on 30th September 2016

Agenda Notes

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Draft Minutes of the 1st GST Council Meeting held on 22nd and 23rd September 2016

The first meeting of the GST Council (hereinafter referred to as 'the Council') was held on 22nd and 23rd September 2016 under the Chairpersonship of the Hon'ble Union Finance Minister, Shri Arun Jaitley. The meeting was attended by the Hon'ble Union Minister of State for Revenue, Shri Santosh Kumar Gangwar, the Hon'ble Chief Minister of Puducherry, Shri V. Narayanasamy, the Hon'ble Deputy Chief Minister of Arunachal Pradesh, Shri Chowna Mein, the Hon'ble Deputy Chief Minister of Delhi, Shri Manish Sisodia and the Hon'ble Ministers from the other states. The meeting was also attended by the officials of the Centre and the States. The list of the Hon'ble Ministers who attended the meeting is at **Annexure 1**. The list of officers of the Centre and the States who attended the meeting is at **Annexure 2**.

2. In his opening remarks, the Chairperson of the Council observed that the political parties showed statesmanship in passing the historic taxation legislation in the Union Parliament and thereafter, the States also played an active role in ratifying it. He also thanked the Empowered Committee of the State Finance Ministers for playing an important role in reaching a broad consensus on GST. He observed that the Council has a very important constitutional responsibility to deal with all important issues relating to GST.

3. Five agenda points were taken up for meeting which are as follows:

- (i) Draft Rules of Procedures and Conduct of Business in Council
- (ii) Proposed timetable for the implementation of GST
- (iii) Thresholds for exemption and composition under GST
- (iv) Draft Modalities for GST Compensation and draft Compensation Law
- (v) Provisions for Cross-Empowerment to ensure Single Interface Under GST

4. Before taking up the agenda points, the Chairperson invited the Members of the Council to make general comments, if any. The following issues were highlighted –

(i) The Hon'ble Minister from Kerala expressed that given the good experience with the Empowered Committee of State Finance Ministers during the last sixteen years, the institution of Empowered Committee should continue. After some discussion, it was decided that the decision regarding the continuance or otherwise of the Empowered Committee rested with the Empowered Committee. However, the forum for discussing and deciding all issues relating to GST shall be the Council.

(ii) The Hon'ble Minister from Kerala observed that the Rules of Procedures and Conduct of Business in the Council should have a clause that decisions would be arrived at by consensus. The Chairperson observed that consensus was key to a forum where sovereignty is shared. However, we must provide for a possible scenario where voting can be resorted to in the absence of a consensus.

Discussion on Agenda Items

Agenda Item 1: Draft Rules of Procedures and Conduct of Business in Council

5. The Additional Secretary, Department of Revenue presented the Draft Rules of Procedures and Conduct of Business in the Council. After discussion, the rules were approved by the Council with the following amendments/observations –

(i) Rule 2 – In the definition clause, the word “Chairman” be substituted by the word “Chairperson” in line with the expression used in Article 279A of the Constitution (One Hundred and First Amendment Act) of India.

(ii) Rule 2 – A new clause 2(1)(iv) to be added to take care of a situation where a state is under President’s Rule. Clause (iii) only refers to Minister-in-charge of Finance or Taxation or any other Minister nominated by each State Government but there would be no Minister when a State is under President’s Rule (point raised by the Hon’ble Minister from Jammu and Kashmir). The Chairperson suggested a broad formulation, subject to legal vetting, namely that in a state where there is a proclamation under Article 356 of the Constitution of India, for the purposes of the Council, the person nominated by the Governor of the State shall exercise the power of a Minister.

(iii) Rule 3(2) – The Hon’ble Minister from West Bengal observed that the detailed agenda notes were circulated only two days before the Council meeting, which left little time for their examination in the States. He suggested that the agenda be circulated at least 10-15 days in advance. The Chairperson observed that as there was a tight time-frame for implementation of GST, a 15-day notice along with agenda notes before every meeting could derail the deadline. It was agreed that a meeting notice along with agenda points shall be sent at least 7 days prior to the date of the meeting of the Council and the agenda notes would be sent at least 3 working days prior to the date of the meeting. The timelines could be revisited once GST was implemented.

(iv) In respect to Rule 3, the desirability of holding meetings via video conferencing was suggested by the Hon’ble Minister from Tamil Nadu and discussed. Some members felt that it was an efficient way of conducting business where the agenda points might be very few whereas some others felt that chemistry of the group was important, especially during the initial stages when important issues were being discussed and this could be achieved only by a physical meeting. The Chairperson observed that the idea of video-conferencing could be explored at a later date, specifically in cases of meetings where the agenda points were few and required just a formal approval. Furthermore, the desirability of postal ballot was also discussed and it was decided that this was not required.

(v) Rule 4 – The Hon’ble Minister from Kerala observed that a rule regarding order of seating of the members was not needed. The Chairperson agreed that Rule 4 should be deleted.

(vi) Rule 5(2) – Some members observed that Rule 5(2) was too restrictive as a Minister nominated to the Council might not be able to attend a meeting due to some other pre-occupation. The Chairperson observed that the rule could be re-formulated to provide that where the originally nominated Member was unable to attend a Council meeting on account of some reason, another Minister could be

nominated to attend a particular meeting of the Council. It was further agreed to amend Rule 5(2) to provide that in the absence of the Member Minister or another nominated Minister from a State, a nominated officer could also attend and speak in the meeting of the Council. However, he would not be allowed to vote. An officer accompanying a Minister could also speak on technical matters, if required.

(vii) Rule 6 including its Heading – On the suggestion of the Hon’ble Minister from Mizoram, it was decided that the expression “Vice-Chairman” be replaced by the expression “Vice-Chairperson” in line with the expression used in Article 279A of the Constitution (One Hundred and First Amendment Act) of India.

(viii) In Rule 6, the desirability of having a provision for withdrawal of nominations for the post of Vice-Chairperson of the Council was discussed and it was decided that a provision for this may be made in rules.

(ix) In Rule 12, it was discussed whether, in respect of Rule 12(b) (to receive comments from the members on a proposal circulated by a member seeking recommendation from the Council), a time-period be prescribed for receiving comments from the States and it was decided that it is for the Chairperson to give reasonable time and decide to put up the proposal before the Council with or without receiving comments from all or any State.

(x) Rule 16 – The Hon’ble Minister from Tamil Nadu pointed out that the weightage of vote gave a veto to the Union Government. The Chairperson pointed out that this idea was first mooted in the Bhubaneswar Empowered Committee meeting in 2013 and it was now part of the Constitution. This provision compelled the Union and the States to come to a consensus. He also observed that there cannot be a situation where the Union Government gets excluded in decision-making relating to the taxation policy of the Union of India, which is not desirable. The Hon’ble Minister from Bihar observed that under the leadership of the Chairperson, a healthy convention should be developed of taking decision by consensus.

(xi) In respect of Rule 16, the Hon’ble Ministers from Tamil Nadu and Uttar Pradesh suggested that there should be different weightage of votes for States within the two-third weightage of votes given to the States. The Hon’ble Minister from Tamil Nadu stated that States with a population of 20 crores and 1 crore should not be treated equally in terms of votes. It was pointed out that such an approach was followed for Rajya Sabha membership. Some criteria like population, GDP, revenue collected or Lok Sabha representation could be adopted to assign weighted votes to each State. The Hon’ble Minister from UP also endorsed this suggestion. This suggestion was objected to by several States. The Hon’ble Minister from Meghalaya stated that no inequality should be created between the States. The Hon’ble Minister from Assam also strongly opposed this suggestion and observed that each State played an important role in the Union and that a small State like Arunachal Pradesh contributed to ensuring the security of India. The Hon’ble Chief Minister of Puducherry too objected to this proposal. Most of the other States also supported the stand that all States should have an equal vote. The Chairperson pointed out that this issue was deliberated upon by the Select Committee of the Rajya Sabha while examining the One Hundred and Twenty Second Constitutional Amendment Bill and they had recommended equal

vote for all States. It was therefore decided that all States shall have equal vote within the two-third share.

Agenda Item 2: Proposed timetable for the implementation of GST

6. The Secretary to the Council briefed the Members of the Council regarding the proposed timetable for completing various steps in order to implement GST by 1st April 2017. He stated that the Draft IGST, CGST and SGST Laws and Rules, GST Rate Structure and Exemption Lists would have to be recommended by the Council by 22nd November 2016. By December 2016, the CGST and IGST Acts would need to be passed by the Parliament and the SGST Acts by the respective State Legislatures in the Winter Session of 2016. For this purpose, if need be, the Winter Sessions would have to be advanced to December 2016. On the setting up of the Information Technology (IT) Framework, he informed that the target dates for development of backend IT systems of banks, RBI and Central and State accounting authorities was November 2016 and that of CBEC and 9 States who were developing their own backend IT systems was December 2016. The target date for the development of frontend IT modules on the common GST portal and the backend IT systems of 22 States and Union Territories by the Goods and Services Tax Network (GSTN) was January 2017. Testing and integration of GST frontend and backend IT systems of all stakeholders by GSTN was to be done by February-March 2017. He further mentioned that 5-day training courses on the GST Law of all Central and State tax officials being conducted by the National Academy of Customs, Excise and Narcotics (NACEN) and the concerned State authorities was to be completed by December 2016. He also mentioned that sensitization of the trade, industry and consumers was to be carried out by March 2017.

7. The Hon'ble Chief Minister of Puducherry and the Hon'ble Minister from Uttar Pradesh stated that they were ready to implement GST by April 2017. The Hon'ble Minister from Kerala stated that they were ready with the IT systems but they would be in a position to pass the legislation only by February 2017. The Hon'ble Minister from Jammu and Kashmir stated that they would be able to pass the law only by January 2017. The Chairperson observed that the States that were going for elections would need to make a special provision for passing their SGST Legislation. He also advised the States to meet the deadline and for this, where needed, a one-day special session of the legislature could be convened. The Hon'ble Minister from Tamil Nadu suggested that implementation of GST should be by 1st September 2017 as it was a challenging task and the officers needed to be deployed properly. He also mentioned that inadequate preparations could harm the taxation system.

8. After discussion, it was agreed that the implementation date for GST would be 1st April 2017. The Chairperson observed that between 22nd September 2016 and 22nd November 2016, a lot of work was required to be done and that officers of the State Governments should be spared for the work relating to GST. The Hon'ble Deputy Chief Minister of Arunachal Pradesh pointed to some special difficulties in respect of his State like lack of multiple telecom service providers, loss of large amounts of revenue due to subsuming of entry tax, etc. The Chairperson directed that the officials of the Department of Revenue should call a separate meeting of officials of Arunachal Pradesh to look into their specific difficulties.

Agenda Item 3: Thresholds for exemption and composition under GST

9. A presentation was made by Shri Manish K. Sinha, Commissioner, Central Excise, CBEC in which it was suggested that in the GST regime, the threshold limit for a taxpayer to get registered should be Rs. 25 lakhs for all States other than the eleven Special Category States mentioned in Article 279A of the Constitution. The Composition threshold was suggested to be Rs. 50 lakhs. It was also suggested that Service providers should be kept out of the Composition scheme.

EXEMPTION THRESHOLD

10. The Secretary to the Council explained that by raising the exemption limit to Rs.25 lakhs, 60% of taxpayers would be out of the tax net but the loss of revenue would only be 2%. The Hon'ble Chief Minister of Puducherry stated that an exemption limit of Rs. 25 lakhs for his Union Territory would mean that 12% of traders would go out of the tax net and would result in substantial revenue loss. He suggested that for the small states, the threshold for exemption should be Rs. 10 lakhs. The Hon'ble Deputy Chief Minister of Delhi stated that the exemption limit of Rs. 10 lakhs was too low and that they had a good experience after increasing the threshold limit to Rs. 20 lakhs. The Hon'ble Minister from Kerala observed that the potential revenue loss by increasing the threshold was low but it would keep a large number of traders out of the tax net, which would help administrative efficiency. The Hon'ble Minister from Jammu and Kashmir also supported the threshold of Rs. 25 lakhs and stated that this would help in moving away from the control era. The States of Haryana, Chattisgarh, Gujarat, Jharkhand, Madhya Pradesh, Maharashtra, Odisha, Rajasthan and West Bengal also supported the threshold exemption of Rs. 25 lakhs.

11. The Hon'ble Minister from Uttar Pradesh observed that increasing the threshold to Rs. 25 lakhs would mean that 4 lakhs of their registered tax payers would go out of the tax net who accounted for 7% of their revenue. He supported a threshold of Rs. 10 lakhs. The Hon'ble Ministers from Punjab, Telangana, Goa and Bihar also supported a threshold of Rs. 10 lakhs.

12. As regards the Special Category States, the Hon'ble Minister from Meghalaya informed that their present threshold was only Rs. 1 lakh and therefore, exemption for Special Category States should be Rs. 5 lakhs. The Hon'ble Minister from Mizoram also supported a threshold limit of Rs. 5 lakhs. The Hon'ble Minister from Assam supported a threshold of Rs. 10 lakhs.

13. Given the difference in opinions, the issue was deferred for reconsideration to the next day. In the meeting of 23rd September 2016, after further discussion, it was agreed that the threshold exemption shall be Rs. 20 lakhs. The Chairperson also observed that taking note of the concerns expressed by the Hon'ble Chief Minister of Puducherry, this decision would be reviewed after 5 years (during which compensation for any loss of revenue is guaranteed) and a decision regarding any modification to the exemption threshold would be taken thereafter.

14. As regards the Special Category States enumerated in Article 279A of the Constitution, it was decided that the threshold exemption shall be Rs. 10 lakhs.

COMPOSITION (OR COMPOUNDING) THRESHOLD

15. The Secretary in his introductory remarks stated that at present, the Composition scheme was only for trading entities. Most State administrations did not allow Composition for manufacturers. The Union Government also did not allow Composition for service providers.

16. After discussion, it was decided that the Composition threshold shall be Rs. 50 lakhs. It was also decided that manufacturers and service providers shall be kept out of the Composition scheme as the value addition in these segments was quite high.

Agenda Item 4: Modalities for GST Compensation and draft Compensation Law

17. Shri Udai Singh Kumawat, Joint Secretary, Revenue [hereafter referred to as J.S. (Rev)] made a presentation on this agenda point. In his presentation, he highlighted that in order to compensate the States for any loss of revenue due to implementation of GST, the revenue collected by the State in the base year needed to be projected at a specified growth rate with respect to a base year. There were thus two components which needed to be arrived at, to calculate the compensation, viz –

(i) a base year and

(ii) the projected growth rate.

18. In the presentation, it was further explained that it would be desirable to take 2015-16 as the base year for making growth projection of Revenue and projected growth rate might be taken as average growth rate of revenue collection in the preceding 3 financial years ending 31st March, 2016, 31st March, 2015 and 31st March, 2014 over the previous year. It was also explained that the projected growth rate shall be calculated on the basis of the figures of revenue collected as audited by the Comptroller and Auditor General of India.

19. The Hon'ble Deputy Chief Minister of Delhi desired to know as to why the year of 2016-17 could not be taken as the base year. It was explained by J.S. (Rev), that the audited figures of the year would become available much later and hence, it might be difficult for States to calculate their budgetary estimates for 2017-18. The Hon'ble Minister from Jammu and Kashmir suggested that the term 'revenue' should be defined. He also expressed the view that the base year should be taken as a normal year, that is, a year in which revenue was collected normally. He gave the example of unprecedented floods in Jammu and Kashmir in the year 2015-16 that led to reduced revenue collection. In relation to release of the compensation, he expressed the view that annual release of compensation based on the CAG's audited figure would put states to difficulty in their cash management. He suggested having a mechanism of drawing advances against prospective compensation which could be reconciled later. This would ensure that the Ways and Means Advances are well managed in the States. He was also of the view that the suggested model was too simplistic and did not take into consideration many of the variables such as inflation.

20. The Hon'ble Minister for Uttar Pradesh desired to know whether the compensation formula would take into account the impact on revenue of the tax holidays provided by the States. The Hon'ble

Minister from Telangana explained that his was a new State and therefore only figures for the year 2016-17 would be available. The Hon'ble Minister from Gujarat expressed the view that the base year should be the best 3 years' average of the last 10 years. The Hon'ble Minister from Kerala was not in agreement with the method of ascertaining the projected growth rate of revenue. He also expressed the view that it should be taken as the best 3 years of the last 10 years. He further pointed out that during VAT compensation; the best 3 of the last 5 years were taken into account to ascertain the growth rate. He also supported the view that the compensation needed to be paid regularly by making a provision for ways and means accommodation in the law.

21. The Hon'ble Minister from Madhya Pradesh reminded that during the implementation of VAT, going backwards by 5 years, the average of 3 best years was taken as the growth rate of the State. The same methodology should be used for GST compensation also. The Hon'ble Minister from Rajasthan was of the view that as the compensation was for 5 years, the average growth rate of 5 years or the best 5 years should be taken to ascertain the growth rate.

22. The Hon'ble Minister from Punjab also supported the VAT formula, i.e. average of the best 3 out of the last 5 years to ascertain the growth rate. He pointed out the difficulty in using the figures of revenue audited by the CAG as CAG did not audit several taxes such as surcharges and cesses which were not accounted in the State Consolidated Fund. 11% of their VAT was directly transferred to local bodies after Octroi was abolished. He also desired to know as to what constituted 'revenue' which would be compensated and whether it included all the taxes and cesses collected by the States whether or not going through the consolidated fund of the States. His view was that all taxes which were subsumed should be compensated and there should be no condition of all revenue being audited by the CAG. He also suggested that the payment should be made on a monthly basis. The Hon'ble Minister from Odisha suggested that the best of 5 years be taken to ascertain growth rate and compensation payment be made monthly and adjusted at the end of the year on the basis of CAG-audited figures and also that the base year could be 2015-16.

23. The Hon'ble Minister from Tamil Nadu expressed that compensation be given for all revenue which was getting subsumed in GST. As for ascertaining rate of growth, the best of 3 years out of the preceding 6 years be taken into consideration to account for the floods in Tamil Nadu. He was also of the view that the States should assess their revenue loss by December and convey to the Centre and compensation should be paid on that basis. The projected growth rate should take into account all taxes subsumed under GST. He observed that more detailing was required in the Rule. He also requested for payment of outstanding CST compensation amount.

24. The Hon'ble Minister from Bihar suggested that the formula of compensation used during VAT transition should be used as it was a trusted methodology. He also expressed the view that more clarity was needed on how and when the compensation would be paid. The Hon'ble Minister from Andhra Pradesh supported the view that VAT compensation methodology may be used for paying GST compensation.

25. An officer representing Maharashtra brought to the notice of the Council that Maharashtra had suffered drought during the last 3 years and therefore, for States with such special circumstances, 5 years period should be taken to ascertain the projected rate of growth of revenue. He also submitted that the Octroi collected by local bodies should be compensated under the compensation mechanism.

26. The Hon'ble Minister from Assam brought to the notice of the Council that last year was an election year in Assam and the then Government did not make much effort to garner revenue and therefore, in the case of Assam, the current year should be taken as the base year and that the VAT formula could be adopted for compensation.

27. The Hon'ble Deputy Chief Minister of Arunachal Pradesh stated that their revenue was growing every year and therefore current year should be taken as the base year and for projecting growth, the preceding 3 years should be taken into consideration.

28. The Hon'ble Chief Minister of Puducherry suggested that year 2015-16 should be taken as the base year and formula as used during VAT transition should be used to calculate compensation. He also brought to the notice of the Council that the definition in Article 366(26B) of State to include a Union Territory with Legislature is not mentioned in Clause 18 of the Constitution (One Hundred and First Amendment) Act, 2016 dealing with compensation and therefore, it was not clear as to how they would be compensated. The Chairperson clarified that they would get compensation directly from the Union Government. It was also decided after due deliberation with the approval of the Chairperson that the definition of State in the law relating to Compensation shall include a Union Territory with Legislature.

29. The Hon'ble Minister from West Bengal expressed the view that the base year should be 2015-16 and projection of tax should be based on best 3 years out of last 5 years if 2016-17 is not counted and 6 years if 2016-17 is counted. The periodicity of compensation payment should be bi-monthly or quarterly so that ways and means should not be adversely affected. He also suggested that the methodology for release of compensation should be automatic and IT-driven within a given time period. He added that for compensation, CST at the rate of 4% should also be factored in and that the pending CST compensation be paid forthwith. He also suggested some independent mechanisms for the flow of the compensation amount.

30. The Hon'ble Minister from Andhra Pradesh supported the use of VAT methodology and suggested that payments be made periodically preferably along with the devolution amount. He also desired that the CST compensation be released forthwith. The Hon'ble Minister of Chattisgarh while supporting the idea of using VAT methodology for payment of compensation, desired to know the impact of petroleum items which were outside GST on the calculation of the growth rate. He also suggested that 2016-17 be taken as the base year.

31. The Hon'ble Minister from Haryana brought to the notice of the Council that they had problems similar to that of Punjab as they also had a lot of agricultural produce in the State. The Hon'ble Minister from Telangana brought to the notice of the Council that Telangana would stand to lose Rs 700 crores of R.D.Cess (Rural Development Cess) and should be compensated. He also desired that full CST compensation be paid and details of methodology for working out CST compensation be spelt out. He

suggested that the compensation should be given at least quarterly and there should be accommodation for Ways and Means Advances.

32. The Hon'ble Minister from Odisha desired to know as to when the compensation for years beyond 2013-14 would be released. He suggested that compensation should be paid on a monthly basis. Karnataka was represented by an official and he expressed the view that for payment of compensation, a Fund should be created under the Council as was suggested by the Parliamentary Committee and the Finance Commission. He added that the base year may be taken as 2015-16 and the growth rate of 2016-17 should apply for calculating compensation thrice, i.e. to also calculate compensation for 2017-18. The Hon'ble Minister from Mizoram expressed the view that the methodology of devolution as prescribed in the 14th Finance Commission may be used as the guiding principle for payment of compensation. He expressed that devolution amount to States prior to implementation of GST should be protected.

33. The Chairperson invited the Chief Economic Advisor to share his views on the methodology of compensation. He expressed that any calculation based on the best 3 of the previous 5 years would lead to a situation where going forward, the nominal GDP growth would be substantially lower as compared to revenue growth during the last 3 or 5 years and this would create challenges. He further added that inflation was likely to be below 4% compared to past rates of inflation of 9-10%. He also shared results of his calculation of rate of growth of revenue for the whole country and this came to 12.3%. The Hon'ble Ministers from Jammu and Kashmir and Assam noted that if the revenue of Centre fell, the amount devolved to the States would also fall. The Hon'ble Minister from Tamil Nadu informed that implementation of GST had been projected to lead to higher GDP growth for his State and that revenue growth rate had been higher than the GDP growth rate.

34. The Hon'ble Minister from West Bengal expressed the view that it was undesirable to undertake any calculation which was highly econometric based, taking multiple variables such as price elasticity and using techniques like regression analysis. Instead, effort should be to arrive at a ballpark figure and go by the earlier VAT formula of considering the revenue growth of the preceding 6 years including the base year and taking the 3 best growth rates out of that. The Hon'ble Minister from Uttar Pradesh supported this suggestion.

35. It was pointed out by the Hon'ble Minister from Assam that the VAT formula could not be completely replicated because States had got a better deal for compensation under the GST as compared to VAT. During the introduction of VAT, there was no provision of 100% compensation for 5 years. While it was agreed then for best 3 out of 5 years' growth rate, it was linked to diminishing amount of compensation for 3 years, namely 100% for year one, 75% for year two and 50% for year three. Therefore, it might be inappropriate to adopt only part of the formula.

36. The J.S. (Rev) clarified that compensation would include all taxes such as CST, Octroi, Purchase Tax, etc which are levied by the State Governments and now proposed to be subsumed in GST including cesses, if any, imposed by the States. The frequency of release could be decided by the Council and could be an interim figure. There was considerable discussion in the Council on various other methods

of calculating the compensation figure such as trends of Nominal GDP growth rate, application of buoyancy factor, variation in the GDP estimates, taking tax/GDP ratio as a factor, removing outliers from growth data of 5 years and the need to keep calculations reliable but simple.

37. The Chairperson, after getting the sense of the house summed up the following points relating to payment of compensation and placed before the Council for decision, namely –

- (i) 2015-16 shall be taken as the base year for compensation
- (ii) Revenue to be compensated shall consist of all taxes levied by the States and which are now proposed to be subsumed in GST
- (iii) Compensation may be released quarterly against the figures given by the Central Accounting authority tentatively and final adjustment can be done after getting audited accounts of the year

After further discussions, the Council unanimously agreed and approved the above three proposals.

38. The fourth issue on the subject of compensation namely projecting the rate of growth of revenue remained unresolved, the Chairperson noted that there were different possible approaches to the issue. One such approach could be to adopt a secular, common projected growth rate like 12% for the country. He observed that the advantage of the last methodology would be that special factors affecting revenue collection of a state like Jammu and Kashmir would be addressed. The Hon'ble Minister from Kerala opposed the last methodology but was agreeable to the suggestion of considering the best 3 growth rates out of the 5 years preceding the base year and excluding the two outliers. The Hon'ble Minister from Tamil Nadu did not favour this proposal. The Hon'ble Minister from West Bengal observed that the general consensus was to go for 6 years and take the best growth rate of 3 years out of them. The Hon'ble Ministers of Assam, Uttar Pradesh and Haryana supported the idea of a secular growth rate and Uttar Pradesh suggested that the secular growth rate be pegged at 14%. The Hon'ble Minister from Tamil Nadu stated that projection of a secular growth rate could punish states whose tax administration collected taxes more efficiently. The Chairperson observed that this issue may continue to be discussed at official level and then, the issue could be brought back to the Council for a decision.

Agenda Item 5: Provisions for Cross-Empowerment to ensure Single Interface under GST

39. The Secretary, in his opening remarks, stated that in the GST regime, it was important to use the expertise of officers of both the Union and State Governments efficiently in order to help increase the taxpayer base and to reinforce the functioning of each other. With this in mind, the Union Government proposed a cross-empowerment model under which officers of the Union Government and the State Government shall be empowered to undertake the functions like Audit, Scrutiny, etc. on behalf of both the administrations. With such a model, there would not be a need to have any vertical threshold of a particular turnover to divide the roles of the State and the Centre.

40. After these introductory remarks, Shri Vivek Johri, Principal Commissioner, Customs, CBEC made a presentation outlining the broad features of the proposed cross-empowerment model. This model essentially provided for a protocol on the basis of which scrutiny of returns of taxpayers and their audit would take place. It was proposed that an overall cap might be agreed upon on the number of interventions (of scrutiny of returns and audit) to be done by the Central and State authorities taken together. Within this cap, on an annual basis, the list of taxpayers to be subjected to detailed scrutiny of returns and audit would be drawn by the Union and State Government officers in each State on the basis of certain risk parameters. Based on these lists, allocation of taxpayers to the Central and State tax administrations would be done on the basis of certain predefined criteria. The consequential actions like raising demand, adjudication, appeal, etc. shall be done by the administration that conducted scrutiny of returns/audit and it would cover both the CGST and the SGST. For enforcement action, the tax administration that initiated the action first would be responsible for taking further consequential action.

41. The Chairman, CBEC expressed that concurrency of power for the Union and State Governments was essential for GST to function. In view of this, there was no need for a threshold. Each administration should trust the other and the suggested protocol should apply across the supply chain. This would help the taxpayers to have a good experience of both the tax administrations.

42. The Secretary to the Council gave certain factual details to understand the implications of subjecting taxpayers below turnover of Rs. 1.5 crores to the exclusive jurisdiction of States. He informed that currently there were 67 lakh active dealers, Service Tax had 11.5 lakh active registrants and Central Excise had 4 lakh assesseees. Out of the above, 85% of VAT dealers and 92% of Service Tax registrants had a turnover of less than Rs. 1.5 crores. Therefore, if all taxpayers below the turnover threshold of Rs. 1.5 crore were to be administered by State tax authorities, then States would end up administering a disproportionately large number of taxpayers whereas the effort should be to work on a model which would help to optimally utilize the well-trained officers of both the Centre and the States to get the best results.

43. The Hon'ble Deputy Chief Minister of Delhi stated that no policy should be made to accommodate excess officers of a particular administration. He suggested that the Central Government officers could be deputed to the States. He also pointed out that often, the jurisdiction of the Central tax authorities was not co-terminus with the boundaries of a State. He emphasized that in the GST regime, the

jurisdiction of the Central tax authorities in a State should be co-terminus with that of the States. The Hon'ble Minister from Tamil Nadu also emphasized the need for structural alignment of the two tax administrations. The Hon'ble Minister from Haryana suggested that there should be cross-deputation of officers from the Centre and States to each other's administrations. The Hon'ble Minister from Tamil Nadu suggested that if the new arrangement led to excess officers of the Central Government, they could be deployed in the Customs formation which was presently understaffed. He supported the proposed protocol for taxpayers above the threshold of Rs. 1.5 crores but suggested that administration of taxpayers below Rs.1.5 crores should rest with the States.

44. The Hon'ble Chief Minister of Puducherry stated that there was a need to move away from 'Inspector Raj' and the consensus arrived earlier in the Kolkata meeting of the Empowered Committee in July 2016 needed to be respected. The Hon'ble Minister from Uttar Pradesh stated that as 91% of revenue came from taxpayers with a turnover of more than Rs. 1.5 crores, it was advisable that the Central tax authorities focused on the big taxpayers and the small taxpayers should be left to the administration of the State tax authorities.

45. The Hon'ble Minister from Kerala observed that the proposal being discussed in this meeting had never come up for discussion earlier. He stated that the protocol appeared unworkable and very complicated. It was not clear how the CGST administration would draw the priority list. He also observed that changing the tax jurisdiction of dealers every two years was inefficient. He also suggested that Central Government staff should be deputed to work in States.

46. The Hon'ble Minister from West Bengal stated that the Empowered Committee had earlier unanimously agreed that taxpayers below the threshold of Rs. 1.5 crores would not face dual administration and that this needed to be respected. The State administration dealt with traders and this position should continue in GST. He observed that the Centre's proposal of cross-empowerment was too complex but agreed that the Centre's model could be applied for the taxpayers with a turnover above Rs. 1.5 crores.

47. The Chairperson observed that in the Goods sector, as the Central and State tax administrations were administering the same law, it would be desirable to deploy the experienced staff of the Centre and States to add to the efficiency of the system and use the available 60,000 personnel optimally on the basis of the proposed protocol without having a threshold limit. In the alternative, he observed that there could be a clean break where taxpayers below Rs. 1.5 crores were administered by the States and those above Rs. 1.5 crores were administered by the Centre. The States, however, were not agreeable to this proposal on the ground that above Rs. 1.5 crores, duality of control already existed as they were assessed to tax both under Central Excise and VAT. He also observed that Service Tax was a new area for States and in order to maintain stability of tax administration, it would be better that for now, the Central tax administration should continue to administer all existing Service Tax registrants. The Centre shall give training to the officers of the State Governments on Service Tax and till such time, the present arrangement shall continue. After discussion, the Council took the following decisions which shall be reviewed after three years:

- i. Traders/manufacturers of goods with a turnover of less than Rs. 1.5 crores shall be under the jurisdiction of the State administration.
- ii. The traders/manufacturers of goods with a turnover above Rs. 1.5 crores shall be administered by both the Central and State tax administrations on the basis of the cross empowerment model presented in the meeting which can be suitably modified by a Committee of Central and State Government officials.
- iii. All existing registered service providers irrespective of the value of turnover, for the present, shall continue to be administered by the Central tax administration.
- iv. States will also get jurisdiction along with the Centre over those service providers who get registered under GST in future and a protocol in this regard could be devised. Specific arrangements for the training of State Government officers in assessment of Service Tax assesseees be made.
- v. The percentage of audit in all cases would be restricted to 5% of total assesseees.
- vi. Information-based enforcement powers can be exercised by the Central Government or State Government in all cases irrespective of division.

48. In his concluding remarks, the Chairperson stated that the next meeting would be held on 30th September 2016 and expressed his happiness at the progress made in this meeting. The Secretary to the Council stated that the issues to be taken up at the next meeting would be the rate structure and the tax exemption schemes of the Centre and the States. The Chairperson also mentioned that the subsequent meeting of the Council would be held from 17th to 19th October 2016 in New Delhi, in which the discussion about rate structure for GST would be undertaken.

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

Annexure 1 (List of the Hon'ble Ministers from the States)

Sl.No.	State/Union Territory	Minister Present	Designation
1	Andhra Pradesh	Shri Yanamala Ramakrishnudu	Minister of Finance and Planning, Commercial taxes and Legislative Affairs
2	Arunachal Pradesh	Shri Chowna Mein,	Deputy Chief Minister
3	Assam	Himanta Biswa Sarma	Minister of Finance
4	Bihar	Shri Brijendra Prasad Yadav	Minister for Commercial Taxes
5	Chhattisgarh	Shri Amar Agrawal	Minister of Commercial Taxes
6	National Capital Territory of Delhi	Shri Manish Sisodia	Deputy Chief Minister and Minister for Finance
7	Goa	Shri Dilip Parulekar	Minister for Tourism, Women and Child Development
8	Gujarat	Shri Rohit Patel	Minister of State for Finance
9	Haryana	Captain Abhimanyu Singh	Minister for Excise and Taxation
10	Himachal Pradesh	Prakash Chaudhary	Minister for Excise and Taxation
11	Jammu and Kashmir	Dr Haseeb A Drabu	Minister for Finance
12	Jharkhand	Shri C.P. Singh	Minister for Urban Development, Housing, Registration and Transport
13	Kerala	Dr. T M. Thomas Isaac	Minister for Finance
14	Madhya Pradesh	Shri Jayant Malaiya	Minister for Finance and Commercial Tax
15	Maharashtra	Shri Sudhir Mungantiwar	Minister for Finance
16	Meghalaya	Shri Zenith M.Sangama	Minister of Taxation
17	Mizoram	Shri Lalsawta	Minister of Finance and Taxation
18	Odisha	Shri Pradeep Kumar Amat	Minister of Finance and Taxation
19	Puducherry	Shri V Narayanasamy	Chief Minister and Minister for Finance
20	Punjab	Shri Parminder Singh	Minister for Finance
21	Rajasthan	Shri Rajpal Singh Shekhawat	Minister for Local Self Government, Urban Development and Housing
22	Tamil Nadu	Shri K.Pandiarajan	Minister for School Education & Sports and Youth Welfare
23	Telangana	Shri Etela Rajendar	Minister for Finance
24	Uttar Pradesh	Shri Abhishek Mishra	Minister for Vocational Education and Skill Development
25	Uttarakhand	Dr Indira Hirdesh	Minister of Finance
26	West Bengal	Shri Amit Mitra	Minister for Finance and Excise

Annexure 2 (List of officers from the Centre and States)

Sl.No	Centre/State/Union Territory	Officer Present	Designation/ Department
1	Centre	Shri Hasmukh Adhia	Secretary(Revenue) and Secretary to the GST Council
2	Centre	Shri Arvind Subramanian	Chief Economic Advisor
3	Centre	Shri Najib Shah	Chairman(CBEC)
4	Centre	Shri Ram Tirath	Member(GST), CBEC
5	Centre	Shri B.N.Sharma	Additional Secretary(Revenue)
6	Centre	Shri Udai Singh Kumawat	Joint Secretary(Revenue)
7	Centre	Shri Vivek Johri	Principal Commissioner, CBEC
8	Centre	Shri Shashank Priya	Commissioner, GST Council Secretariat
9	Centre	Shri Manish Kumar Sinha	Commissioner, GST Council Secretariat
10	Centre	Shri Upendra Gupta	Commissioner(GST Policy Cell)
11	Centre	Ms. Aarti Saxena	Deputy Secretary (Revenue)
12	Centre	Ms Himani Bhayana	Joint Commissioner, GST Council secretariat
13	Centre	Shri Santosh Kumar Mishra	OSD, GST Council Secretariat
14	Centre	Shri Rohan	OSD, GST Council Secretariat
15	Andhra Pradesh	Shri J.S. Rao	Commissioner, Commercial Tax
16	Arunachal Pradesh	Dr.B.M. Mishra	Secretary(Taxation and Excise)
17	Assam	Shri Anurag Goel Shri Ravi Kota	Commissioner, Commercial Tax Commissioner and Secretary Finance
18	Bihar	Ms. Sujata Chaturvedi Shri Arun Kr. Mishra	Commissioner and Principal Secretary, Commercial Tax
19	Chhattisgarh	Shri Amit Agrawal	Finance and Commercial Tax
20	Chandigarh	Shri D.P.Reddy	ACS(Finance)
21	Goa	Shri Dipak Banderkar	Commissioner, Commercial Tax
22	Gujarat	Ms. Mona Khandhar Shri P.D.Vaghela Shri Anil Mukim Shri R.P.Raval	Secretary(EA), FD Commissioner Commercial Tax ACS(FD)
23	Haryana	Shri Hanuman Singh Shri Sanjeev Kaushal	Additional Excise and Taxation Commissioner ACS(ET)

		Shri Shyamal Misra	Excise and Taxation Commissioner
24	Himachal Pradesh	Shri Pushpendra Rajput	Excise and Taxation Commissioner
25	Jammu and Kashmir	Shri Navin K. Chaudhary	Finance, Secretary
		Shri Parvez I Khatees	Commissioner, Commercial Tax
26	Karnataka	Shri Ritvik Pandey	Commissioner. Commercial Tax
27	Kerala	Shri Rajan Khobragade	Commissioner Commercial Tax
		Shri Shaikh Hassan Khan	Finance
28	Madhya Pradesh	Shri Raghwendra Kumar Singh Shri Manoj Kumar Srivastava	Commercial Tax Principal Secretary, Commercial Tax
29	Maharashtra	Shri Rajiv Jalota	Commissioner, Commercial Tax
30	Manipur	Shri Shailesh Kr Chourasia	Commissioner, Tax
31	Meghalaya	Shri Abhishek Bhagotia Shri L.Khmgsit	Commercial Tax
32	Mizoram	Ms L.N.Tochwawng	Finance Commissioner and Secretary(Tax)
33	Nagaland	Shri Asangba Chuka Ao	Commercial Tax
34	Odisha	Shri Tuhin K.Pandey	Principal Secretary, Finance Department
35	Puducherry	Dr V.Candavelou Shri G.Srinivas	Secretary(Finance) Commissioner, Commercial Tax
36	Punjab	Shri Rajat Agarwal	Excise and Taxation Commissioner
		Shri Supreet Singh	Additional Excise and Taxation Commissioner
37	Rajasthan	Shri Praveen Gupta	Secretary, Finance
38	Sikkim	Shri Manoj Rai	Joint Commissioner, Commercial Tax
39	Tamil Nadu	Shri C Chandramouli	ACS/Commissioner Commercial Tax
40	Telangana	Shri Ajay Misra Shri V.Anil Kumar Shri Laxmi Narayan .J	Special Secretary, Revenue Commissioner Joint Commissioner(Policy)
41	Tripura	Shri Debapriya Bardhan	Commissioner of Taxes
42	Uttar Pradesh	Shri Mukesh Kumar Meshram	Commissioner, Commercial Tax

		Shri Vivek Kumar Shri S.C. Amir	Additional Commissioner, Commercial Tax OSD, UP Government
43	Uttarakhand	Shri Piyush Kumar	Additional Commissioner, Commercial Tax
45	West Bengal	Smt Smaraki Mahapatra Shri H.K.Dwivedi Shri Khalid Aizaz Anwar	Commissioner, Commercial Tax Principal Secretary, Finance Sr. Joint Commissioner

Draft Rules of Procedures and Conduct Of Business in GST Council

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CHAPTER I SHORT TITLE AND DEFINITIONS

<p>1. These rules may be called the ‘Rules of Procedure and Conduct of Business in the Goods and Services Tax (GST) Council’.</p>	<p>Short title</p>
<p>2. (1) In these rules, unless the context otherwise requires,-</p> <p>“Constitution” means the Constitution of India;</p> <p>“Council” means the Goods and Services Tax Council constituted under article 279A of the Constitution;</p> <p>“Chairman” means the Union Finance Minister;</p> <p>“Member” means a member of the GST Council, and shall include the following:</p> <ul style="list-style-type: none"> (i) The Union Finance Minister, (ii) The Union Minister of State in charge of Revenue or Finance, (iii) The Minister in-charge of Finance or Taxation or any other Minister nominated by each State Government or, (iv) Any person nominated by the Governor of the State where there is a proclamation of emergency under Article 356 of the Constitution of India; <p>“Member in charge of the proposal” means the member who has introduced the proposal seeking recommendation of the GST Council;</p> <p>“Recommendation” means a recommendation of the GST Council;</p> <p>“Secretariat” means the GST Council Secretariat.</p> <p>(2) Words and expressions used in the Constitution and also in these rules shall, unless the context otherwise requires, have the meanings assigned to them in the Constitution.</p>	<p>Definitions</p>

CHAPTER II

MEETINGS OF THE GST COUNCIL

<p>3. (1) With the approval of the Chairman, the Secretary shall issue a notice to each member specifying the date and place for a meeting of the Council.</p> <p>(2) (a) The notice of the meeting shall be sent at least seven days prior to the date of the meeting of the GST Council,</p> <p style="color: red;">(b) Agenda notes to the meeting under notice shall be sent at least three days prior to the date of the meeting;</p> <p>Provided that, with the approval of the Chairman, an emergency meeting of the GST Council can be convened by the Secretary at a notice of two days.</p>	Meeting Notice
<p>4. The members shall sit in such order as the Chairman may determine.</p>	
<p>4. (1) There shall be a Roll of Members of the Council by every member, before taking his seat.</p> <p style="color: red;">(2) No member shall be permitted to authorize a representative to attend the meetings of the Council on her/his behalf. Further, no official of a State Government shall be permitted to attend a meeting of the Council, unless the authorized member from the respective State is attending the said meeting.</p> <p style="color: red;">(2) Where a nominated Member from a State is unable to attend a particular meeting, another Minister may be nominated to attend that particular meeting of the Council.</p> <p style="color: red;">(3) Where from any State no minister is able to attend a meeting, an officer may be nominated to attend the meeting provided that such office shall not vote on any proposal in the Council.</p>	Roll of Members
<p>5. A meeting of the Council is duly constituted when it is presided over by the Chairman with at least one-half of the members of the Council being present.</p>	Duly constituted meeting

6. The GST Council shall meet at least once in every quarter of the financial year.	Frequency of meeting
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CHAPTER III

SELECTION OF VICE-CHAIRMANPERSON

<p>7. (1) The Secretary shall seek nominations from the members for the post of Vice-ChairmanPERSON, as per Form – I. The nominations shall be sought as soon as the GST Council is constituted in the first instance. Thereafter, the nominations for the post of Vice-ChairmanPERSON shall be called in any of the following cases:</p> <p style="padding-left: 40px;">(a) Three months before the expiration of tenure of the serving Vice-ChairmanPERSON, or</p> <p style="padding-left: 40px;">(b) In case of vacancy of the post of Vice-ChairmanPERSON arising out of any reason other than expiration of term of serving Vice-ChairmanPERSON, the Secretary shall seek nominations as soon as such vacancy arises or is likely to arise.</p> <p>(2) The Vice-ChairmanPERSON shall hold office for a period of two years or till the time s/he remains member of the GST Council or on resignation as Vice-ChairmanPERSON, whichever is earlier.</p> <p>(3) The election of the Vice-ChairmanPERSON shall be held on such date as the ChairmanPERSON may fix.</p> <p>(4) The meeting notice for the GST Council in which the election of Vice-ChairmanPERSON is proposed to be held shall specifically mention the same in the agenda.</p> <p>(5) At any time before noon on the day preceding the date so fixed, any member may nominate another member as the Vice-ChairmanPERSON of the GST Council, and the nomination shall be accompanied by a statement by the member whose name is nominated that the said member is willing to serve as Vice-ChairmanPERSON, if elected:</p> <p style="padding-left: 40px;">Provided that a member can also nominate one's own self. In</p>	<p>Nomination(s) for Vice-ChairmanPERSON</p>
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<p>case a member is nominating one's own self, there would be no requirement for another member to second the proposal.</p> <p>(6) Any nomination filed under sub-rule (5) may be withdrawn anytime before the voting for the selection of the Vice-Chairperson.</p>	
<p>8. (1) In case of receipt of more than one nominations for the post of Vice-Chairmanmanperson, Chairmanmanperson shall read out all the nominations received in the meeting of the Council, and invite the Members of the Council as mentioned in sub clause (c) of clause (2) of article 279A of the Constitution, to cast their votes by a system of secret ballot, in the form prescribed in Form - II.</p> <p>(2) The votes shall be counted by the Secretary in the presence of the Council. The candidate who gets the maximum votes shall be declared as elected. In case of any question of validity of any vote cast, the matter shall be decided by the Chairmanmanperson.</p>	<p>Election of Vice-Chairmanmanperson, if required</p>

CHAPTER IV

PROCEDURE FOR MOVING PROPOSAL SEEKING RECOMMENDATION

<p>9. (a) Proposal seeking recommendation of the GST Council shall be given by any Member in writing addressed to the Secretary.</p> <p>(b) The proposals can be sent at any time.</p> <p>(c) All proposals should contain a background note, the specific sub-clause and article of the Constitution under which powers have been conferred on GST Council to make recommendations, justification for the proposal, and specific points on which recommendation of the Council is sought.</p>	<p>Notice for proposal seeking recommendation</p>
<p>10. In order that a proposal for seeking recommendation may be admissible it shall satisfy the following conditions, namely:-</p> <p>(i) it shall be related to one or more of the following subject matters:</p> <ul style="list-style-type: none">(a) the taxes, cesses and surcharges levied by the Union, the States and the local bodies which may be subsumed in the goods and services tax;(b) the goods and services that may be subjected to or exempted from the goods and services tax;(c) model Goods and Services Tax Laws, principles of levy, apportionment of Goods and Services Tax 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 goods and services tax;(e) the rates including floor rates with bands of goods and services tax;(f) any special rate or rates for a specified period, to raise additional resources during any natural calamity or	<p>Admissibility of proposals</p>

<p>disaster;</p> <p>(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;</p> <p>(h) any other matter relating to the goods and services tax, as already decided by the Council;</p> <p>(i) 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; and</p> <p>(j) mechanism to adjudicate any dispute –</p> <p style="padding-left: 40px;">(a) between the Government of India and one or more States; or</p> <p style="padding-left: 40px;">(b) between the Government of India and any State or States on one side and one or more other States on the other side; or</p> <p style="padding-left: 40px;">(c) between two or more States, arising out of the recommendations of the Council or implementation thereof.</p> <p>(ii) if it contains a statement the member shall make himself responsible for the accuracy of the statement.</p>	
<p>11. On receipt of proposal seeking recommendation from a member, the Secretary shall –</p> <p style="padding-left: 40px;">(a) Take approval of the Chairmanperson to circulate the proposal to each of the members,</p> <p style="padding-left: 40px;">(b) Receive comments (if any) from all the members on the proposal, and tabulate the same,</p> <p style="padding-left: 40px;">(c) Take the approval of Chairmanperson for including the proposal seeking recommendation in the agenda of GST Council meeting,</p>	<p>Circulation of proposal for recommendation to all members, and tabulation of comments received.</p>

(d) Circulate the tabulated comments received from members to all the members, before the date on which the relevant proposal is to be taken up in the GST Council for discussion.	
12. In case no decision is taken by the GST Council on a proposal before it in any particular meeting, the same proposal may be carried over for consideration before the Council in its subsequent meeting.	Proposal moved not to lapse
13. A member who has made a proposal may withdraw the same by leave of the Chairman man person .	Withdrawal of proposal

CHAPTER V

DIVISION

<p>14. All proposals before the GST Council shall be discussed threadbare. Thereafter, Chairmanmanperson shall put the question and invite the Members of the Council to cast their votes by show of hands. In case any Member seeks division on any proposal, the Chairmanmanperson shall put the proposal to vote through secret ballot.</p>	<p>Decision on proposals</p>
<p>15. (1) The ballot paper shall be drafted as per Form – III. (2) The result of the division shall be announced by the Chairmanmanperson and it shall not be challenged. (3) The Result of the division shall be based in accordance with the following principles:</p> <ul style="list-style-type: none"> a) The vote of the Central Govt. shall have a weightage of 1/3rd of the total votes cast; b) Votes of all the State Governments taken together shall have a weightage of 2/3rd of the total votes cast in that meeting. c) The proposal shall be carried if the total weighted votes of the members present and voting in favour of the proposal is equal to or greater than 3/4th. <p>Illustration:</p> <p>In terms of clause (9) of the article 279A of the Constitution, the “weighted votes of the members present and voting” in favour of a proposal in the Goods and Services Tax Council shall be determined as under: -</p> $WT = WC + WS$ <p>Wherein,</p> <p>WT = Total weighted votes of all members in favour of a proposal,</p>	<p>Division on proposals</p>

WC = Weighted vote of the Union = $\frac{1}{3}$ if the Union is in favour of the proposal, and be taken as “0” if Union is not in favour of a proposal,

And,

$$WS = \left(\frac{SF}{SP}\right) \times \left(\frac{2}{3}\right)$$

Wherein –

WS = Weighted votes of the States in favour of a proposal,

SF = Number of States voting in favour of a proposal, SP = Number of States present and voting.

The proposal shall be carried if:

$$WT \geq \frac{3}{4}$$

Numerical example:

If in a meeting 25 States are present, and 20 States and the Centre vote in favour of a proposal, WT shall be calculated as follows:

$$WT = \left(\frac{1}{3}\right) + \left[\left(\frac{20}{25}\right) \times \left(\frac{2}{3}\right)\right]$$

$$WT = \frac{13}{15}$$

Since in this case, $WT > \frac{3}{4}$, this proposal shall be carried.

(4) The Secretariat shall assist the Council in conduct of voting (if required).

CHAPTER VI
PROCEEDINGS OF THE SECRETARIAT, SECRETARIAT PAPERS AND CUSTODY
OF PAPERS

<p>16. (1) The Secretariat shall cause to be prepared a full report of the proceedings of the Council at each of its sittings and shall, as soon as practicable, publish it in such form and manner as the Council may, from time to time, direct.</p> <p>(2) The Secretariat shall maintain continuous running minutes of all the proceedings of the GST Council, and all the minutes of the GST Council shall be signed by the Chairman man person.</p> <p>(3) Minutes of previous meeting shall be put up for confirmation in the next meeting.</p> <p>(4) Video recordings shall be made of all proceedings of the Council.</p>	<p>Preparation and publication of proceedings</p>
<p>17. If a question arises whether a paper, document or report is in connection with the business of the Council or not, the question shall be referred to the Chairman man person whose decision shall be final.</p>	<p>Printing and publication of Council papers</p>
<p>18. The Secretariat shall have custody of all records, documents and papers belonging to the Council.</p>	<p>Custody of papers</p>

CHAPTER VII
MISCELLANEOUS

19. All decisions of the Chairman man person made in pursuance of these Rules shall be final, and shall not be challenged.	Decisions of the Chairmanmanperson
20. In discharge of its duties, the GST Council shall be guided by the need for a harmonized structure of goods and services tax and for the development of a harmonized national market for goods and services.	Guiding principles for decisions

Form – I

Nomination of a Member as Vice-Chairman~~man~~person of GST Council

Name and Designation of the Nominated Member:.....

State/UT:.....

Name and Designation of the Proposing Member:

State/UT:.....

Signature of the Proposing Member

Date/Place:.....


I hereby convey my willingness to function as the Vice-Chairman~~man~~person of GST Council, if chosen.

Signature of the Nominated Member

Date/Place:.....

Form – II

Ballot Paper for Electing the Vice-Chairman ~~man~~ **person of the GST Council**

Please tick  one of the following boxes:

☐

Name of Candidate 1

☐

Name of Candidate 2

☐

Name of Candidate 3 and so on

The ballot paper shall be considered invalid in the following circumstances:

- (i) If more than one boxes are ticked,
- (ii) If the tick is not put in any of the boxes,
- (iii) If the tick is put outside the box, and
- (iv) If more than one ticks are put on the ballot paper.

A valid vote appears as follows:



Form - III

Ballot Paper for Voting on Proposals for Recommendation in the GST Council

Agenda No.:

Proposal to be voted on:

Please tick  the appropriate box:

☐

In Favour of Proposal Moved

☐

Against the Proposal Moved

The ballot paper shall be considered invalid in the following circumstances:

- (i) If more than one boxes are ticked,
- (ii) If the tick is not put in any of the boxes,
- (iii) If the tick is put outside the box, and
- (iv) If more than one ticks are put on the ballot paper.

A valid vote appears as follows:



Agenda Item 2 – Draft GST Rules on Registration, Payment, Return, Refund and Invoice, Debit/Credit Notes

1. The Model GST Law has been put in the public domain since July 2016 for eliciting the comments of stakeholders. Many provisions of this law require rules for their full operationalization. These Rules will be used by the Goods and Services Tax Network (GSTN) to prepare the software for the front-end GST business processes, namely Registration, Return and Payment. Some other important rules relate to Refund and issuance of Invoices and Debit/Credit Notes. The taxpayers also need to prepare their software and business processes on the basis of these rules. In view of this, the draft of five rules relating to Registration, Return, Payment, Refund and Invoice, Debit/Credit Notes are on the agenda of the GST Council for consideration.

Draft Rules for Registration under GST

2. The draft Goods and Services Tax Registration Rules prescribe the procedural details for taxpayers to get registered under GST including registration for special class of persons, amendment in registration and cancellation of registration and revocation of cancellation of registration. There are 17 rules for registration and related procedures. The draft rules lay down detailed procedure for filing of application of registration, verification of application and approval and issuance of registration certificate. The rules prescribe in detail the method of getting registered for different categories of persons like, casual taxable person, tax deductor at source etc. Rules have also been framed for migration of existing taxpayers to GST. These rules lay down the details for implementing provisions of sections 19 to 22 of the draft Model GST Law

3. The registration rules also contain various forms related to application for registration, amendment in registration, cancellation, among others. In order to provide clarity in procedures and interface only through the Common Portal of GSTN, every possible scenario and step for registration has been attempted to be incorporated by way of a prescribed form.

Draft Rules for Payment under GST

4. Section 35 to 37 Model GST Law relate to payment of taxes, including payment from ITC under the GST Law. The draft Goods and Services Tax Payment Rules prescribe the procedures in respect of these laws. The rules prescribe electronic tax liability register, electronic cash ledger and electronic credit ledger. There are a total of 4 rules for payment of taxes and related procedures. The rules also provide for treatment of tax deducted at source and tax collected at source under sections 37 and 43C of the Model GST Law. The Rules also provide for various modes of payment like through internet banking, credit card, debit card, National Electronic Fund Transfer (NeFT), Real Time Gross Settlement (RTGS) etc.

5. The payment-related rules also contain a total of 7 forms, including those relating to Electronic Credit Ledger of taxpayer, Electronic Cash Ledger of taxpayer, Challan format, etc. Payment-related Forms attempt to provide for all situations where a taxpayer would need to interact with the tax administration through the Common Portal of GSTN.

Draft Rules for GST Return

6. Draft GST Return Rules consisting of 20 rules and 19 forms are framed in terms of sections 25 to 34 of draft Model GST Law. The rules provide for detailed information to be submitted in various forms for the purpose. Different rules and forms have been made for different categories of taxable persons like normal taxable person, composition supplier, non-resident taxable person, input service distributor and person required to deduct tax at source. Form and manner of submission of statement by an e-commerce operator required to collect tax at source under section 43C of the Model GST Law has also been provided.

7. The rules also detail matching of claim of input tax credit with the attendant procedure related to communication, rectification, acceptance or rejection of Input Tax Credit claim. A specific Form has also been prescribed for a person with Unique Identification Number (UIN) who is required to submit it for purposes like claiming refund. Detailed provisions regarding eligibility and authorization of Tax Return Preparer have also been made.

Draft Rules for GST Refund

8. Draft GST Refund Rules consist of 6 Rules and 8 Forms. These provide procedural details relating to implementation of sections 38 to 40 of the draft Model GST Law. These rules provide for procedures to be followed for refund of tax, interest, penalty, fee or any other amount.

9. The information and documents which are required to be submitted along with the application for refund have been enumerated in the rules. It has also been provided that all applications shall be scrutinized for completeness within 15 days. Detailed provisions, including conditions, for grant of provisional refund have also been provided. The rules provide for quarterly refund where a person is eligible to claim refund under notification issued under section 38 (6)(d).

Draft Rules for Invoice, Debit/Credit Notes

10. GST Invoice Rules consist of 5 rules along with 1 Invoice Form. The rules have been framed in terms of section 23 of the draft Model GST Law. These rules prescribe the format of tax invoice containing the prescribed details and the manner of issuing the invoice. It also provides for the details or information that are to be contained in documents like bill of supply, supplementary invoice, debit note and credit note. Rules also prescribe special invoices in case of Input Service Distributor, Banking or Financial institutions, Goods Transport Agencies and Passenger Transport services.

Proposal

11. The 5 draft rules along with the forms are presented to the GST Council for approval.

Chapter-__ REGISTRATION

1. Application for registration

- (1) Every person, other than a non-resident taxable person, a person required to deduct tax at source under section 37 and a person required to collect tax at source under section 43C, who is liable to be registered under sub-section (1) of section 19 and every person seeking registration under sub-section (3) of section 19 (hereinafter referred to in this Chapter as “the applicant”) shall, before applying for registration, declare his Permanent Account Number (PAN), mobile number and e-mail address in **Part A of FORM GST REG-01** on the Common Portal either directly or through a Facilitation Centre, notified by the Board or Commissioner.
- (2)
 - (a) The PAN shall be validated online by the Common Portal from the database maintained by the Central Board of Direct Taxes constituted under the Central Board of Revenue Act, 1963 (54 of 1963).
 - (b) The mobile number declared under sub-rule (1) shall be verified through a one-time password sent to the said mobile number.
 - (c) The e-mail address declared under sub-rule (1) shall be verified through a separate one-time password sent to the said e-mail address.
- (3) On successful verification of the PAN, mobile number and e-mail address, an application reference number shall be generated and communicated to the applicant on the said mobile number and e-mail address.
- (4) Using the reference number generated under sub-rule (3), the person referred to in sub-rule (1) shall electronically submit an application in **Part B of FORM GST REG-01**, duly signed, along with documents specified in the said Form, at the Common Portal either directly or through a Facilitation Centre, notified by the Board or Commissioner.
- (5) On receipt of an application under sub-rule (4), an acknowledgement shall be issued electronically to the applicant in **FORM GST REG-02**.
- (6) A person applying for registration as a casual taxable person shall be given a temporary identification number by the Common Portal for making advance deposit of tax under section 19A and the acknowledgement under sub-rule (5) shall be issued electronically thereafter.
- (7) The person applying for registration under sub-rule (6) shall make an advance deposit of tax in an amount equivalent to the estimated tax liability during the period for which registration is sought, as specified in section 19A.

2. Verification of the application

- (1) The application shall be forwarded to the proper officer who shall examine the application and the accompanying documents and if the same are found to be in order, approve the grant of registration to the applicant within three common working days from the date of submission of application.

(2) Where the application submitted under rule 1 is found to be deficient, either in terms of any information or any document required to be furnished under the said rule, or where the proper officer requires any clarification with regard to any information provided in the application or documents furnished therewith, he may so intimate to the applicant electronically in **FORM GST REG-03** within three common working days from the date of submission of application and the applicant shall furnish electronically such clarification, information or documents sought, in **FORM GST REG-04**, within seven common working days from the date of receipt of such intimation.

Explanation: The clarification includes modification or correction of particulars declared in the application for registration, other than PAN, mobile number and e-mail address declared in **Part A** of **FORM GST REG-01**.

(3) Where a clarification under sub-rule (2) of the GST Rules of the concerned State has been sought prior to any clarification, information or document being sought under sub-rule (2), the clarification, information or document furnished by the applicant shall be forwarded to the proper officer under said Rules for appropriate action.

(CGST Rules)

(3) Where a clarification under sub-rule (2) of the CGST Rules has been sought prior to any clarification being sought under the sub-rule (2), the information furnished by the applicant shall be forwarded to the proper officer under the CGST Rules for appropriate action.

(SGST Rules)

(4) Where the proper officer is satisfied with the clarification, information or documents furnished by the applicant, he may approve the grant of registration to the applicant within seven common working days of receipt of such clarification or information or document.

(5) Where the proper officer is not satisfied with the clarification, information or documents furnished, he shall, for reasons to be recorded in writing, reject such application and inform the applicant electronically in **FORM GST REG-05**.

(6) If the proper officer fails to take any action-

(a) within three common working days from the date of submission of application, or

(b) within seven common working days from the date of receipt of clarification, information or documents furnished by the applicant under sub-rule (2),

the application for grant of registration shall be deemed to have been approved.

3. Issue of registration certificate

(1) Subject to the provisions of sub-section (11) of section 19, where the application for grant of registration has been approved under rule 2, a certificate of registration in **FORM GST REG-06** for the principal place of business and for every additional place of business shall be made available to the applicant on the Common Portal.

(2) The registration shall be effective from the date on which the person becomes liable to registration where the application for registration has been submitted within thirty days from such date.

(3) Where an application for registration has been submitted by the applicant after thirty days from the date of his becoming liable to registration, the effective date of registration shall be the date of grant of registration under sub-rules (1), (4) or (6) of rule 2.

4. Separate Registrations for multiple business verticals within a State

(1) Any person having multiple business verticals within a State, requiring a separate registration for any of its business verticals under sub-section (2) of section 19 shall be granted separate registration in respect of each of the verticals subject to the following conditions:

(a) Such person has more than one business vertical as defined under sub-section (18) of section 2 of the Act;

(b) No business vertical of a taxable person shall be granted registration to pay tax under section 8 if any one of the other business verticals of the same person is paying tax under section 7.

Explanation: Where any business vertical of a registered taxable person that has been granted a separate registration becomes ineligible to pay tax under section 8, all other business verticals of the said person shall become ineligible to pay tax under section 8.

(c) All separately registered business verticals of such person shall pay tax under this Act on supply of goods and/or services made to another registered business vertical of such person and issue a tax invoice for such supply.

(2) A registered taxable person eligible to obtain separate registration for business verticals may file separate application in **FORM GST REG-01** in respect of each such vertical.

(3) The provisions of rule 1 and rule 2 relating to verification and grant of registration shall *mutatis mutandis* apply to an application made under this rule.

5. Grant of Registration to persons required to deduct tax at source or collect tax at source

(1) Any person required to deduct tax under sub-section (1) of section 37 or a person required to collect tax at source under section 43C shall electronically submit an application, duly signed, in **FORM GST REG-07** for grant of registration, through the Common Portal either directly or through a Facilitation Centre, notified by the Board or Commissioner.

(2) The proper officer may grant registration after due verification and issue a registration certificate in **FORM GST REG-06** within three common working days from the date of submission of application.

(3) Where, upon an enquiry or pursuant to any other proceeding, the proper officer is satisfied that a person to whom a certificate of registration in **FORM GST REG-06** has been issued is no longer liable to deduct tax at source under section 37 or collect tax at source under section 43C, the said officer may cancel the registration issued under sub-rule (2) and such cancellation shall be communicated to the said person in **FORM GST REG-08**.

Provided that the proper officer shall not cancel the registration without giving a notice to show cause and without giving the person a reasonable opportunity of being heard.

6. Assignment of unique identity number to certain special entities

(1) Every person required to obtain a unique identity number under sub-section (6) of section 19 may submit an application, electronically in **FORM GST REG-09**, duly verified in the manner specified in rule 1, at the Common Portal either directly or through a Facilitation Centre, notified by the Board or Commissioner.

(2) The proper officer may, upon submission of an application in **FORM GST REG-9** or after filling up the said form, assign a Unique Identity Number to the said person and issue a certificate in **FORM GST REG-06**, within three common working days from the date of submission of application.

7. Display of registration certificate and GSTIN in name board

(1) Every registered taxable person shall display his certificate of registration in a prominent location at his principal place of business and at every additional place or places of business.

(2) Every registered taxable person shall display his GSTIN in the name board exhibited at the entry of his principal place of business and at every additional place or places of business.

8. Grant of registration to non-resident taxable person

(1) A non-resident taxable person shall electronically submit an application for registration, duly signed, in **FORM GST REG-10**, at least five days prior to commencement of the business at the Common Portal either directly or through a Facilitation Centre, notified by the Board or Commissioner.

(2) A person applying for registration as a non-resident taxable person shall be given a temporary identification number by the Common Portal for making an advance deposit of tax under section 19A and the acknowledgement under sub-rule (5) of rule 1 shall be issued thereafter.

(3) The person applying for registration under sub-rule (1), shall make an advance deposit of tax in an amount equivalent to the estimated tax liability of such person during the period for which registration is sought, as specified in section 19A.

(4) The provisions of rule 1 and rule 2 relating to verification and grant of registration shall apply *mutatis mutandis* to an application made under this rule.

9. Amendment to Registration

(1) Where there is any change in any of the particulars furnished in the application for registration in **FORM GST REG-01**, **FORM GST REG-07**, **FORM GST REG-09** or **FORM GST-REG-10**, as the case may be, either at the time of obtaining registration or as amended from time to time, the registered taxable person shall, within fifteen days of such change, submit an application electronically, duly signed, in **FORM GST REG-11**, electronically, along with documents relating to such change at the Common Portal either directly or through a Facilitation Centre, notified by the Board or Commissioner.

(2) (a) Where the change relates to the Name of Business, Principal Place of Business, and details of partners or directors, karta, Managing Committee, Board of Trustees, Chief Executive Officer or equivalent, responsible for day to day affairs of the business which does not warrant cancellation of registration under section 21, the proper officer shall approve the amendment within fifteen common working days from the date of receipt of application in **FORM GST REG-11** after due verification and on being satisfied about the need to make amendment and issue an order in **FORM GST REG-12** electronically and such amendment shall take effect from the date of occurrence of the event warranting amendment.

(b) Where the change relates to any particulars other than those specified in clause (a), the certificate of registration shall stand amended upon submission of the application in **FORM GST REG-11** on the Common Portal:

Provided that any change in the mobile number or the e-mail address of authorised signatory submitted under rule 1, as amended from time to time, shall be carried out only after online verification through the Common Portal in the manner provided under rule 1.

(c) Where a change in the constitution of any business results in change of the Permanent Account Number (PAN) of a registered taxable person, the said person shall apply for fresh registration in **FORM GST REG-01**.

(3) Where the proper officer is of the opinion that the amendment sought under clause (a) of sub-rule (2) is either not warranted or the document furnished therewith is incomplete or incorrect, he may, by a notice in **FORM GST REG-03**, within fifteen common working days from the date of receipt of the application in **FORM GST REG-11**, require the registered taxable person to show cause, within seven common working days of the service of the said **Form GST REG-03**, as to why the application submitted under sub-rule (1) shall not be rejected.

(4) The taxable person seeking amendment shall file reply to the notice to show cause issued under the sub-rule 3, in **FORM GST REG-04** within seven days of the receipt of the said notice.

(5) Where a notice to show cause has already been issued by the proper officer under the [SGST Rules of the State/CGST Rules] no notice shall be issued under sub-rule (3) by the proper officer.

- (6) If the proper officer fails to take any action-
- (a) within fifteen common working days from the date of submission of application, or
 - (b) within seven days from the receipt of the clarification, information or documents furnished by the applicant under sub-rule (3),

the certificate of registration shall stand amended to the extent applied for and the amended certificate shall be made available on the Common Portal.

10. *Suo moto* registration

(1) Where, during the course of any survey, inspection, search, enquiry or any other proceeding under the Act, the proper officer finds that a person liable to registration under the Act has failed to apply for such registration, such officer may register the said person on a temporary basis and issue an order in **FORM GST REG 13**.

(2) The registration issued under sub-rule (1) shall be effective from the date of order of registration.

(3) Every person to whom a temporary registration has been granted under sub-rule (1) shall, within thirty days from the date of the grant of such registration under the said sub-rule, file an application for registration in the form and manner provided in rule 1 unless the said person has filed an appeal against the grant of temporary registration, in which case the application for registration shall be applied for thirty days after the date of the issuance of order upholding the liability to register by the Appellate Authority.

(4) The provisions of rule 2 and rule 3 relating to verification and issue of certificate of registration shall apply *mutatis mutandis* to an application submitted under sub-rule (3).

(5) The GSTIN assigned pursuant to verification under sub-rule (4) shall be effective from the date of order of registration under sub-rule (1).

11. Application for cancellation of registration

(1) A registered taxable person seeking cancellation of his registration under sub-section (1) of section 21 shall electronically submit an application in **FORM GST REG-14** including the details of closing stock and liability thereon and may furnish, along with the application, relevant documents in support thereof at the Common Portal either directly or through a Facilitation Centre, notified by the Board or Commissioner:

Provided that no application for cancellation of registration shall be considered in case of a taxable person, who has registered voluntarily, before the expiry of a period of one year from the effective date of registration.

(2) Every taxable person, other than a person paying tax under section 8, seeking cancellation of registration under sub-rule (1) shall furnish a final return under rule **Return.19**.

12. Cancellation of registration

(1) Where the proper officer has reasons to believe that the registration of a taxable person is liable to be cancelled under section 21, he may issue a notice to the taxable person in **FORM GST REG-15** to show cause within seven days as to why his registration should not be cancelled:

Provided that where a notice for cancellation has been issued under [SGST rules of the State/CGST Rules], no notice shall be issued under sub-rule (1).

(2) Where the proper officer is satisfied that a taxable person who has submitted an application for cancellation of his registration is no longer liable to be registered or his registration is liable to be cancelled under section 21, he may, by issue of an order in **FORM GST REG-16**, to be passed within thirty days from the date of application under sub-rule (1) of rule 11 or, as the case may be, the date of reply to the show cause issued under sub-rule (1), cancel the registration, with effect from a date to be determined by him and notify the taxable person, directing him to pay arrears of any tax, interest or penalty including the amount liable to be paid under sub-section(7) of section 21.

(3) The provisions of sub-rule (1) shall apply *mutatis mutandis* to the legal heirs of a deceased proprietor, as if the application had been submitted by the proprietor himself.

13. Revocation of cancellation of registration

(1) A taxable person, whose registration is cancelled by the proper officer on his own motion, may submit an application for revocation of cancellation of registration, in **FORM GST REG-17**, to such proper officer, within thirty days from the date of service of the order of cancellation of registration at the Common Portal either directly or through a Facilitation Centre, notified by the Board or Commissioner:

Provided that no application for revocation shall be filed if the registration has been cancelled for the failure of the taxable person to furnish returns unless such returns are filed and any amount due as tax in terms of such returns has been paid along with any amount payable towards interest, penalties and late fee payable in respect of the said returns.

(2)(a) Where the proper officer is satisfied, for reasons to be recorded in writing, that there are sufficient grounds for revocation of cancellation of registration, he shall revoke the cancellation of registration by an order in **FORM GST REG-18** within thirty days from the date of receipt of such application and communicate the same to the applicant.

(b) The proper officer may, for reasons to be recorded in writing, under circumstances other than those specified in clause (a), by an order in **FORM GST REG-05**, reject the application for revocation of cancellation of registration and communicate the same to the applicant.

(3) The proper officer may require the applicant to furnish, within three common working days of the filling of the application, such additional information or clarification as, in his opinion, may be required for verifying the particulars furnished in the said application, in

FORM GST REG-03 and the applicant shall furnish the information or the clarification within seven common working days from the date of the service of notice in **FORM GST REG-04**.

(4) Upon receipt of the information or clarification in **FORM GST REG-04**, the proper officer may proceed to dispose of the application in the manner specified in sub-rule (2) within thirty days from the receipt of such information or clarification from the applicant:

Provided that the application shall not be rejected without affording the applicant an opportunity of being heard by issue of a notice in **FORM GST REG-19** within thirty days from the date of receipt of such application.

14. Migration of persons registered under Earlier Law

(1) Every person registered under an earlier law and having a Permanent Account Number issued under the Income Tax Act, 1961 (Act 43 of 1961) shall be granted registration on a provisional basis and a certificate of registration in **FORM GST REG-21**, incorporating the Goods and Services Tax Identification Number (GSTIN) therein, shall be made available on the Common Portal.

(2)(a) Every person who has been granted a provisional registration under sub-rule (1) shall submit an application electronically in **FORM GST REG-20**, duly signed, along with the information and documents specified in the said application, on the Common Portal either directly or through a Facilitation Centre, notified by the Board or Commissioner.

(b) The information asked for in clause (a) shall be furnished within the period specified in section 142 or within such further period as may be extended by the Board or Commissioner in this behalf.

(c) If the information and the particulars furnished in the application are found, by the proper officer, to be correct and complete, a certificate of registration in **FORM GST REG-06** shall be made available to the registered taxable person electronically on the Common Portal.

(3) Where the particulars and/or information specified in sub-rule (2) have either not been furnished or not found to be correct or complete, the proper officer shall cancel the provisional registration granted under sub-rule (1) and issue an order in **FORM GST REG-22**:

Provided that no provisional registration shall be cancelled as aforesaid without serving a notice to show cause in **FORM GST REG-23** and without affording the person concerned a reasonable opportunity of being heard.

(4) Every person registered under any of the earlier laws, who is not liable to be registered under the Act may, at his option, file electronically an application in **FORM GST REG-24** at the Common Portal for cancellation of the registration granted provisionally to him and the proper officer shall, after conducting such enquiry as deemed fit, cancel the said provisional registration.

15. Method of authentication

(1) All applications, including reply, if any, to the notices, returns, appeals or any other document required to be submitted under these rules shall be filed electronically at the Common Portal with digital signature certificate or through e-signature as specified under Information Technology Act, 2000 (21 of 2000) or through any other mode of signature notified by the Board/Commissioner in this behalf.

(2) Each document including return filed online shall be signed by -

(a) in the case of an individual, by the individual himself or by some person duly authorised by him in this behalf and where the individual is mentally incapacitated from attending to his affairs, by his guardian or by any other person competent to act on his behalf;

(b) in the case of a Hindu Undivided Family, by a Karta and where the Karta is absent from India or is mentally incapacitated from attending to his affairs, by any other adult member of such family or by the authorised signatory of such Karta;

(c) in the case of a company, by the chief executive officer or authorised signatory thereof;

(d) in the case of a Government or any Governmental agency or local authority, by an officer authorised in this behalf;

(e) in the case of a firm, by any partner thereof, not being a minor or authorised signatory;

(f) in the case of any other association, by any member of the association or persons or authorised signatory;

(g) in the case of a trust, by the trustee or any trustee or authorised signatory; and

(h) in the case of any other person, by some person competent to act on his behalf.

(2) All orders and notices under this chapter / Part shall be issued electronically by the proper officer or any other officer authorised to issue any notice or order, through digital signature certificate specified under the Information Technology Act, 2000 (21 of 2000).

16. Extension in period of operation by casual taxable person and non-resident taxable person

(1) Where a registered casual taxable person or non-resident taxable person intends to extend the period of registration indicated in his application of registration, an application in **Form GST REG-25** shall be furnished electronically through the Common Portal either directly or through a Facilitation Centre, notified by the Board or Commissioner by such person before the end of the validity of registration granted to him.

(2) The application under sub-rule (1) shall be acknowledged only on payment of the amount specified in sub-section (2) of section 19A.

17. Physical verification of business premises in certain cases

Where the proper officer is satisfied that the physical verification of the place of business of a taxable person is required after grant of registration, he may get such verification done and upload the verification report along with other documents, including photographs, in **Form GST REG-26** on the day following the date of such verification.

Chapter- PAYMENT OF TAX

1. Electronic Tax Liability Register

- (1) The electronic tax liability register under sub-section (7) of section 35 shall be maintained in **FORM GST PMT-1** on the Common Portal and all amounts payable by a taxable person shall be debited to the said register.
- (2) The electronic tax liability register of a registered taxable person shall be debited by:
 - (a) the amount payable towards tax, interest, late fee or any other amount payable as per the return filed by the said person;
 - (b) the amount of tax, interest, penalty or any other amount payable as determined by a proper officer in pursuance of any proceeding under the Act or as ascertained by the said person;
 - (c) the amount of tax and interest payable as a result of mismatch under section 29 or section 29A or section 43C; or
 - (d) any amount of interest that may accrue from time to time.
- (3) Subject to the provisions of section 35, payment of every liability by a registered taxable person as per his return shall be made by debiting the electronic credit ledger maintained as per rule 2 and/or, as the case may be, the electronic cash ledger maintained as per rule 3 and the electronic tax liability register shall be credited accordingly.
- (4) The amount deducted under section 37, or the amount collected under section 43C, or the amount payable under sub-section (3) of section 7, or the amount payable under section 8, or any amount payable towards interest, penalty, fee or any other amount shall be paid by debiting the electronic cash ledger maintained as per rule 3 and the electronic tax liability register shall be credited accordingly.
- (5) Any amount of demand debited in the electronic tax liability register shall stand reduced to the extent of relief given by the appellate authority and the electronic tax liability register shall be credited accordingly.
- (6) The amount of penalty imposed shall stand reduced partly or fully, as the case may be, if the taxable person makes the payment of tax, interest and penalty specified in the show cause notice or demand order, as the case may be, and the electronic tax liability register shall be credited accordingly.

2. Electronic Credit Ledger

- (1) The electronic credit ledger shall be maintained in **FORM GST PMT-2** for each registered taxable person on the Common Portal and every claim of input tax credit under the Act shall be credited to the said Ledger.
- (2) The electronic credit ledger shall be debited to the extent of discharge of any liability in accordance with section 35.

(3) Where a registered taxable person has claimed refund of any unutilized amount from the electronic credit ledger in terms of section 38, the amount to the extent of the claim shall be debited in the said ledger.

(4) If the refund so filed is rejected, either fully or partly, the amount debited under sub-rule (3), to the extent of rejection, shall be re-credited to the electronic credit ledger by the proper officer by an order made in **FORM GST PMT-2A**.

Explanation.– For the purpose of this rule, a refund shall be deemed to be rejected, if the appeal is finally rejected or if the claimant gives an undertaking in writing to the proper officer that he shall not file an appeal.

3. Electronic Cash Ledger

(1) The electronic cash ledger under sub-section (1) of section 35 shall be maintained in **FORM GST PMT-3** for each registered taxable person on the Common Portal for crediting the amount deposited and debiting the payment therefrom towards tax, interest, penalty, fee or any other amount.

(2) A registered taxable person, or any other person on his behalf, shall generate a challan in **FORM GST PMT-4** on the Common Portal and enter the details of the amount to be deposited by him towards tax, interest, penalty, fees or any other amount.

(3) The deposit under sub-rule (2) shall be made through any of the following modes:

- (i) Internet Banking through authorized banks;
- (ii) Credit card or Debit card after registering the same with the Common Portal through the authorised bank;
- (iii) National Electronic Fund Transfer (NeFT) or Real Time Gross Settlement (RTGS) from any bank;
- (iv) Over the Counter payment (OTC) through authorized banks for deposits up to ten thousand rupees per challan per tax period, by cash, cheque or demand draft:

Provided that the restriction for deposit up to ten thousand rupees per challan in case of an Over the Counter (OTC) payment shall not apply to deposit to be made by–

- (a) Government Departments or any other deposit to be made by persons as may be notified by the Board/Commissioner (SGST) in this behalf;
- (b) Proper officer or any other officer authorised to recover outstanding dues from any person, whether registered or not, including recovery made through attachment or sale of movable or immovable properties;
- (c) Proper officer or any other officer authorized for the amounts collected by way of cash or cheque, demand draft during any investigation or enforcement activity or any *ad hoc* deposit:

Provided further that the challan in **FORM GST PMT-4** generated at the Common Portal shall be valid for a period of fifteen days.

Explanation.– For making payment of any amount indicated in the challan, the commission, if any, payable in respect of such payment shall be borne by the taxable person making such payment.

(4) Any payment required to be made by a person who is not registered under the Act, shall be made on the basis of a temporary identification number generated by the proper officer through the Common Portal and the details of such payment shall be recorded in a register in **FORM GST PMT-6**, to be maintained on the Common Portal.

(5) Where the payment is made by way of NeFT or RTGS mode from any bank, the mandate form shall be generated along with the challan and the same shall be submitted to the bank from where the payment is to be made:

Provided that the mandate form shall be valid for a period of fifteen days from the date of generation of challan.

(6) On successful credit of the amount to the concerned government account maintained in the authorised bank, a Challan Identification Number (CIN) will be generated by the collecting Bank and the same shall be indicated in the challan:

Provided that where the bank account of the concerned taxable person, or the person making the deposit on his behalf, is debited but no Challan Identification Number (CIN) is generated, the said person may represent electronically in **FORM GST PMT-5** through the Common Portal to the Bank or electronic gateway through which the deposit was initiated.

(7) On receipt of CIN from the authorized Bank, the said amount shall be credited to the electronic cash ledger of the registered taxable person who, or on whose behalf, the deposit has been made and the Common Portal shall make available a receipt to this effect.

(8) Any amount deducted under section 37 or collected under section 43C and claimed in **FORM GSTR-2** by the registered taxable person from whom the said amount was deducted or, as the case may be, collected shall be credited to his electronic cash ledger as per rule **Return.2**.

(9) Where a taxable person has claimed refund of any amount from the electronic cash ledger, the said amount shall be debited to the electronic cash ledger.

(10) If the refund so filed is rejected, either fully or partly, the amount debited under sub-rule (9), to the extent of rejection, shall be credited to the electronic cash ledger by the proper officer by an order made in **FORM GST PMT-2A**.

Explanation,- For the purpose of this rule, a refund shall be deemed to be rejected if the appeal is finally rejected or if the claimant gives an undertaking in writing to the proper officer that he shall not file an appeal.

4. Identification number for each transaction

(1) A unique identification number shall be generated at the Common Portal for each debit or credit to the electronic cash or credit ledger, as the case may be.

(2) The unique identification number relating to discharge of any liability shall be indicated in the corresponding entry in the electronic tax liability register.

- (3) A unique identification number shall be generated at the Common Portal for each credit in the electronic tax liability register for reasons other than those covered under sub-rule (2).**

Chapter-__: RETURNS

1. Form and manner of furnishing details of outward supplies

- (1) Every registered taxable person required to furnish the details:
- (a) of outward supplies of goods and/or services effected during a tax period under sub-section (1) of section 25; and
 - (b) of outward supplies of goods and/or services effected during an earlier tax period under sub-section (2) of section 25

shall furnish such details in **FORM GSTR-1** electronically through the Common Portal either directly or from a Facilitation Centre, notified by the Board or Commissioner.

- (2) The details of outward supplies furnished by the supplier shall be made available electronically to each of the registered taxable persons (recipients) in **Part A** of **FORM GSTR-2A** through the Common Portal after the due date of filing of **FORM GSTR-1**.

- (3) The details of inward supplies added, corrected or deleted by the recipient in his **FORM GSTR-2** under sub-section (1) of section 26 or **FORM GSTR-4** under section 27 shall be made available to the supplier electronically in **FORM GSTR-1A** through the Common Portal and such supplier may either accept or reject the modifications made by the recipient and **FORM GSTR-1** furnished by the supplier shall stand amended to the extent of modifications accepted by him.

2. Form and manner of furnishing details of inward supplies

- (1) Every registered taxable person required to furnish the details of inward supplies of goods and/or services received during a tax period under sub-section (2) of section 26 shall, on the basis of details contained in **Part A** of **FORM GSTR-2A**, prepare such details in the manner specified in sub-section (1) of the said section and furnish the same in **FORM GSTR-2** electronically through the Common Portal, either directly or from a Facilitation Centre, notified by the Board or Commissioner, after including therein details of such other inward supplies, if any, required to be furnished under sub-section (2) of section 26.

- (2) Every registered taxable person shall furnish the details, if any, required under sub-section (3) of section 26 electronically in **FORM GSTR-2**.

- (3) The recipient of goods and/or services shall specify the inward supplies in respect of which he is not eligible, either fully or partially, for input tax credit in **FORM GSTR-2** where such eligibility can be determined at the invoice level.

- (4) The recipient of goods and/or services shall declare the quantum of ineligible input tax credit on inward supplies which is relatable to non-taxable supplies or for purposes other than business and cannot be determined at the invoice level in **FORM GSTR-2**.

- (5) The details of invoices furnished by an Input Service Distributor in his return in **FORM GSTR-6** under rule 7 shall be made available to the recipient of credit in **Part B** of **FORM GSTR 2A** electronically through the Common Portal and the said recipient may include the same in **FORM GSTR-2**.

(6) The details of tax deducted at source by the deductor under section 37 furnished in **FORM GSTR-7** shall be made available to the deductee in **Part C** of **FORM GSTR-2A** electronically through the Common Portal and the said deductee may include the same in **FORM GSTR-2**.

(7) The details of tax collected at source by an e-commerce operator under section 43C furnished in **FORM GSTR-8** shall be made available to the concerned taxable person in **Part D** of **FORM GSTR 2A** electronically through the Common Portal and such taxable person may include the same in **FORM GSTR-2**.

3. Form and manner of submission of monthly return

(1) Every registered taxable person, other than a taxable person paying tax under section 8, shall furnish a return under sub-section (1) of section 27 in **FORM GSTR-3** electronically through the Common Portal either directly or from a Facilitation Centre, notified by the Board or Commissioner.

(2) **Part A** of the return under sub-rule (1) shall be electronically generated on the basis of information furnished through returns in **FORM GSTR-1, FORM GSTR-2**, electronic credit ledger, electronic cash ledger and electronic tax liability register of the taxable person.

(3) Every registered taxable person furnishing the return under sub-rule (1) shall, subject to the provisions of section 35, discharge his liability towards tax, interest, penalty, fees or any other amount payable under the Act or these rules by debiting the electronic cash ledger and/or electronic credit ledger as per the details contained in **Part B** of the return in **FORM GSTR-3**.

(4) A registered taxable person, claiming refund of any balance in the electronic cash ledger as per sub-section (6) of section 35, may claim such refund in **Part B** of the return in **FORM GSTR-3** and such return shall be deemed to be an application filed under section 38.

(5) Where the time limit for furnishing **FORM GSTR-1** under sub-section (1) of section 25 and **FORM GSTR-2** under sub-section (2) of section 26 has been extended, return in **FORM GSTR-3** may be furnished in such manner as may be notified by the Commissioner/Board.

4. Form and manner of submission of quarterly return by the composition supplier

(1) Every registered taxable person paying tax under section 8 shall, after adding, correcting or deleting the details contained in **FORM GSTR-4A**, furnish a quarterly return in **FORM GSTR-4** electronically through the Common Portal, either directly or from a Facilitation Centre, notified by the Board or Commissioner.

(2) Every registered taxable person furnishing the return under sub-rule (1) shall discharge his liability towards tax, interest, penalty, fees or any other amount payable under the Act or these rules by debiting the electronic cash ledger.

5. Form and manner of submission of return by non-resident taxable person

Every registered non-resident taxable person shall furnish a return in **FORM GSTR-5** electronically through the Common Portal, either directly or from a Facilitation Centre, notified by the Board or Commissioner, including therein the details of outward supplies and inward supplies and shall pay the tax, interest, penalty, fees or any other amount payable under the Act or these rules within twenty days after the end of a tax period or within seven days after the last day of the validity period of registration, whichever is earlier.

6. Form and manner of submission of return by an input service distributor

Every input service distributor shall, after adding, correcting or deleting the details contained in **FORM GSTR-6A**, furnish electronically a return in **FORM GSTR-6**, containing the details of tax invoices on which credit has been received and those issued under section 17, through the Common Portal either directly or from a Facilitation Centre, notified by the Board or Commissioner.

7. Form and manner of submission of return by a person required to deduct tax at source

(1) Every registered taxable person required to deduct tax at source under section 37 shall furnish a return in **FORM GSTR-7** electronically through the Common Portal either directly or from a Facilitation Centre, notified by the Board or Commissioner.

(2) The details furnished by the deductor under sub-rule (1) shall be made available electronically to each of the suppliers in **Part C** of **FORM GSTR-2A** on the Common Portal after the due date of filing of **FORM GSTR-7**.

(3) The certificate referred to in sub-section (3) of section 37 shall be made available electronically to the deductee on the Common Portal in **FORM GSTR-7A** on the basis of the return filed under sub-rule (1).

8. Form and manner of submission of statement of supplies effected through e-Commerce

(1) Every e-Commerce operator required to collect tax at source under section 43C shall furnish a statement in **FORM GSTR-8** electronically through the Common Portal, either directly or from a Facilitation Centre, notified by the Board or Commissioner, containing details of supplies effected through such operator and the amount of tax collected as required under sub-section (1) of section 43C.

(2) The details furnished by the operator under sub-rule (1) shall be made available electronically to each of the suppliers in **Part D** of **FORM GSTR-2A** on the Common Portal after the due date of filing of **FORM GSTR-8**.

9. Notice to non-filers of returns

A notice in **FORM GSTR-3A** shall be issued, electronically, to a registered taxable person who fails to furnish return under section 27 and section 31.

10. Matching of claim of input tax credit

The following details relating to the claim of input tax credit on inward supplies including imports, provisionally allowed under section 28, shall be matched under section 29 after the due date for furnishing the return in **FORM GSTR-3**

- (a) GSTIN of the supplier
- (b) GSTIN of the recipient
- (c) Invoice/Debit Note date
- (d) Invoice/Debit Note number
- (e) Taxable value
- (f) Tax amount:

Provided that where the time limit for furnishing **FORM GSTR-1** under sub-section (1) of section 25 and **FORM GSTR-2** under sub-section (2) of section 26 has been extended, the date of matching relating to claim of input tax credit shall be extended to such date as may be notified by the Board/Commissioner.

Explanation: (1) The claim of input tax credit in respect of invoices and debit notes in **FORM GSTR-2** that were accepted by the recipient in **FORM GSTR-2A** without amendment shall be treated as matched if the corresponding supplier has furnished a valid return.

(2) The claim of input tax credit shall be considered as matched, where the amount of input tax credit claimed is equal to or less than the output tax paid on such tax invoice or Debit Note, as the case may be, by the corresponding supplier.

11. Final acceptance of input tax credit and communication thereof

(1) The final acceptance of claim of input tax credit in respect of any tax period, specified in sub-section (2) of section 29, shall be made available electronically to the registered taxable person making such claim in **FORM GST ITC-1** through the Common Portal.

(2) The claim of input tax credit in respect of any tax period which had been communicated as mismatched but is found to be matched after rectification by the supplier and/or recipient shall be finally accepted and made available electronically to the taxable person making such claim in **FORM GST ITC-1** through the Common Portal.

12. Communication and rectification of discrepancy in claim of input tax credit and reversal of claim of input tax credit

(1) Any discrepancy in the claim of input tax credit in respect of any tax period, specified in sub-section (3) of section 29 and the details of output tax liable to be added under sub-section (5) of the said section on account of continuation of such discrepancy shall be made available to the registered taxable person making such claim and the supplier electronically

in **FORM GST ITC-1** through the Common Portal on or before the last date of the month in which the matching has been carried out.

(2) A supplier to whom any discrepancy is made available under sub-rule (1) may make suitable rectifications in the statement of outward supplies to be furnished for the month in which the discrepancy is made available.

(3) A recipient to whom any discrepancy is made available under sub-rule (1) may make suitable rectifications in the statement of inward supplies to be furnished for the month in which the discrepancy is made available.

(4) Where the discrepancy is not rectified under sub-rule (2) or sub-rule (3), an amount to the extent of discrepancy shall be added to the output tax liability of the recipient in his return in **FORM GSTR-3** for the month succeeding the month in which the discrepancy is made available.

Explanation: (1) Rectification by a supplier means adding or correcting the details of an outward supply in his valid return so as to match the details of corresponding inward supply declared by the recipient.

(2) Rectification by the recipient means deleting or correcting the details of an inward supply so as to match the details of corresponding outward supply declared by the supplier.

13. Claim of input tax credit on the same invoice more than once

Duplication of claims of input tax credit in the details of inward supplies shall be communicated to the registered taxable person in **FORM GST ITC-1** electronically through the Common Portal.

14. Matching of claim of reduction in the output tax liability

The following details relating to the claim of reduction in output tax liability shall be matched under section 29A after the due date for furnishing the return in **FORM GSTR-3**

- (a) GSTIN of the supplier
- (b) GSTIN of the recipient
- (c) Credit Note date
- (d) Credit Note number
- (e) Taxable value
- (f) Tax amount:

Provided that where the time limit for furnishing FORM GSTR-1 under sub-section (1) of section 25 and FORM GSTR-2 under sub-section (2) of section 26 has been extended, the date of matching of claim of reduction in the output tax liability shall be extended to such date as may be notified by the Board/Commissioner.

Explanation: (1) The claim of reduction of output tax liability due to issuance of credit notes in **FORM GSTR-1** that were accepted by the recipient in **FORM GSTR-2A** without

amendment shall be treated as matched if the corresponding recipient has furnished a valid return.

(2) The claim of reduction in the output tax liability shall be considered as matched, where the amount of reduction claimed is equal to or less than the claim of reduction of input tax credit admitted and discharged on such credit note by the corresponding recipient in his valid return.

15. Final acceptance of reduction of output tax liability and communication thereof

(1) The final acceptance of claim of reduction in output tax liability in respect of any tax period, specified in sub-section (2) of section 29A, shall be made available electronically to the taxable person making such claim in **FORM GST ITC-1** through the Common Portal.

(2) The claim of reduction in output tax liability in respect of any tax period which had been communicated as mismatched but is found to be matched after rectification by the supplier and/or recipient shall be finally accepted and made available electronically to the taxable person making such claim in **FORM GST ITC-1** through the Common Portal.

16. Communication and rectification of discrepancy in reduction in output tax liability and reversal of claim of reduction

(1) Any discrepancy in claim of reduction in output tax liability, specified in sub-section (3) of section 29A, and the details of output tax liability to be added under sub-section (5) of the said section on account of continuation of such discrepancy shall be made available to the registered taxable person making such claim and the recipient electronically in **FORM GST ITC-1** through the Common Portal on or before the last date of the month in which the matching has been carried out.

(2) A supplier to whom any discrepancy is made available under sub-rule (1) may make suitable rectifications in the statement of outward supplies to be furnished for the month in which the discrepancy is made available.

(3) A recipient to whom any discrepancy is made available under sub-rule (1) may make suitable rectifications in the statement of inward supplies to be furnished for the month in which the discrepancy is made available.

(4) Where the discrepancy is not rectified under sub-rule (2) or sub-rule (3), an amount to the extent of discrepancy shall be added to the output tax liability of the supplier in his return in **FORM GSTR-3** for the month succeeding the month in which the discrepancy is made available.

Explanation: (1) Rectification by a supplier means deleting or correcting the details of an outward supply in his valid return so as to match the details of corresponding inward supply declared by the recipient.

(2) Rectification by the recipient means adding or correcting the details of an inward supply so as to match the details of corresponding outward supply declared by the supplier.

17. Claim of reduction in output tax liability more than once

Duplication of claims for reduction in output tax liability in the details of outward supplies shall be communicated to the registered taxable person in **FORM GST ITC-1** electronically through the Common Portal.

18. Refund of interest paid on reclaim of reversal

The interest to be refunded under sub-section (9) of section 29 or sub-section (9) of section 29A shall be claimed by the taxable person in his return in **FORM GSTR-3** and shall be credited to his electronic cash ledger in **FORM GST PMT-3** and the amount credited shall be available for payment of any future liability of interest or the taxable person may claim refund of the amount under section 38.

19. Matching of details furnished by the e-Commerce operator with the details furnished by the supplier

The following details relating to the supplies made through an e-Commerce operator, as declared in **FORM GSTR-8**, shall be matched with the corresponding details declared by the supplier in **FORM GSTR-1**-

- (a) GSTIN of the supplier
- (b) GSTIN/UIN of the recipient, if the recipient is a registered taxable person
- (c) State of place of supply
- (d) Date of invoice of the supplier
- (e) Invoice Number of the supplier
- (f) Tax rate
- (g) Taxable value
- (h) Tax amount:

Provided that for all supplies where the supplier is not required to furnish the details separately for each supply, the following details relating to such supplies made through an e-Commerce operator, as declared in **FORM GSTR-8**, shall be matched with the corresponding details declared by the supplier in **FORM GSTR-1**-

- (a) GSTIN of the supplier
- (b) State of place of supply
- (c) Tax rate
- (d) Total taxable value of all supplies made in the State
- (e) Tax amount on all supplies made in the State:

Provided further that where the time limit for furnishing **FORM GSTR-1** under sub-section (1) of section 25 has been extended, the date of matching of the above mentioned details shall be extended to such date as may be notified by the Board/Commissioner.

20. Communication and rectification of discrepancy in details furnished by the e-Commerce operator and the supplier

(1) Any discrepancy in the details furnished by the operator and those declared by the supplier shall be made available to both electronically in **FORM GST ITC-1** through the

Common Portal on or before the last date of the month in which the matching has been carried out.

(2) A supplier to whom any discrepancy is made available under sub-rule (1) may make suitable rectifications in the statement of outward supplies to be furnished for the month in which the discrepancy is made available.

(3) An operator to whom any discrepancy is made available under sub-rule (1) may make suitable rectifications in the statement to be furnished for the month in which the discrepancy is made available.

(4) Where the discrepancy is not rectified under sub-rule (2) or sub-rule (3), an amount to the extent of discrepancy shall be added to the output tax liability of the supplier in his return in **FORM GSTR-3** for the month succeeding the month in which the details of discrepancy are made available and such addition to the output tax liability and interest payable thereon shall be made available to the supplier electronically on the Common Portal in **FORM GST ITC-1**.

21. Annual return

(1) Every registered taxable person shall furnish an annual return under sub-section (1) of section 30 electronically in **FORM GSTR-9** through the Common Portal either directly or from a Facilitation Centre, notified by the Board or Commissioner:

Provided that a taxable person paying tax under section 8 shall furnish the annual return in **FORM GSTR-9A**.

(2) Every registered taxable person whose aggregate turnover during a financial year exceeds one crore rupees shall get his accounts audited under sub-section (4) of section 42 and he shall furnish a copy of audited annual accounts and a reconciliation statement, duly certified, in **FORM GSTR-9B**, electronically through the Common Portal either directly or from a Facilitation Centre, notified by the Board or Commissioner.

22. Final return

Every registered taxable person required to furnish a final return under section 31, shall furnish such return electronically in **FORM GSTR-10** through the Common Portal either directly or from a Facilitation Centre, notified by the Board or Commissioner.

23. Details of inward supplies of persons having Unique Identity Number

(1) Every person, who has been issued a Unique Identity Number and claims refund of the taxes paid on his inward supplies, shall furnish the details of such supplies of taxable goods and/or services in **FORM GSTR-11** either directly or from a Facilitation Centre, notified by the Board or Commissioner.

(2) Every person, who has been issued a Unique Identity Number for purposes other than refund of the taxes paid, shall furnish the details of inward supplies of taxable goods and/or services as may be required by the proper officer in **FORM GSTR-11**.

24. Provisions relating to a Tax Return Preparer

(1) An application in **FORM GST TRP-1** may be made to the officer authorised in this behalf for enrolment as Tax Return Preparer by any person who satisfies any of the conditions specified below, namely:

- (a)
 - (i) he is a citizen of India;
 - (ii) he is a person of sound mind;
 - (iii) he is not adjudicated as insolvent;
 - (iv) he has not been convicted by a competent court for an offence with imprisonment not less than two years; and
- (b) that he is a retired officer of the Commercial Tax Department of any State Government or of the Central Board of Excise and Customs, Department of Revenue, Government of India, who, during his service under the Government, had worked in a post not lower in rank than that of a Group-B gazetted officer for a period of not less than two years; or
- (c) he has passed:
 - (i) a graduate or postgraduate degree or its equivalent examination having a degree in Commerce, Law, Banking including Higher Auditing, or Business Administration or Business Management from any Indian University established by any law for the time being in force; or
 - (ii) a degree examination of any Foreign University recognized by any Indian University as equivalent to the degree examination mentioned in clause (i); or
 - (iii) any other examination notified by the Government for this purpose; or
 - (iv) any degree examination of an Indian University or of any Foreign University recognized by any Indian University as equivalent of the degree examination and has also passed any of the following examinations, namely.-
 - (a) final examination of the Institute of Chartered Accountants of India; or
 - (b) final examination of the Institute of Cost Accountants of India; or
 - (c) final examination of the Institute of Company Secretaries of India; or

(2) On receipt of the application referred to in sub-rule (1), the authorised officer shall, after making such enquiry as he considers necessary, either enroll the applicant as a Tax Return Preparer and issue a certificate to that effect in **FORM GST TRP-2** or reject his application where it is found that the applicant is not qualified to be enrolled as a Tax Return Preparer.

(3) The enrolment made under sub-rule (2) shall be valid until it is cancelled.

(4) If any Tax Return Preparer is found guilty of misconduct in connection with any proceeding under the Act, the authorised officer may, by order, in **FORM GST TRP-4** direct that he shall henceforth be disqualified under section 34, after giving him a notice to show cause in **FORM GST TRP-3** against such disqualification and after giving him a reasonable opportunity of being heard.

(5) Any person against whom an order under sub-rule (4) is made may, within thirty days from the date of the order under sub-rule (4), appeal to the Commissioner against such order.

(6) A list of Tax Return Preparers enrolled under sub-rule (1) shall be maintained on the Common Portal in **FORM GST TRP-5** and the authorised officer may make such amendments to the list as may be necessary from time to time, by reason of any change of address or death or disqualification of any Tax Return Preparer.

(7) Any taxable person may, at his option, authorise a Tax Return Preparer on the Common Portal in **FORM GST TRP-6** or, at any time, withdraw such authorisation in **FORM GST TRP-7** and the Tax Return Preparer so authorised shall be allowed to undertake such tasks as indicated in **FORM GST TRP-6** during the period of authorisation.

(8) Where a statement required to be furnished by a taxable person has been furnished by the Tax Return Preparer authorised by him, a confirmation shall be sought from the taxable person over email or SMS and the statement furnished by the tax return preparer shall be made available to the taxable person on the Common Portal:

Provided that where the taxable person fails to respond to the request for confirmation till the last date of furnishing of such statement, it shall be deemed that he has confirmed the statements furnished by the Tax Return Preparer.

(9) A Tax Return Preparer can undertake any or all of the following activities on behalf of a taxable person, if so authorised by the taxable person to:

- (a) furnish details of outward and inward supplies;
- (b) furnish monthly, quarterly, annual or final return;
- (c) make payments for credit into the electronic cash ledger;
- (d) file a claim for refund; and
- (e) file an application for amendment or cancellation of registration.

(10) Any taxable person opting to furnish his return through a Tax Return Preparer shall-

- (a) give his consent in **FORM GST TRP-6** to any Tax Return Preparer to prepare and furnish his return; and
- (b) before confirming submission of any statement prepared by the Tax Return Preparer, ensure that the facts mentioned in the return are true and correct.

(11) The Tax Return Preparer shall-

- (a) prepare the statements with due diligence; and
- (b) affix his digital signature on the statements prepared by him or electronically verify using his credentials.

Chapter-__: REFUND

1. Refund of tax, interest, penalty, fees or any other amount

(1) Any registered taxable person, except the persons covered by notification issued under clause (d) of sub-section (6) of section 38, claiming refund of any tax, interest, penalty, fees or any other amount paid by him, may file an application in **FORM GST RFD-1** electronically through the Common Portal either directly or from a Facilitation Centre, notified by the Board or Commissioner:

Provided that any claim for refund relating to balance in the electronic cash ledger in terms of sub-section (6) of section 35 may be made through the return for the relevant tax period in **FORM GSTR-3**, **FORM GSTR-4** or **FORM GSTR-7**:

Provided further that in case of export of goods, application for refund shall be filed only after the export manifest or an export report, as the case may be, in respect of such goods is delivered under section 41 of the Customs Act 1962:

Provided also that in respect of supplies made to an SEZ unit or a developer, or supplies regarded as deemed exports, the application shall be filed by the said unit or the developer or the recipient of deemed export supplies.

(2) The application under sub-rule (1) shall be accompanied by any of the following documentary evidences, as applicable, to establish that a refund is due to the applicant:

(a) the reference number of the order and a copy of the order passed by the proper officer or an appellate authority or any competent court resulting in such refund including refund of pre-deposit under chapter XVIII along with the reference number of the payment of the amount claimed as refund;

(b) a statement containing the number and date of shipping bills or bills of export and the number and date of relevant export invoices, in a case where the refund is on account of export of goods;

(c) a statement containing the number and date of invoices as prescribed in rule **Invoice. _** in case of supply of goods made to an SEZ unit or a developer;

(d) a statement containing the number and date of invoices, in a case where the refund is on account of deemed exports;

(e) a statement containing the number and date of invoices and the relevant Bank Realization Certificates or Foreign Inward Remittance Certificates, as the case may be, in a case where the refund is on account of export of services;

(f) a statement containing the number and date of invoices and the details of payment, along with proof thereof, made by the claimant to the supplier for authorized operations as defined under the SEZ Act, 2005, in a case where the refund is on account of supply of services made to an SEZ unit or a developer;

(g) a statement in **Annex 1** of **FORM GST RFD-1** containing the number and date of invoices received and issued during a tax period in a case where the claim pertains to refund of any unutilized input tax credit under sub-section (2) of section

38 where the credit has accumulated on account of rate of input tax being higher than the rate of output tax;

(h) the reference number of the final assessment order and a copy of the said order in a case where the refund arises on account of finalisation of provisional assessment;

(i) a declaration to the effect that the incidence of tax and interest claimed as refund has not been passed on to any other person, in a case where the amount of refund claimed is less than five lakh rupees:

Provided that a declaration is not required to be furnished in respect of cases covered under clause (a), (b) or (d) of sub-section (6) of section 38;

(j) a Certificate in **Annex 2** of **FORM GST RFD-1** issued by a Chartered Accountant or a Cost Accountant to the effect that the incidence of tax and interest claimed as refund has not been passed on to any other person, in a case where the amount of refund claimed is five lakh rupees or more:

Provided that a certificate is not required to be furnished in respect of cases covered under clause (a), (b) or (d) of sub-section (6) of section 38;

Explanation 1.– For the purpose of this rule, "invoice" means invoice conforming to the provisions contained in section 23A in case of refunds referred to in clause (c) of sub-section (6) of section 38.

Explanation 2.– Where the amount of tax has been recovered from the recipient, it shall be deemed that the incidence of tax has been passed on to the ultimate consumer.

(3) Where the application relates to refund of input tax credit, the electronic credit ledger shall be debited by the applicant in an amount equal to the refund so claimed.

(4) Where any taxable goods or services are exported without payment of tax, under bond or letter of undertaking under **section** ____ of the IGST Act, 201__, refund of input tax credit shall be granted as per the following formula:

$$\text{Refund Amount} = \frac{(\text{Export turnover of goods} + \text{Export turnover of services}) \times \text{Net ITC}}{\text{Adjusted Total Turnover}}$$

Where,-

(A) "Refund amount" means the maximum refund that is admissible;

(B) "Net ITC" means input tax credit availed on inputs and input services during the relevant period;

(C) "Export turnover of goods" means the value of goods exported during the relevant period without payment of tax under bond or letter of undertaking;

(D) "Export turnover of services" means the value of services exported without payment of tax under bond or letter of undertaking, calculated in the following manner, namely:-

Export turnover of services = payments received during the relevant period for export services + export services whose supply has been completed for which payment had been

received in advance in any period prior to the relevant period - advances received for export services for which the supply of service has not been completed during the relevant period;

(E) "Adjusted Total turnover" means the value of turnover in a State, as defined under sub-section (104) of section 2, excluding the value of exempt supplies, during the relevant period;

(F) "Relevant period" means the period for which the claim has been filed.

Provided that no refund of input tax credit shall be allowed if the supplier of goods and / or services avails of drawback allowed under the applicable Drawback Rules or claims rebate of tax paid under the Act or the IGST Act, 201_ in respect of such tax.

(5) The application for refund of any amount, after adjusting the tax payable by the applicant out of the advance tax deposited by him under section 19A at the time of registration, shall be claimed either in the last return required to be filed by him or only after filing of the said last return.

(6) Where the application relates to a claim for refund from the electronic cash ledger, an acknowledgement in **FORM GST RFD-2** shall be made available to the applicant through the Common Portal electronically, clearly indicating the date of filing of the claim for refund.

(7) The application for refund, other than claim for refund from electronic cash ledger, shall be forwarded to the proper officer who shall, within fifteen days of filing of the said application, scrutinize the application for its completeness and where the application is found to be complete in terms of sub-rule (2), (3) and (4), an acknowledgement in **FORM GST RFD-2** shall be made available to the applicant through the Common Portal electronically, clearly indicating the date of filing of the claim for refund.

(8) Where any deficiencies are noticed, the proper officer shall communicate the deficiencies to the applicant in **FORM GST RFD-3** through the Common Portal electronically, requiring him to file a refund application after rectification of such deficiencies.

(9) Where deficiencies have been communicated in **FORM GST RFD-3** under the GST Rules of the State, the same shall also deemed to have been communicated under this Rule along with deficiencies communicated under sub-rule (8).

[CGST Rules]

(9) Where deficiencies have been communicated in **FORM GST RFD-3** under the CGST Rules, the same shall also deemed to have been communicated under this Rule along with deficiencies communicated under sub-rule (8).

[SGST Rules]

2. Grant of provisional refund

(1) The provisional refund under sub-section (4A) of section 38 shall be granted subject to the following conditions -

(a) the person claiming refund has, during any period of five years immediately preceding the tax period to which the claim for refund relates, not been prosecuted

for any offence under the Act or under an earlier law where the amount of tax evaded exceeds two hundred and fifty lakh rupees;

(b) the GST compliance rating of the applicant is not less than five on a scale of ten;

(c) no proceeding of any appeal, review or revision is pending on any of the issues which form the basis of the refund and if pending, the same has not been stayed by the appropriate authority or court.

(2) The proper officer, after scrutiny of the claim and the evidence submitted in support thereof and on being prima facie satisfied that the amount claimed as refund under sub-rule (1) is due to the applicant in accordance with the provisions of sub-section (4A) of section 38, shall make an order in **FORM GST RFD-4**, sanctioning the amount of refund due to the said applicant on a provisional basis within a period not exceeding seven days from the date of acknowledgement under sub-rule (7) of rule 1.

(3) The proper officer shall issue a payment advice in **FORM GST RFD-8**, for the amount sanctioned under sub-rule (2) to be electronically credited to any of the bank accounts of the applicant mentioned in his registration particulars and as specified in the application for refund.

3. Order sanctioning refund

(1) Where, upon examination of the application, the proper officer is satisfied that a refund under sub-section (4) of section 38 is due and payable to the applicant, he shall make an order in **FORM GST RFD-5**, sanctioning the amount of refund to which the applicant is entitled, mentioning therein, the amount, if any, refunded to him on a provisional basis under sub-section (4A) of section 38, amount adjusted against any outstanding demand under the Act or under any earlier law and the balance amount refundable:

Provided that in cases where the amount of refund is completely adjusted against any outstanding demand under the Act or under any earlier law, an order giving details of the adjustment may be issued in **FORM GST RFD-6**.

(2) Where the proper officer is satisfied, for reasons to be recorded in writing, that the whole or any part of the amount claimed as refund is not admissible or is not payable to the applicant, he shall issue a notice in **FORM GST RFD-7** to the applicant, requiring him to furnish a reply within fifteen days of the receipt of such notice and after considering the reply, make an order in **FORM GST RFD-5**, sanctioning the amount of refund in whole or part, or rejecting the said refund claim and the said order shall be made available to the applicant electronically and the provision of sub-rule (1) shall apply *mutatis mutandis* to the extent refund is allowed:

Provided that no application for refund shall be rejected without giving the applicant a reasonable opportunity of being heard.

(3) Where the proper officer is satisfied that the amount refundable under sub-rule (1) or (2) is payable to the applicant under sub-section (6) of section 38, he shall make an

order in **FORM GST RFD-5** and issue a payment advice in **FORM GST RFD-8**, for the amount of refund to be electronically credited to any of the bank accounts of the applicant mentioned in his registration particulars and as specified in the application for refund.

(4) Where the proper officer is satisfied that the amount refundable under sub-rule (1) or (2) is not payable to the applicant under sub-section (6) of section 38, he shall make an order in **FORM GST RFD-5** and issue an advice in **FORM GST RFD-8**, for the amount of refund to be credited to the Consumer Welfare Fund.

4. Credit of the amount of rejected refund claim

(1) Where any deficiencies have been communicated under sub-rule (8) of rule 1, the amount debited under sub-rule (3) of rule 1 shall be re-credited to the electronic credit ledger.

(2) Where any amount claimed as refund is rejected under rule 3, either fully or partly, the amount debited, to the extent of rejection, shall be re-credited to the electronic credit ledger by an order made in **FORM GST PMT-2A**.

Explanation.– For the purpose of this rule, a refund shall be deemed to be rejected, if the appeal is finally rejected or if the claimant gives an undertaking in writing to the proper officer that he shall not file an appeal.

5. Order sanctioning interest on delayed refunds

Where any interest is due and payable to the applicant under section 39, the proper officer shall make an order and a payment advice in **FORM GST RFD-9**, specifying therein the amount of refund which is delayed, the period of delay for which interest is payable and the amount of interest payable, and such amount of interest shall be electronically credited to any of the bank accounts of the applicant mentioned in his registration particulars and as specified in the application for refund.

6. Refund of tax to certain persons

(1) Any person eligible to claim refund of tax paid by him on his inward supplies as per a notification issued under clause (d) of sub-section (6) of section 38 shall apply for refund in **FORM GST RFD-10** once in every quarter, electronically on the Common Portal either directly or from a Facilitation Centre, notified by the Board or Commissioner along with a statement of inward supplies of goods and/or services in **FORM GSTR-11**, prepared on the basis of statement of outward supplies furnished by corresponding suppliers in **Form GSTR-1**.

(2) An acknowledgement for receipt of the application for claiming refund shall be issued in **FORM GST RFD-2**.

(3) Refund of tax paid by the applicant shall be available if-

- (a) the inward supplies of goods and/or services were received from a registered taxable person against a tax invoice and the price of the supply covered under a single tax invoice exceeds five thousand rupees, excluding tax paid, if any;
 - (b) name and GSTIN/UIN, if available, of the applicant is mentioned in the tax invoice; and
 - (c) such other restrictions or conditions as may be specified in the notification are satisfied.
- (4) The provisions of rule 3 shall apply *mutatis mutandis* for the sanction and payment of refund under this rule.
- (5) Where an express provision in a treaty or other international agreement, to which the President or the Government of India is a party, is inconsistent with the provisions of these rules, such treaty or international agreement shall prevail.

7. Consumer Welfare Fund

- (1) All credits to the Consumer Welfare Fund shall be made under sub-rule (4) of rule 3.
- (2) Any amount, having been credited to the Fund, ordered or directed as payable to any claimant by orders of the proper officer, appellate authority or court, shall be paid from the Fund.
- (3) Any utilisation of amount from the Consumer Welfare Fund under sub-section (1) of section 41 shall be made by debiting the Consumer Welfare Fund account and crediting the account to which the amount is transferred for utilisation.
- (4) The [Central/State] Government shall, by an order, constitute a Standing Committee with a Chairman, a Vice-Chairman, a Member Secretary and such other members as it may deem fit and the Committee shall make recommendations for proper utilisation of the money credited to the Consumer Welfare Fund for welfare of the consumers.
- (5) The Committee shall meet as and when necessary, but not less than once in three months.
- (6) Any agency/organisation engaged in consumer welfare activities for a period of three years registered under the Companies Act, 2013 (18 of 2013) or under any other law for the time being in force, including [village/mandal/samiti] level co-operatives of consumers especially Women, Scheduled Castes and Scheduled Tribes, or any industry as defined in the Industrial Disputes Act, 1947 (14 of 1947) recommended by the Bureau of Indian Standards to be engaged for a period of five years in viable and useful research activity which has made, or is likely to make, significant contribution in formulation of standard mark of the products of mass consumption, the Central Government or the State Government may make an application for a grant from the Consumer Welfare Fund:

Provided that a consumer may make application for reimbursement of legal expenses incurred by him as a complainant in a consumer dispute, after its final adjudication.
- (7) All applications for grant from the Consumer Welfare Fund shall be made by the applicant in **Form GST RFD-11** and the Committee shall not consider an application, unless it has been inquired into, in material details and recommended for consideration accordingly, by the Member Secretary.
- (8) The Committee shall have powers
 - (a) to require any applicant to produce before it, or before a duly authorised Officer of the Government such books, accounts, documents, instruments, or commodities in custody and control of the applicant, as may be necessary for proper evaluation of the application;
 - (b) to require any applicant to allow entry and inspection of any premises, from which activities claimed to be for the welfare of Consumers, are stated to be carried on, to a duly authorised officer of the Central Government or, as the case may be, State Government;

- (c) to get the accounts of the applicants audited, for ensuring proper utilisation of the grant;
 - (d) to require any applicant, in case of any default, or suppression of material information on his part, to refund in lump-sum, the sanctioned grant to the Committee, and to be subject to prosecution under the Act;
 - (e) to recover any sum due from any applicant in accordance with the provisions of the Act;
 - (f) to require any applicant, or class of applicants to submit a periodical report, indicating proper utilisation of the grant;
 - (g) to reject an application placed before it on the basis of involvement of factual inconsistency, or inaccuracy in the material particulars;
 - (h) to recommend minimum financial assistance, by way of grant to an applicant, having regard to his financial status, and importance and utility of nature of activity under pursuit, after ensuring that the financial assistance provided shall not be misutilised;
 - (i) to identify beneficial and safe sectors, where investments out of Consumer Welfare Fund may be made and make recommendations, accordingly.
 - (j) to relax the conditions required for the period of engagement in consumer welfare activities of an applicant as specified in clause (b) of rule 2;
 - (k) to make guidelines for the management and administration of the Consumer Welfare Fund.
- (9) The Central Consumer Protection Council and the Bureau of Indian Standards shall recommend to the GST Council, the broad guidelines for considering the projects/proposals for the purpose of incurring expenditure from the Consumer Welfare Fund.
- (10) The account of Consumer Welfare Fund shall be maintained by the Commissioner/Board in **FORM GST RFD 12** and shall be subject to audit by the Comptroller and Auditor General of India.]

Chapter-___
TAX INVOICE, CREDIT AND DEBIT NOTES

1. Tax invoice

(1) Subject to rule 5, a tax invoice referred to in section 23 shall be issued by the supplier containing the following details:-

- (a) name, address and GSTIN of the supplier;
- (b) a consecutive serial number containing only alphabets and/or numerals, unique for a financial year;
- (c) date of its issue;
- (d) name, address and GSTIN/ Unique ID Number, if registered, of the recipient;
- (e) name and address of the recipient and the address of delivery, along with the name of State and its code, if such recipient is unregistered and where the taxable value of supply is fifty thousand rupees or more;
- (f) HSN code of goods or Accounting Code of services;
- (g) description of goods or services;
- (h) quantity in case of goods and unit or Unique Quantity Code thereof;
- (i) total value of goods or services;
- (j) taxable value of goods or services taking into account discount or abatement, if any;
- (k) rate of tax (CGST, SGST or IGST);
- (l) amount of tax charged in respect of taxable goods or services (CGST, SGST or IGST);
- (m) place of supply along with the name of State, in case of a supply in the course of inter-State trade or commerce;
- (n) place of delivery where the same is different from the place of supply;
- (o) whether the tax is payable on reverse charge;
- (p) the word "Revised Invoice" or "Supplementary Invoice", as the case may be, indicated prominently, where applicable along with the date and invoice number of the original invoice; and
- (q) signature or digital signature of the supplier or his authorized representative.

Provided that the Board/Commissioner may, by notification, specify -

- (i) the number of digits of HSN code for goods or, as the case may be, the Accounting Code for services, that a class of taxable persons shall be required to mention, for such period as may be specified in the said notification, and

(ii) the class of taxable persons that would not be required to mention the HSN code for goods or, as the case may be, the Accounting Code for services, for such period as may be specified in the said notification:

Provided further that in case of exports, the invoice shall carry an endorsement "SUPPLY MEANT FOR EXPORT ON PAYMENT OF IGST" or "SUPPLY MEANT FOR EXPORT UNDER BOND WITHOUT PAYMENT OF IGST", as the case may be, and shall, in lieu of the details specified in clause (e), contain the following details:

- (i) name and address of the recipient;
- (ii) address of delivery;
- (iii) name of the country of destination; and
- (iv) number and date of application for removal of goods for export [ARE-1].

(2) The invoice referred to in sub-rule (1), in case of taxable supply of services, shall be issued within a period of thirty days from the date of supply of service:

Provided that in case of continuous supply of services, the invoice shall be issued within a period of thirty days from the date when each event specified in the contract, which requires the recipient to make any payment to the supplier of services, is completed:

Provided further that where the supplier of service is a banking company or a financial institution including a non-banking financial company, the period within which the invoice is to be issued shall be forty five days from the date of supply of service.

2. Manner of Issuing Invoice

(1) The invoice shall be prepared in triplicate, in case of supply of goods, in the following manner:-

- (a) the original copy being marked as ORIGINAL FOR RECIPIENT;
- (b) the duplicate copy being marked as DUPLICATE FOR TRANSPORTER; and
- (c) the triplicate copy being marked as TRIPLICATE FOR SUPPLIER.

Provided that the duplicate copy is not required to be carried by the transporter if the supplier has obtained an Invoice Reference Number under sub-rule (4).

(2) The invoice shall be prepared in duplicate, in case of supply of services, in the following manner:-

- (a) the original copy being marked as ORIGINAL FOR RECEIPIENT; and
- (b) the duplicate copy being marked as DUPLICATE FOR SUPPLIER.

(3) The serial number of invoices issued during a tax period shall be furnished electronically through the Common Portal in **FORM GSTR-1**.

(4) A registered taxable person may obtain an Invoice Reference Number from the Common Portal by uploading, on the said Portal, a tax invoice issued by him in **FORM GST INV-1**, and produce the same for verification by the proper officer as required under section 61 in lieu of the tax invoice.

(5) The Invoice Reference Number shall be valid for a period of 30 days from the date of uploading.

3. Bill of supply

A bill of supply referred to in the second proviso to section 23 shall be issued by the supplier containing the following details:-

- (a) name, address and GSTIN of the supplier;
- (b) a consecutive serial number containing only alphabets and/or numerals, unique for a financial year;
- (c) date of its issue;
- (d) name, address and GSTIN/ Unique ID Number, if registered, of the recipient;
- (e) HSN Code of goods or Accounting Code for services;
- (f) description of goods or services;
- (g) value of goods or services taking into account discount or abatement, if any; and
- (h) signature or digital signature of the supplier or his authorized representative:

Provided that the proviso to sub-rule (1) of rule 1 shall apply, *mutatis mutandis*, to the bill of supply issued under this rule:

Provided further that the registered taxable person may not issue a bill of supply if the value of the goods or services supplied is less than one hundred rupees except where the recipient of the goods or services requires such bill:

Provided also that a consolidated bill of supply shall be prepared by the registered taxable person at the close of each day in respect of all such supplies where the bill of supply has not been issued in terms of the second proviso.

4. Supplementary tax invoice and Credit or debit notes

(1) A supplementary tax invoice under section 23 and a credit or debit note under section 24 shall contain the following details -

- (a) name, address and GSTIN of the supplier;
- (b) nature of the document;
- (c) a consecutive serial number containing only alphabets and/or numerals, unique for a financial year;
- (d) date of issue of the document;
- (e) name, address and GSTIN/ Unique ID Number, if registered, of the recipient;
- (f) name and address of the recipient and the address of delivery, along with the name of State and its code, if such recipient is unregistered;

- (g) serial number and date of the corresponding tax invoice or, as the case may be, bill of supply;
- (h) taxable value of goods or services, rate of tax and the amount of the tax credited or, as the case may be, debited to the recipient; and
- (i) signature or digital signature of the supplier or his authorized representative.

(2) Every registered taxable person who has been granted registration with effect from a date earlier than the date of issuance of certificate of registration to him, may issue revised tax invoices in respect of taxable supplies effected during the period starting from the effective date of registration till the date of issuance of certificate of registration:

Provided that the registered taxable person may issue a consolidated revised tax invoice in respect of all taxable supplies made to a recipient who is not registered under the Act during such period:

Provided further that in case of inter-State supplies, where the value of a supply does not exceed two hundred and fifty thousand rupees, a consolidated revised invoice may be issued separately in respect of all recipients located in a State, who are not registered under the Act.

5. Tax Invoice in special cases

(1) A tax invoice issued by an Input Service Distributor shall contain the following details:-

- (a) name, address and GSTIN of the Input Service Distributor;
- (b) a consecutive serial number containing only alphabets and/or numerals, unique for a financial year;
- (c) date of its issue;
- (d) name, address and GSTIN of the supplier of services, the credit in respect of which is being distributed and the serial number and date of invoice issued by such supplier;
- (e) name, address and GSTIN of the recipient to whom the credit is distributed;
- (f) amount of the credit distributed; and
- (g) signature or digital signature of the supplier or his authorized representative:

Provided that where the Input Service Distributor is an office of a banking company or a financial institution including a non-banking financial company, a tax invoice shall include any document in lieu thereof, by whatever name called, whether or not serially numbered but containing the information as prescribed above.

(2) Where the supplier of taxable service is a banking company or a financial institution including a non-banking financial company, the said supplier shall issue a tax invoice or any other document in lieu thereof, by whatever name called, whether or not serially numbered, and whether or not containing the address of the recipient of taxable service but containing other information as prescribed under rule 1.

(3) Where the supplier of taxable service is a goods transport agency supplying services in relation to transportation of goods by road in a goods carriage, the said supplier shall issue a tax invoice or any other document in lieu thereof, by whatever name called, containing the gross weight of the consignment, name of the consignor and the consignee, registration number of goods carriage in which the goods are transported, details of goods transported, details of place of origin and destination, GSTIN of the person liable for paying tax whether as consignor, consignee or goods transport agency, and also contains other information as prescribed under rule 1.

(4) Where the supplier of taxable service is supplying passenger transportation service, a tax invoice shall include ticket in any form, by whatever name called, and whether or not containing the address of the recipient of service but containing other information as prescribed under rule 1.

Agenda Item 3 - Area Based/Industry Specific Central Excise Duty/VAT Exemptions – Treatment under GST Regime

Area based exemptions given by Central Government

1. The Central Government has, from time to time, announced with the approval of the Cabinet, industrial and investment policies for promoting industrial growth and employment in industrially backward States having difficult and hilly terrain, such as the North East Region, Sikkim, Jammu & Kashmir, Uttarakhand and Himachal Pradesh. One of the main features of these policies has been to provide exemption from excise duty on goods produced in those states.
2. Various States have also granted exemptions from VAT or deferment of VAT, inter alia, as part of their industrial promotion policies to specific areas within the States or to specific industries.
3. As far as the Central Government is concerned, such area based central excise duty exemptions are presently applicable for the following States:
 - (a) North East Region including Sikkim
 - (b) State of Jammu & Kashmir
 - (c) Uttarakhand and Himachal Pradesh.

Exemptions/incentives given by State Governments

4. An illustrative brief of exemptions/incentives given by six State Governments of Maharashtra, Andhra Pradesh, Bihar, Chattisgarh, Assam and J&K as enumerated in the States Industrial Policy has been given at **Annexure**. From a perusal of these policies exemptions/incentives given by the State can be classified into the following categories:

(i) Exemption from payment of VAT, Entry tax or CST :

- VAT exemption : J&K and Assam
- Exemption from Entry tax : Chattisgarh and Assam
- Exemption from CST : J&K.

It may be mentioned that even in States where current Industrial policy does not provide for an outright exemption on VAT/CST, there are still units in States established under

previous Industrial policies and are still enjoying exemptions from payment of VAT and other taxes.

(ii) Industrial Promotion subsidy in form of reimbursement of VAT/CST paid to a fixed percentage of Investment made : Examples are Maharashtra and Bihar

5. **Treatment under the GST Regime:**

5.1 Considering that the GST regime envisages a common market providing for a seamless flow of input tax credits (ITC) across the value chain, such exemptions in the GST regime will create distortions in the GST tax structure. The present central excise duty exemptions did not envisage exemption from VAT, which shall now be available as input credit on account of being subsumed in GST and the credit of which will be available for payment of duty. Similarly, the present VAT exemptions did not envisage exemption from service tax and excise duty, which shall now be available as input credit on account of being subsumed in GST.

5.2 Since GST is a new tax, the Governments can decide to end exemptions given for VAT and excise. However, withdrawing the duty exemptions before they expire could lead to litigations, as such withdrawal in all likelihood will be challenged on the grounds of promissory estoppel, inter alia on the grounds that after extending such time bound concessions and thereby inducing businesses to make the irrevocable decision of making investments in such regions the government has gone back on its promise and imposed tax on such industry, albeit with the introduction of a new tax. However, there are several judgments of the Hon'ble Supreme Court in favour of the Government on the issue of promissory estoppels **on the grounds of public interest:**

- 1) Shrijee Sales Corporation v/s Union of India [1997 (89) E.L.T. 452 (S.C.)], wherein the Hon'ble Supreme Court has held that the principle of promissory estoppel is applicable against the Government, but in case there is a supervening public equity, the Government would be allowed to change its stand; it would then be able to withdraw from representation made by it which induced persons to take certain steps which may have gone adverse to the interest of such persons on account of such withdrawal. **However, the Court must satisfy itself that such a public interest exists.**
- 2) D.P.F. Textiles Ltd. v/s Union of India [1997 (92) E.L.T. 28 (S.C.)] and Union of India v/s Victory Plastic Pvt. Ltd. [1996 (83) E.L.T. 481 (SC)], wherein the Hon'ble Supreme Court relying on the judgment in the case of Kasinka Trading v/s Union of India has held that doctrine of promissory estoppel is not applicable in the case of supervening public interest.

5.3 If States decide to grandfather the exemptions given, the only possible way to grandfather these exemptions in the GST regime is to provide a direct transfer of the equivalent taxes paid through the budgetary route. Industry will pay normal taxes under the GST regime. The taxes paid by the industry will be part of CGST and SGST revenue. Thereafter, the Centre or the States may directly transfer an equivalent amount to the industry concerned through budgetary route.

5.4 The following decisions are therefore proposed for consideration of GST Council :

- (i) Under GST regime, exemptions in its present form will not be allowed to continue.
- (ii) The decision to grandfather any incentive given to specific industries in existing Industrial Policy of States or through any scheme of Central Government shall remain with the concerned State or Central Government.
- (iii) In case the State or Central Government decides to continue any existing exemption/incentive scheme, then it shall be administered only in form of direct transfer of equivalent taxes paid through the budgetary route and not by way of refund.

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Incentives given by States to specific industries wrt payment of VAT/CST

Maharashtra

Maharashtra Industrial Policy 2013 is valid till 31st March, 2018. It provides the following incentives to industries:

(a) Industrial promotion subsidy

- (i) Large Scale Industries: Every year in areas other than A or B areas, Industrial promotion subsidy shall be 60 to 100 percent of VAT on local sales minus ITC or zero whichever is more and CST payable on eligible finished products.
- (ii) MSME : Every year in areas other than A or B areas, Industrial promotion subsidy shall be VAT on local sales minus ITC or zero whichever is more plus CST payable plus 20 to 100 percent of ITC on eligible finished products.

(b) Sales tax exemptions : There are still some industries which enjoy exemptions from payment of sales tax(now VAT) which they have been enjoying since prior to imposition of VAT .

Bihar Industrial Policy 2011

- (i) **Subsidy / Incentive on VAT:** This facility will be available to Small / large / **medium** industries.

The new Units will avail 80% reimbursement against the admitted VAT amount deposited in the account of the Government, for a period of ten years. The maximum Subsidy amount is payable 300% of the capital Invested.

- (ii) **Entry-Tax** : In the event of adjustment of Entry- Tax against the output tax, the amount paid as Entry Tax by new Industrial units after commencement of commercial production, will be included in the amount of 80% VAT for the purpose of reimbursement.
- (iii) Following incentive will be provided to the new industrial units after the commercial production
 - 100% exemption in luxury tax for seven years
 - 100% Re-imbursement of electricity duty for seven years
 - 100% exemption in land conversion charge•

- (iv) Re-Imbursement of VAT/Entry-Tax for the unit in operation. Presently working industrial units will get re-imbursement of 25% of the VAT/Entrytax deposited in the account of Government against admitted VAT. This reimbursement will be valid for only five continuous years.

Andhra Pradesh

As per Andhra Pradesh Industrial Policy 2015-20, the eligible VAT/CST/SGST reimbursement for various categories is as tabulated below:

	Sector/category	Eligibility	Period	Reimbursement limited to % of Capex
1	General Industries including Aerospace & Defence and Biotechnology Industries a. Micro and Small b. Medium c. Large	100% 75% 50%	5 7 7	-- 100% 100%
2	Textile Industries a. Net VAT/CST/SGST on Intermediate / End Product b. VAT/CST/SGST Raw Material / Intermediate Product	100%	5	100% of machine value
3	Mega Integrated Automobile Projects a. CST b. Gross VAT/SGST c. VAT/SGST on Raw material/inputs/capital goods in excess of 5% ** d. Input credit as per para 5.8.1	100% 100% 100%	10 20 20 20	GST regime 50% -- --
4	Ancillary units of Mega Integrated Automobile Projects (VAT/CST/SGST)	75%	7	100%
5	Maintenance/Repairs/Overhaul (MRO) of Air crafts VAT/CST/SGST reimbursement on input materials	100%	5	--

Jammu and Kashmir

The exemptions from payment of additional toll tax/CST and VAT as available to Industrial units under Industrial policy 2004 or any other subsequent order shall continue for now and shall also be applicable to all new MSME/large scale units in zone A and zone B till further orders, **subject to the GST regime.**

Industrial Policy 2004 provides as follows :

- (i) General Sales tax(GST) exemption : GST exemption to be continued till VAT is imposed or till 31- 03-2015 for existing and new units, whichever is earlier, subject to the negative lists. The exemption of GST on the raw material procured by the local industrial units shall be available only to SSI units, subject to negative list
- (ii) CST exemption : CST exemption to SSI units to be continued upto 31-03- 2015. Extended to Medium & Large Industrial units, subject to a negative list.

Chattisgarh

As per Chattisgarh Industrial Policy the following tax incentives have been given :

Exemption from Entry Tax : Entry Tax exemption shall be given to eligible Micro, Small, Medium, Large industry and all Mega and Ultra-Mega projects (including core sector described in Appendix-4, Steel plant, Cement plants, Thermal power plants and Aluminium plants)

Area	General Industry	Priority Industry
In industrially developing areas (as per appendix-7)	For goods specified in Schedule Two and Three of the Entry Tax Act (excluding Captive quarry/ goods acquired by mining lease located in the State, diesel and petrol) on entering into the local area for consumption or for use in manufacturing, exemption up to 5 years	For goods specified in Schedule Two and Three of the Entry Tax Act (excluding Captive quarry/ goods acquired by mining lease located in the State, diesel and petrol) on entering into the local area for consumption or for use in manufacturing, exemption up to 6 years
In industrially backward areas (as per appendix-8)	For goods specified in Schedule Two and Three of the Entry Tax Act (excluding Captive quarry/ goods acquired by mining	For goods specified in Schedule Two and Three of the Entry Tax Act (excluding Captive quarry/ goods acquired by mining lease

	lease located in the State, diesel and petrol located in the State) on entering into the local area for consumption or for use in manufacturing, exemption up to 6 years	located in the State, diesel and petrol located in the State) on entering into the local area for consumption or for use in manufacturing, exemption up to 7 years
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Assam

The Assam Industrial Policy 2014 provides the following fiscal incentives :

- 100% VAT exemption for 15 years for new micro units.
- For other units, VAT exemption rate: 100% 1st & 2nd year, 80% 3rd & 4th year; 50% 5th to 15th years.
- VAT Exemption for selected industrial parks (such as Plastic Park, Bamboo Park, Food Park, Tea park etc) developed by or in-collaboration with Government
- No entry tax on plant & machinery brought from other States for business units.
- 50% Luxury tax exemption for 10 years for Hotels.